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Feature Article

Miscellaneous Tariff Bill Faces Hurdles

The leaders of the trade committees in Congress announced on March 30 that they intend to produce a miscellaneous tariff bill (MTB) this year ([WTR Vol. 28 No. 11](#)), giving their fellow legislators a month to introduce the measures they want to see in the MTB and to file the rest of the required paperwork. An MTB is a sprawling measure that brings together dozens or even hundreds of separate bills that temporarily suspend or reduce import tariffs on specific subheadings. Since the 1980s it has been the practice to develop a new MTB in each two-year Congress, but controversies surrounding these bills prevented one from being enacted in the 110th Congress (2007-2008) and produced chaos in the 111th (2009-2010). These missteps resulted in many goods reverting from duty-free to dutiable treatment.

There are two sets of questions surrounding the MTB in this 112th Congress (2011-2012). One set concerns the content and timing of the bill itself: What subheadings will it cover, when and whether it will ultimately be approved, etc. The answers to those questions depend in part on whether the trade committees in Congress are more effective this time in helping their bill clear the hurdles that slowed one bill in mid-2010 and prevented another from being enacted at the end of that year.

Another set of questions concerns what additional items might get linked to the bill. While an MTB might be composed solely of tariff suspensions and the like, bills of this sort can also become the core of much broader, omnibus trade bills. It is conceivable (though perhaps not likely) that this measure may be the vehicle for approving such diverse initiatives as the graduation of Russia from the Jackson-Vanik law, renewal of preferential trade programs for developing countries, and even — in the most ambitious scenario — a new grant of trade promotion authority. Those prospects are undercut by the hyper-partisan atmosphere of an election year. That environment may make it more difficult to enact even a straight MTB this year, much less other trade provisions that press harder on partisan buttons.

This analysis concentrates on the first set of questions, reviewing the process, politics, and possible content of the new MTB. A future essay will examine the potential for developing a much larger trade bill this year or, perhaps more likely, in the 113th Congress (2013-2014).

WASHINGTON TRADE REPORT

1318 Independence Avenue SE
Washington, D.C. 20003
Phone (202) 544-2881

www.washingtontradereport.com
editor@washingtontradereport.com

For further details on the MTBs enacted since 1982 see Vivian C. Jones, [Tariff Modifications: Miscellaneous Tariff Bills](#) Congressional Research Service Report RL33867 (2010).

Since 1998 MFN treatment has been officially known in the United States as “normal trade relations” (NTR).

An item in the MTB can also make technical corrections of errors in the tariff schedule, but that is rarely done.

Temporary tariff reductions and suspensions are listed in Subchapter II of [Chapter 99](#) of the U.S. tariff schedule. The subchapter is 89 pages long, but its length is inflated by the inclusion of many subheadings that are not currently in force. Many duty suspensions that had been in effect under a previous MTB but expired without renewal before 2012 (typically on December 31 of either 2006 or 2009) are shown in **yellow highlight** in the subchapter.

Background on Miscellaneous Tariff Bills

MTBs represent a double exception to the general rules governing U.S. import tariffs. One general rule is that Congress no longer deals directly with tariffs. Control of the tariff was one of the key powers of Congress from the late 18th to the early 20th century, but the legislature delegated this authority to the executive in 1934 and has never taken it back. Ever since then tariff rates have been negotiated with trading partners rather than legislated by Congress.

The second general rule concerns the identity between [bound](#) and [applied](#) rates. Nearly all U.S. tariffs are bound in the World Trade Organization (WTO), meaning that the United States has agreed product-by-product to binding ceilings on its tariffs on a most-favored-nation (MFN) basis, and the applied tariffs (i.e., those actually imposed on MFN imports) are almost always the same as the bound tariffs. (This practice of the United States and several other industrialized countries differs from what one finds in most developing countries, where many tariffs are not bound, the bound tariffs are often far higher than the applied rates, and countries have a great deal of leeway in adjusting their rates.)

MTBs are major exceptions to both of these general rules. They provide a rather anachronistic means for Congress to exercise a power it is no longer accustomed to using, but only in one direction; MTBs can reduce or eliminate a tariff, but never raise it above the bound rates. They are instead an instrument by which some subheadings may be made temporarily subject to applied rates that are lower than the MFN bindings (usually zero), regardless of what the executive may have agreed to in past multilateral tariff negotiations.

The provisions in an MTB will describe the product affected, indicate the subheading in the tariff schedule that is at issue (with the specific good in question sometimes being defined more narrowly than the whole of that subheading), state what the new tariff rate will be (usually zero), and specify the period that the reduction or suspension will be in effect. The last MTB will expire on December 31, 2012, and the new MTB will presumably be set to expire on December 31, 2014. Once an MTB is enacted the U.S. International Trade Commission (USITC), which acts as the custodian of the tariff schedule, will assign each affected subheading a new number in [Chapter 99](#) of that schedule (i.e., the chapter in which are recorded not only these suspensions and reductions but also various transitional measures in U.S. free trade agreements and other instruments). That number applies only to imports and not to exports, and is for administrative purposes only. Separate import data are not recorded for the subheadings in Chapter 99; those imports are instead reported according to the subheading ordinarily associated with that product.

For an example of how this works, consider the case of unicycles. This product is classified as part of subheading 8712.00.50 (“cycles other than bicycles”) in the Harmonized Tariff Schedule of the United States, and is normally subject to a 3.7% tariff when imported on an MFN basis. A reader who looks up that subheading in Chapter 87 will be directed by a footnote to consult subheading 9902.24.67 in Chapter 99. There one sees that unicycles are subject to a temporary suspension (i.e., zero duty) that will remain in effect through the end of this year. Unicycles will revert to that 3.7% duty thereafter unless a new MTB is enacted that includes a provision extending this suspension. Or to put the matter in other words, without an MTB in 2012 there may be some sad clowns in 2013.

How MTBs Became Controversial

Prior to 2007, MTBs had been subject to a relatively simple process. The bills were developed in the first instance by the Ways and Means Committee in the House of Representatives and then (after approval by the House) were taken up by the Senate Finance Committee. Both of these committees operated under general rules providing that any individual subheading in the bill cannot exceed more than \$500,000 in revenue loss (i.e., the value of the foregone tariffs).

One principle of MTBs is that all of the items in them must be “non-controversial.” According to the Senate Finance Committee, “A bill will be considered controversial if, for instance, another Member [of Congress] objects to the bill or if a domestic producer objects to the bill.” The committee defined “domestic producer” quite broadly to include any “person or firm who demonstrates production, or imminent production, of the article or a like or directly competitive article.” MTB are thus drafted in a very risk-averse process.

This process prevented controversial subheadings from making their ways into MTBs, but in 2006 the MTB process itself became controversial. “Each legislative season,” a critical article in the *Washington Post* stated, “corporate executives and lobbyists quietly draft hundreds of bills to suspend tariffs. Over time, the changes cost taxpayers hundreds of millions of dollars in lost revenue.” The report portrayed these suspensions as “a lobbyist’s dream,” and also observed that, “The biggest beneficiaries of the rising tide of tariff-suspension bills are domestic subsidiaries of foreign corporations.” This article thus delivered a triple-whammy against tariff suspensions, associating them with the off-shoring of jobs, the loss of government revenue, and the much-maligned practice of “earmarks” that benefit narrow interests and their legislative allies. For some critics MTBs were the trade policy equivalent of the “bridge to nowhere” and other examples of wasteful, pork-barrel spending, only in this instance they took the form of lost revenue rather than increased expenditures.

These critiques led to reforms that, depending on one’s point of view, were either aimed at preventing abuse or simply made trade liberalization more difficult to achieve. The “Honest Leadership and Open Government Act of 2007” (P.L. 110-81) requires that the lawmakers who sponsor these bills certify that they and their immediate family will not financially benefit from a tariff suspension. The law also requires disclosure of the funding level and the name of the sponsor of congressionally directed spending included in classified portions of bills, joint resolutions, and conference reports. The bill’s sponsors are required to file a [Preliminary Miscellaneous Tariff Bill Disclosure Form](#), followed at the end of the vetting process by a Final Miscellaneous Tariff Bill Disclosure Form.

The process by which bills are vetted and then aggregated into the MTB are more complex now than they were before 2007, as are the politics. The main steps are laid out in the descriptions posted by the trade committees in Congress. This year they call for all bills to be introduced by Monday, April 30, together with required disclosure forms and other information, after which they will be vetted by several agencies in the executive and legislative branches as well as the independent USITC. The USITC will seek information about the existence of domestic production and to find out whether there are any objections to the bill on the part of domestic producers. The USITC will also seek information about the amount of tariff revenue that would no longer be collected if the suspension or reduction were granted, and may also suggest technical changes to the product description in the bill. The Department of Commerce takes the lead in developing the administration’s position on bills, a view that is largely based on whether there is any domestic production and whether any domestic producer

Joe Stephens, “[A Quiet Break for Corporations](#),” *Washington Post* (September 20, 2006).

For a more favorable view of the MTB process and a refutation of the earmark argument see Daniel Griswold, [The Miscellaneous Tariff Bill: A Blueprint for Future Trade Expansion](#) Cato Institute Trade Briefing Paper Number 30 (2010). See also Andrew Szamosszegi, “[Economic Impact of the Miscellaneous Tariff Bill](#)” (2009).

Click [here](#) for a description of the process as posted by the Ways and Means Committee, which is virtually identical to the [description](#) posted by the Finance Committee.

See the [page](#) on which the USITC archives all of the bill reports that it prepared for MTBs in the 105th (1997-1998) through the 111th (2009-2010) congresses. Note that in some congresses these take the form of reports on Senate bills, and in others on House bills.

The USITC also calculates the budgetary impact of each subheading proposed for inclusion in the MTB, but the “scoring” of the Congressional Budget Office is the one that the trade committees rely on for determining whether a subheading exceeds the \$500,000 limit.

opposes the bill. U.S. Customs and Border Protection is responsible for determining if a bill is administrable. Other agencies may also weigh in, including the State Department and the Office of the U.S. Trade Representative. The Congressional Budget Office will score of each bill to ensure that it complies with the MTB eligibility requirements.

The estimated revenue that would be lost cannot exceed \$500,000 per year. The budget rules further require that the total value of all tariffs foregone under an MTB have to be “paid for” with either reduced spending in some other account, increased taxes, or some combination of the two. This can sometimes be accomplished through such sleight-of-hand as extending into the future some tax or fee that is currently scheduled to expire several years in the future. That is what happened in the case of the free trade agreements approved last year, for example, where the tariffs foregone were largely paid for by extending fees on imports that were due to expire years from now.

How Not to Enact an MTB: What Went Wrong in the 111th Congress

The heightened scrutiny and the increased reporting requirements were a contributing factor in the failure of the 110th Congress (2007-2008) to enact a duty-suspension bill, which meant that many existing suspensions lapsed as of January 1, 2010. It also led to significant delays in the development of one MTB, and contributed to the defeat of another, in the 111th Congress (2009-2010).

The MTB process started in early 2009 when members of Congress introduced the many individual bills that were later consolidated in the larger bills. There were 811 such bills introduced in the House and 359 in the Senate (some of latter being “companion bills” to legislation introduced in the House). Each of the bills was then subject to the new and expanded vetting process. Because of the resulting delays, the trade committees decided to take a two-bill approach to approval of the measures. The first MTB was incorporated in the “United States Manufacturing Enhancement Act of 2010” ([H.R.4380](#)). It was restricted to those measures that had been vetted as of July, 2010. That bill was then approved by the House on July 21 (by a [vote](#) of 378-43) and the Senate on July 27 (by voice vote), and was signed into law becoming [P.L.111-227](#) on August 11. The very fact that one in ten members of the House (all but one of them Republicans) voted against the MTB was a sign of trouble, however, as up until then these bills had always received unanimous or near-unanimous support.

The leaders in the trade committees then attempted to approve the remaining items in a second MTB but this effort failed. This bill ([H.R.6517](#)), which was introduced in a “lame duck” session that came after the November, 2010 congressional elections, included numerous tariff suspensions as well as reauthorization through June 30, 2012 for the soon-to-expire the Andean Trade Preferences Act (ATPA), Trade Adjustment Assistance (TAA), and Generalized System of Preferences (GSP) programs. All of these provisions survived debate in the House, which approved the bill in mid-December, but then the Senate gutted the bill. As approved on December 22, the bill no longer contained either the MTB or the GSP provisions and authorized the ATPA and TAA programs only through February 12, 2011. It was still entitled the “Omnibus Trade Act of 2010,” but was less omni than any bill to bear such a title in recent memory.

As a result of this failure, many items that had been subject to zero or reduced duty under earlier MTBs reverted to dutiable status as of January 1, 2011, and remain dutiable today. Some of the items that are likely to be taken up in this year’s MTB will seek to restore the duty-free treatment that was lost in the chaos surrounding that second MTB in the 111th Congress.

The Current Controversy over Earmarks and the MTB

That aforementioned November, 2010 election was the one in which Republicans recaptured control of the House of Representatives, propelled largely by newly elected members of the “Tea Party” faction. There had been concerns that many of these conservative freshmen would bring a protectionist orientation to Congress, based on the rhetoric that some of them used in their campaigns, but last year they proved to be just as supportive of the pending free trade agreements as were other Republicans. There nonetheless remain worries that many of these Tea Party Republicans could oppose the MTB because it is associated with earmarks, a practice that Tea Party members associate with all that is wrong in Washington.

One of the most significant political problems facing the MTB is the perception in some quarters that it produces targeted benefits that congressmen dole out to favored supporters in a corrupt “pay to play” arrangement. The pressure to end all earmarks was so strong that the House Republican Caucus unanimously adopted on November 18, 2010 — i.e., just after the election and before the 112th Congress was officially sworn in — a ban on earmarks. For purposes of this rule an earmark is defined in as a provision that benefits ten entities or fewer. The proposal was sponsored by Representative-elect Sean Duffy (R-WI), in an explicit bow to the Tea Party movement that swept 85 new Republicans into the House of Representatives.

Defenders of the MTB process state categorically that the temporary duty suspensions and other limited tariff changes under consideration are not earmarks. Among the information that sponsors of a bill must disclose is whether the proposed duty suspension is available “to any entity that imports and pays duties pursuant to this tariff heading” and whether the tariff suspension will “benefit downstream producers, manufacturers, purchasers and consumers.” Answers in the affirmative indicate that the request is not an earmark because the benefit would be enjoyed by a sufficiently broad constituency. Conservative supporters of the MTB also argue that the tariff suspension bills differ from earmarks in that they do not appropriate funds for new projects but actually reduce a tax or tariff.

Representative Tom Reed (R-NY), the most junior Republican member of the House Ways and Means Committee, is currently circulating a “Dear Colleague” letter to his fellow freshmen to ask for signatures in support of the MTB. He is doing this at the request of House Speaker John Boehner (R-OH), who wants to gauge the leadership’s effectiveness in defining the difference between earmarks and the MTB and to measure support for the MTB. Republicans, and especially the freshmen among them, will not want to have to defend themselves in their upcoming campaigns against the charges they themselves laid against their losing opponents in 2010. An aide to Reed told WTR on April 12 that the congressman is “still finalizing his letter” and would not release it yet, but that he “has gotten a lot of commitments to sign it.” The aide declined to estimate how many such commitments the office has received.

The Products that May Be Covered in this Year’s MTB

The trade committees in Congress asked that any bills proposed for this year’s MTB be introduced no later than April 30, and members of Congress are just as prone as the rest of us to put off action until just before a deadline. There have been no new tariff-reduction or –suspension bills introduced since the March 30 announcement that this year’s process had begun, especially with Congress having been on break over the past two weeks, but it can be expected

that a very large number of bills — perhaps hundreds — will be introduced on or just before Monday, April 30.

A few legislators introduced their bills well before the March 30 announcement. Chief among them was Representative Mel Watt (D-NC), who on February 7, 2012 introduced no fewer than 54 bills to extend existing tariff suspensions or enact new ones (many of which expired in previous years). Those bills are summarized below in Table 1 (page 7). Most of these items are dyes, and all of these goods would be useful to employers in Watt's 12th congressional district of North Carolina, home to firms in the thread, fabric, and apparel industries. Only nine other tariff-reduction or –suspension bills have been introduced thus far in the 112th Congress, all of them before the March 30 announcement and most of them in 2011. These bills are summarized in Table 2 (page 8).

The 63 bills listed in the two tables will likely be the very tip of the iceberg. The number and diversity of items that might be covered by bills yet to come can be appreciated by perusing Table 3 (page 8). That table summarizes most of the items other than chemicals (which often have very lengthy names that are completely opaque to the layman) and dyes that had been included in the second (failed) MTB of the 111th Congress. It would not be surprising if the bills introduced in the coming weeks were to cover most or all of these items, as well as many others.

It will be at least two more weeks before the full scope of bills submitted for the MTB is known. Even if one assumes that all legislators planning to submit bills meet the April 30 deadline it may not be until well into the first week of May that the full range of bills will be known and posted. WTR will revisit the subject in our May 7 issue.

Latest Data: The Election

Polling Averages

The numbers below are based on averages for several recent public-opinion polls. The averages are as reported on April 15.

	Obama	Romney
Pollster (all polls)	45.2%	45.2%
Pollster (telephone only)	46.1%	43.8%
RealClearPolitics	46.8%	44.2%

Note: Live interviews are generally considered to produce more reliable results than "robocalls" and polls over the Internet. The first result from Pollster and the RealClearPolitics numbers include the results of all polls; the second result for Pollster includes only live telephone interview polls.

InTrade Political Prediction Market

Chances of winning the presidential election:

President Barack Obama	60.8%
Governor Mitt Romney	37.9%

Outcome of the congressional elections:

Republicans retain control of House	63.0%
Democrats retain control of Senate	28.5%

Note: In a political prediction market participants trade futures contracts on real-world outcomes. The largest such trading center is at <http://www.intrade.com/v4/home/>. Results shown here are as of April 15, 2012.

Table 1: Tariff-Suspension Bills Introduced by Representative Watt

Bill	Subheading
H.R.3918	Disperse Yellow 64*
H.R.3919	Vat Blue 66*
H.R.3920	Acid Black 172*
H.R.3921	Reactive Blue 224*
H.R.3922	Cuprate (4-)*
H.R.3923	Certain other made-up articles
H.R.3924	Reactive Yellow 27*
H.R.3925	Disperse Blue 77*
H.R.3926	Knitted or crocheted fabrics, cotton, dyed, single knit construction
H.R.3927	Solvent Yellow 163*
H.R.3928	1HXantheno
H.R.3929	Reactive Red 123*
H.R.3930	Reactive Black 5*
H.R.3931	Disperse Blue 284
H.R.3932	Reactive Red 198*
H.R.3933	Acid Blue 324*
H.R.3934	Acid Yellow 151
H.R.3935	Acid Blue 221*
H.R.3936	Acid Yellow 137
H.R.3937	Acid Yellow 230*
H.R.3938	Acid Red 414*
H.R.3939	Disperse Red 367
H.R.3940	Reduced Vat Blue 1
H.R.3941	Acid Red 278
H.R.3942	Direct Red 84
H.R.3943	Acetic acid
H.R.3944	Acid Yellow 79
H.R.3945	Acid Blue 171
H.R.3946	Reactive Blue 19
H.R.3947	Disperse Yellow 184:1
H.R.3948	Acid Red 182
H.R.3949	[Chemical with a name too long to summarize here]
H.R.3950	Direct Green 91
H.R.3951	Disperse Red 159
H.R.3952	Reactive Red 122
H.R.3953	Mixtures of Cobaltate (2) and Cobaltate (3)
H.R.3954	Disperse Red 311
H.R.3955	Reactive Blue 187
H.R.3956	Disperse Yellow 71
H.R.3957	Mixtures of Acid Black 244, (Chromate(2), (Cobaltate(1), and (Chromate(1)
H.R.3958	Acid Blue 284
H.R.3959	Basic Blue 94:1
H.R.3960	Disperse Orange 288
H.R.3961	Disperse Blue 284
H.R.3962	Disperse Blue 56
H.R.3963	Acid Blue 264
H.R.3964	[Chemical with a name too long to summarize here]
H.R.3965	Acid Red 426
H.R.3966	Mixtures of Reactive Blue 250 and Reactive Black 5
H.R.3967	Mixtures of Reactive Black 5, Benzenesulfonic acid, and 1Naphthalenesulfonic acid
H.R.3968	Mixtures of Disperse Red 367, Benzo, and Acetic acid
H.R.3969	Disperse Blue 77
H.R.3970	Mixtures of Reactive Red 198 and Reactive Red 239
H.R.3972	Certain woven fabrics of cotton

Note that the products covered by H.R.3923, "certain other made-up articles," refer not to creative fiction or bad journalism but instead to dyed cotton fabric with pinked edges.

The product covered by H.R.3949 is mixtures of (3-Pyridinecarbonitrile, 5-[[2-cyano-4-nitrophenyl]diazenyl]-2-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-6-(phenylamino)-) and (3-Pyridinecarbonitrile, 5-[[2-cyano-4-nitrophenyl]diazenyl]-6-[[2-(2-hydroxyethoxy)ethyl]amino]-4-methyl-2-(phenylamino)-)

The product covered by H.R.3964 is mixtures of (9,10-Anthracenedione, 1,5-diamino-4,8-dihydroxy(4-hydroxyphenyl)-) and (9,10-Anthracenedione, 1,5-diamino-4,8-dihydroxy(4-methoxyphenyl)-).

* : Denotes a bill to extend a suspension already in effect. All other bills are for new suspensions of duty.

To see the text of any bill in tables 1 or 2 click [here](#), enter “H.R.[number]” or “S.[number]” into the search box, click on the radio button for “Bill Number,” and search.

Table 2: Tariff-Suspension Bills Introduced by Other Legislators

Bill	Sponsor	Subheading
H.R.1503	Yarmuth	Certain hydrogenated polymers of norbornene derivatives
H.R.1615	Himes	Gallium metal
H.R.2039	Israel	Nightlights of plastic
H.R.2450	Davis	Certain high-intensity sweeteners
H.R.2626	Markey	Certain high-performance loudspeakers
H.R.2627	Markey	Certain electrical transformers rated at 40VA
H.R.2804	Himes	Stannic oxide
H.R.3621	Israel	Certain adjustable metal lighting fixtures
S.529	Menendez	Certain cotton shirting fabrics

Note: Only chief sponsors are listed. Some bills have one or more co-sponsors.

Table 3: Subheadings Other Than Chemicals and Dyes that Were Included in the Second (Failed) MTB of the 111th Congress

Illustrative and Non-Exhaustive List

Acrylic fiber tow	Inflatable swimming pools
Acrylic snow globes	Isotopic separation cascades
Audio interface units	Laminated film
Bamboo vases	Lithium-ion battery cells
Bells designed for use on bicycles	Parts of frames and mountings for spectacles
Cathode ray tubes	Photomask blanks
Chargers	Plasma flat panel displays
Clock movements	Plastic base spotlights and nightlights
Coupon holders	Plastic children’s wallets
Direct injection fuel injectors	Plastic laminate sheets
Drive motor battery transducers	Plug-in electrothermic appliances
Dynamic microphones	Power electronics boxes
Earphones	Power factor capacitor panels
Electric coffee makers	Programmable dual function coffee makers
Electric cooktops	Radiobroadcast band receivers
Electric motor controllers	Sardines, sardinella and sprats
Electrical connectors	Sensors
Electrodes pastes	Single light optical sensors
Electronic dimming ballasts	Ski equipment
Engines for snowmobiles	Steam hair straighteners
Engines to be installed in work trucks	Surge protective receptacles
Fiberglass sheets to make ceiling tiles	Switches designed for lighting control
Fiberglass sheets to make flooring	Switchgear and panel boards
Food choppers	Tamper resistant GFCI receptacles
Frames and mountings for spectacles	Time switches
Glass snow globes	Ultraviolet lamps
Golf club driver heads	Variable-focal-length lenses
High pressure fuel pumps	Window shade material in rolls
Hot feed extruding machines	Window shade material of bamboo
Hybrid electric vehicle inverters	Window shade material of paper strips
Ice cream makers	Windssocks with silhouette heads
Image projectors to soothe/entertain infants	Windssock-type decoys

Negotiations & Agreements

U.S.-Colombia FTA to Enter into Force on May 15

The one solid accomplishment at the Sixth Summit of the Americas, at least from the standpoint of trade policy, was the announcement on April 15 that the free trade agreement (FTA) between the United States and Colombia — the host country of the summit — will enter into force on May 15. The Office of the U.S. Trade Representative announced this step at the same time that it [highlighted](#) the accomplishments of Colombia in advancing labor rights.

It has been a long time coming, with the negotiations having been initiated in 2003 and concluded in 2006, after which the agreement went through five years of uncertainty. That period saw changes of government in both countries, two changes in partisan control of Congress, suspension of the fast-track approval process in the United States, and three years of delicate negotiations between the Obama administration, Congress, and Colombia that linked approval and implementation of the agreement with Colombian respect for labor rights.

Summit of the Americas Underlines Political Divisions — Even with U.S. Allies

The summit produced the following communiqués and other documents:

[Mandates arising from the Sixth Summit of the Americas](#)

[Communiqué of the Heads of State and Government on the United Nations Conference on Sustainable Development - "Rio+20"](#)

[Communiqué of the Heads of State and Government of the Americas on the "VI Americas Competitiveness Forum: Innovation for Prosperity" to be held in Cali, Colombia, from October 24 to 26](#)

[Communiqué from the Heads of State and Government of the Americas to Confront and Combat Transnational Organized Crime in the Hemisphere](#)

[Communiqué of the Heads of State and Government on the holding of the International Conference of Ministers of Foreign Affairs and Heads of Specialized National Agencies on the Global Drug Problem](#)

Apart from the accomplishment noted above, the leaders meeting at the Sixth Summit of the Americas in Cartagena, Colombia on April 14-15 were more successful in highlighting their political differences than advancing their economic cooperation. These divisions went beyond what has now become the customary split between Washington and its closest partners on the one hand, especially those that have free trade agreements (FTAs) with the United States, *versus* the bloc of countries that are more closely affiliated with Venezuela and Cuba. In this gathering the United States was nearly alone in its opposition to the continuing isolation of Cuba from the summit process. That dispute, coupled with the absence of leaders from some countries and the sentiments expressed by the host country, could lead some to question the future viability of the summit process itself.

These summits have already experienced a prolonged deterioration, having [started](#) from a highpoint in 1994. At that time every country in the hemisphere, save for Cuba, agreed to pursue a Free Trade Area of the Americas (FTAA). The FTAA negotiations remained viable for several years, but then fell victim to a leadership struggle between the United States and Brazil as well as the emergence of a bloc that is more interested in confronting than in engaging the United States. The Obama administration has not evinced any interest in reviving the regional negotiations.

One might have thought that the absence of the leaders of Ecuador, Nicaragua, and Venezuela would make it easier to reach consensus at this meeting, but this time even some of the closest friends of the United States in Latin America took up the slack. Host country President Juan Manuel Santos called for the inclusion of Cuba in all future meetings. Santos had travelled to Cuba in March to discuss the issue. He said that this should be the last summit to which Cuba was not invited, deeming future summits without Cuba “unacceptable.”

Santos’ view was received enthusiastically by most of the attendees, but not by either the United States or Canada. It would be supremely difficult to imagine President Obama taking any other position, especially during an election year in

which he cannot take for granted his support in the swing state of Florida. Two of that state's most prominent politicians were present in Cartagena in case the president needed any reminding, where Senator Marco Rubio (R-FL) said that he didn't "know how we can participate in forums of democracy with a dictatorship at the table." Chairman Connie Mack (R-FL) of the House Subcommittee on the Western Hemisphere, who also served as leader of the bipartisan congressional delegation to the Summit, said that he "agree[d] with President Santos that the Cuban people should be represented at the Summit of the Americas" but only "by a democratically elected government that respects the human and political rights of its people."

Unfazed by the controversy over Cuba, President Santos also offered a formal proposal to debate current policy regarding illegal narcotics trade. The issue had originally been proposed by Guatemalan President Otto Perez Molina, who called for the legalization of the drug trade as a way to stop the violence and corruption that plagues countries throughout the region. President Obama said it was "legitimate to have a conversation" about the issue, but added that he did not believe in legalization. "My personal opinion and that of my administration is that legalization is not the answer." The only difference between this issue and the Cuba question concerned how much it would have cost President Obama at home if he had presented a weak position. Calling for the normalization of relations with Cuba would most likely have lost him Florida in November; favoring the legalization of drugs could have cost him several other states.

Agreement to Recognize Brazilian Cachaça Overturns Longstanding U.S. Policy

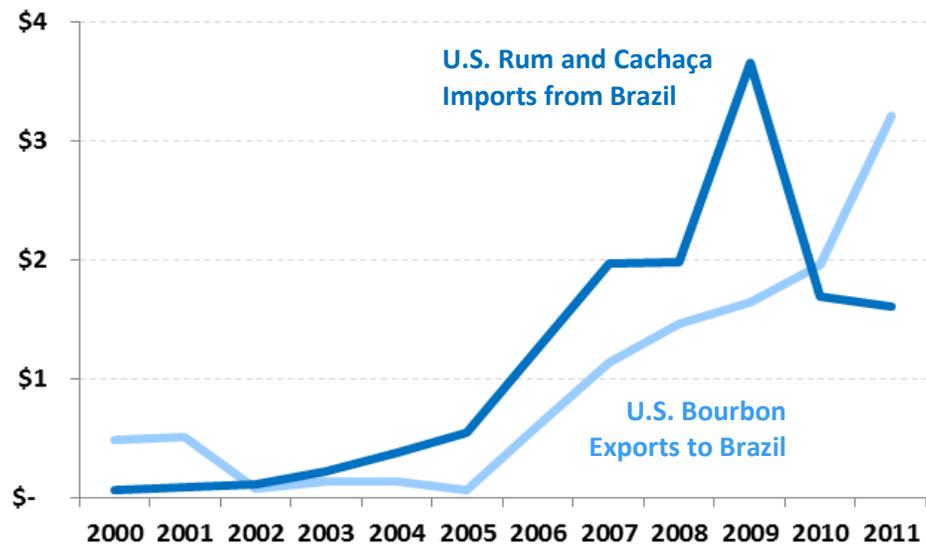
For background on distinctive products and related issues see Charles E. Hanrahan, [Geographical Indications and WTO Negotiations](#) Congressional Research Service Order Code RS21569 (2003).

In the lead-up to the Summit of the Americas the United States and Brazil held bilateral meetings earlier in the week. One of the deliverables at those meetings, as anticipated ([WTR Vol. 28 No. 11](#)), was a deal to recognize one another's liquors as "distinctive products" that merit special legal status in the two markets.

U.S. Trade Representative Ron Kirk and Brazilian Minister of Development, Industry and Foreign Trade Fernando Pimentel exchanged letters on April 9 to designate cachaça as a distinctive product of Brazil and Bourbon whiskey and Tennessee whiskey as distinctive products of the United States. These products will enjoy intellectual property protection in both countries, and cachaça will no longer be confused with rum. The next step in the process is for the Treasury Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) to publish a notice of proposed rulemaking soliciting comments from the public.

TTB has long resisted the designation of cachaça as a distinctive product, a point that it reiterated in a [public statement](#) in 2004 and [again](#) in 2005. TTB has instead required that the product be labeled as "Brazilian rum," a designation that Brazilian producers and [caipirinha](#)-loving Americans find galling and misleading (see the industry-sponsored on-line [Legalize Cachaça](#) campaign). The new bilateral agreement creates a presumption that TTB's position will be overturned after the agency receives and considers the comments that it will soon solicit. There nonetheless exists the theoretical possibility that TTB would refuse to make the change, and Brazil will thus not finalize the recognition of the U.S. products until that step is taken.

Mutual recognition deals are often included in free trade agreements (FTAs), with the United States always requesting recognition of the same two U.S. liquors in exchange for U.S. recognition of the partner's drink. In the FTA with Korea, for example, the United States recognized andong soju and gyeongju

Figure 1: U.S.-Brazilian Trade in Distinctive Liquors*Millions of Dollars*

Source: Calculated from the U.S. International Trade Commission's [DataWeb](#).

Alcohol and Tobacco Tax and Trade Bureau
 Proposed rule: Standards of Identity for Pisco and Cognac
 Comments due: May 29, 2012
 Federal Register: Volume 77, Number 59 ([March 27, 2012](#))
 Contact: Karen E. Welch (202) 453-1039

beopju as distinctive products of the Republic of Korea, with Korea recognizing Tennessee whiskey and bourbon whiskey as distinctive U.S. products. The United States [published](#) this recognition in January. Similarly, the United States exchanged recognitions with Peru (pisco) and Chile (pisco chileno) in the FTAs with those countries; just last month TTB published a [notice of proposed rulemaking](#) that aims to clarify the standards for these two similar (but distinctive) products as well as cognac.

FTA negotiations are not the only route to recognition, as demonstrated by the fact that the United States recognized tequila as a distinctive product of Mexico two decades before negotiating NAFTA. That recognition was nonetheless locked in, and reciprocated by Mexico, in NAFTA. The U.S.-Brazilian deal demonstrates that recognition can also be achieved in a stand-alone bargain.

The amount of trade affected by the current deal is relatively small but growing rapidly. As can be seen from the data in Figure 1, annual bilateral trade in cachaça and bourbon rose from well below \$1 million each in the first half of the last decade to around \$2-4 million in recent years. The data imply that, while Americans have indeed come to enjoy the caipirinha, Brazilian consumers have developed an even greater thirst for that sublime combination of bourbon, vermouth, and Angostura bitters that we know as a [Manhattan](#).

United States and Brazil Sign Aviation Partnership

The United States and Brazil signed a Memorandum of Understanding on April 9 establishing the [U.S.-Brazil Aviation Partnership](#). This partnership will include government agencies and six selected private companies that are dedicated to fostering bilateral cooperation in developing Brazil's aviation infrastructure through the purchase of U.S. aviation-related services. This agreement follows an Open Skies agreement the two countries signed in 2011. The Open Skies agreement liberalized air services rules for aviation services.

An official with the U.S. Trade and Development Agency told WTR that the six American companies that will be given special access to Brazilian planners, government officials, and others involved in design, development, and procurement for Brazilian aviation-sector enterprises are:

- ✓ Boeing
- ✓ General Electric
- ✓ Lockheed Martin
- ✓ United Airlines
- ✓ American Airlines
- ✓ Tetra Tech.

TDA will now host a delegation of Brazilian aviation officials on a reverse trade mission to the United States to familiarize them with U.S. technologies, best practices, and regulatory approaches for airports modernization in June. This will be followed in October when TDA holds a Latin American Aviation Summit in Miami, Florida, at which U.S. aviation company representatives will be invited to meet aviation officials from Latin American countries, including Brazil.

Also on April 9, Embraer S.A. and Boeing announced that they signed an agreement to pursue several areas of cooperation, including commercial aircraft features that enhance safety and efficiency, research and technology and sustainable aviation biofuels. They will also look for other areas to work together.

U.S.-EU Statement on “Shared Principles for International Investment”

The United States and European Union (EU) released a “[Statement of the European Union-United States on Shared Principles for International Investment](#)” on April 10. The seven principles are fundamental to an open and stable investment climate in every country that adopts them, according to the signatories. The principles are:

1. Open and Non-Discriminatory Investment Climates
2. A Level Playing Field
3. Strong Protection for Investors and Investments
4. Fair and Binding Dispute Settlement
5. Robust Transparency and Public Participation Rules
6. Responsible Business Conduct
7. Narrowly-Tailored Reviews of National Security Considerations

Countries that adopt such principles “contribute to sustainable economic development and growth, job creation, increased productivity, technological innovation, and competitiveness,” according to the statement. The signatories cautioned that governments “should not seek to attract foreign investment by weakening or failing to apply such measures.”

Some of the issues covered in this list have been matters of transatlantic dispute in past decades. That is especially notable for the final item on the list, with the United States and its European partners having engaged in bitter fights over such matters as the Soviet gas pipeline in the 1980s and the extraterritorial application of U.S. sanctions on European investors in Cuba in the 1990s. Regulators and negotiators have also clashed over issues relating to competition policy, privacy, and government procurement.

The most important question now is whether this and other steps towards U.S.-European cooperation are preliminary moves towards the negotiation of a free trade agreement. That is a hot topic of discussion on both sides of the Atlantic, though one that is highly unlikely to be acted upon — if at all — until after this year's elections in both France and the United States.

Business Coalition for TransPacific Partnership Agreement to Launch Hill Effort

There are currently nine countries in the TPP: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, Vietnam, and the United States. Canada, Japan, and Mexico are negotiating for entry into the talks.

The U.S. Business Coalition for TPP will have a presentation on Capitol Hill on Wednesday, April 18 to help build support for the TransPacific Partnership (TPP) negotiations. At the event will be U.S. Trade Representative Ron Kirk, ambassadors representing TPP negotiating partners, Chairman Dave Camp (R-MI) of the House Ways and Means Committee, and Chairman Max (D-MT) of the Senate Finance Committee. The coalition includes at least 108 top U.S. companies and trade associations.

New Research: Firms and Supply Chains

Carlo Altomonte *et al.*,
[“Global Value Chains During the Great Trade Collapse: A Bullwhip Effect?”](#) Banque de France Working Paper No. 364 (2012).

This paper analyzes the performance of global value chains during the trade collapse. It finds that intra-group trade in intermediates was characterized by a faster drop followed by a faster recovery than arm's length trade. Amplified fluctuations in terms-of-trade elasticities by value chains have been referred to as the “bullwhip effect;” the paper confirms the existence of such an effect due to trade in intermediates and underlines the role that different organizational modes can play in driving this adjustment.

Jan De Loecker *et al.*,
[“Prices, Markups and Trade Reform”](#) NBER Working Paper Number w17925 (2012).

This paper examines how prices, markups, and marginal costs respond to trade liberalization. Using India's trade liberalization episode to examine how firms adjust, the authors find that trade liberalization lowers factory-gate prices. However, the price declines are small relative to the declines in marginal costs, which fall predominantly because of the input tariff liberalization. The reason is that firms offset their reductions in marginal costs by raising markups. This limited pass-through of cost reductions attenuates the reform's impact on prices.

Tim Hesselink, [“EU Customs Valuation: Wake-Up Call for MNE”](#) *Global Trade and Customs Journal* Volume 7 Number 3 (2012).

Multinational enterprises (MNEs) should pay close attention to whether their customs valuation processes with respect to (non)related party transactions that cross the outer EU borders are compliant. The treatment of royalties and assists is probably the most complex area of customs valuation law, resulting in underpayments or overpayments of customs duties by MNE. This article provides guidance on EU customs valuation, with a particular focus on royalties and assists.

Michael J. Ferrantino,
[“Using Supply Chain Analysis to Examine the Costs of Non-Tariff Measures \(NTMS\) and the Benefits of Trade Facilitation”](#) (2012).

Different types of NTMs or trade facilitation issues are naturally associated with different stages in the movement of goods. Different price gaps can be assigned to these stages, making it possible to decompose the overall amount of distortion and to prioritize the policies with the largest potential efficiency gains. NTMs may accumulate in long supply chains, implying that their trade-distorting effects are greater for goods produced in a fragmented manner than for goods with simple production processes. There is evidence that trade costs are more important for high technology goods or goods undergoing several stages of processing.

Laws & Regulations

Report Expected on Relaxing U.S. Export Restrictions on Satellites

The USML, which is authorized by the [Arms Export Control Act](#), sets tight restrictions on exports of military hardware. The CCL deals instead with dual-use (i.e., military and non-military) goods and is more flexible. It is part of the [Export Administration Regulations](#), which are in turn the implementing regulations for the [Export Administration Act](#).

The departments of State and Defense are expected to release soon a final report calling for the transfer of some commercial satellite technologies from the strict [U.S. Munitions List](#) (USML) to the more permissive [Commerce Control List](#) (CCL). This step, which is in line with the Obama administration's efforts to facilitate exports of high-technology goods, would require that Congress change a law that denies the president the authority to make this transfer on his own.

At issue is section 1513 of the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999" ([Public Law 105-261](#)), by which Congress moved commercial satellites (COMSATs) from the CCL to the USML. This action, which removed decisions over how to treat this category of goods from presidential discretion, came after allegations that China had benefited militarily from launches of U.S.-built spacecraft. Thirteen years later the United States and China are now engaged in a close review of the export-control policy, with China having a long "wish list" of dual-use products that it would like to be able to import freely from the United States.

Section 1248 of the "National Defense Authorization Act for Fiscal Year 2010" ([Public Law 111-84](#)) requires that the Secretary of Defense and the Secretary of State "carry out an assessment of the national security risks of removing satellites and related components from the United States Munitions List." The report is to review "the space and space-related technologies currently on the United States Munitions List, to include satellite systems, dedicated subsystems, and components" and assess "the national security risks of removing certain space and space-related technologies" from the USML. The law also requires that the report provide recommendations for "the space and space-related technologies that should remain on, or may be candidates for removal from" the USML as well as "the safeguards and verifications necessary to ... prevent the proliferation and diversion of such space and space-related technologies."

In an [interim report](#) last May the departments of State and Defense found that "the risk associated with moving commercial COMSATs from the USML is manageable from a national security perspective, with a few narrowly defined exceptions." It called for moving commercial COMSATs, related components (including those components in common with military and civil government satellites), and information necessary for integration and launch of these satellites by foreign launch service providers off of the USML and transferring them to the CCL "under properly defined licensing and control conditions, such as interagency consensus on how these items are controlled, and the implementation of Special Export Controls (SECs) to mitigate potential risks to U.S. national security for export licenses" issued by Commerce.

That transfer would require the enactment of new legislation to restore presidential authority. More specifically, the interim report recommended that Congress "[p]rovide the President with the authority and flexibility to determine the export licensing jurisdiction of satellites and related components" because these items are "currently required by law to be on the USML." The report also noted that the Department of Defense "would need the authority and flexibility

to apply and implement special export controls by way of monitoring activities on a discretionary basis for satellite and launch-vehicle programs regardless of export jurisdiction.” It further observed that —

Legislation or regulatory changes may be needed to apply special export controls on EAR licenses. The cost of implementing special export controls should be reimbursed to [the Department of Defense] by the applicants, regardless of export license jurisdiction. This cost recovery is consistent with the current practice of implementing [Special Export Controls].

Legislation now pending in Congress would authorize the president to remove commercial satellites and related components from the USML. The proposed “Safeguarding United States Satellite Leadership and Security Act of 2011” ([H.R.3288](#)), sponsored by [Representative Howard Berman](#) (D-CA) and fourteen co-sponsors, would also prohibit any satellite or related component from being transferred, directly or indirectly, to China, Cuba, Iran, Sudan, Syria, or North Korea. There are doubts over whether Congress can act on such a politically sensitive topic in an election year, even if State and Defense back the move. Chairman Ileana Ros-Lehtinen (R-FL) of the House Foreign Affairs Committee has doubts about the proposal, as does Senator Jon Kyl (R-AZ).

Click [here](#) to see a cautious and sceptical statement that Chairman Ros-Lehtinen made on the subject at a hearing last February.

New Classification Series on the Commerce Control List for Dual-Use Exports

Bureau of Industry and Security
Final rule
Effective: April 13, 2012
Federal Register: [April 13, 2012 \(Vol.77 No.72\)](#)
Contact: Eileen Albanese (202) 482-0092

The Bureau of Industry and Security (BIS) is establishing a new Export Control Classification Number (ECCN) series, 0Y521, on the Commerce Control List (CCL) and is making corresponding changes to the Export Administration Regulations (EAR). ECCN 0Y521 is a classification based on a determination of whether the item has significant military or intelligence advantage to the United States or for foreign policy reasons, not a classification of the item’s technical characteristics. The ECCN 0Y521 series will be used for items that warrant control on the CCL but are not yet identified in an existing ECCN. In this final rule the 0Y521 provisions are being published in final form separate from the other July 15 rule proposals; comments on the other July 15 proposals remain under review.

BIS explained in the [proposed rule](#) issued on July 15, 2011 that this new temporary holding classification is equivalent to United States Munitions List (USML) Category XXI (Miscellaneous Articles). It differs insofar as while an item is temporarily classified under ECCN 0Y521 the U.S. Government works to adopt a control through the relevant multilateral regime(s); to determine an appropriate longer-term control over the item; or determines that the item does not warrant control on the CCL.

The Department of Commerce will add items to the 0Y521 ECCNs with the concurrence of the Departments of Defense and State when it believes that action provides a significant military or intelligence advantage to the United States or because foreign policy reasons justify such control. ECCN 0Y521 items will be subject to a nearly worldwide license requirement (i.e., for every country except Canada) with a case-by-case license review policy, through regional stability (RS Column 1) controls. The U.S. Government will review the sensitivity of each potential ECCN 0Y521 item on a case-by-case basis and make a positive determination regarding the sensitivity of each item. Items classified under ECCN 0Y521 will stay so classified from the date a final rule identifying the item is published in the *Federal Register* amending the EAR for one year following the date of *Federal Register* publication, unless the item is re-classified under a different ECCN or the 0Y521 classification is extended.

Republican Leaders Demand End to “Midnight Regulations”

The Office of Management and Budget defines an “economically significant” regulation or major rule in the [Final Bulletin for Agency Good Guidance Practices](#) (GGP Bulletin) of January 18, 2007 as one that has an annual impact of \$100 million or more.

House Speaker John Boehner (R-OH) and Senate Minority Leader Mitch McConnell (R-KY) [wrote](#) to President Obama on April 11 asking him to stop instituting any “economically significant” new regulations and other directives after the current fiscal year ends on September 30. The leaders asked the president to resist the temptation to issue any “economically significant or controversial ‘midnight regulations’” in the weeks leading up to the election.

The Republican leaders blamed the administration’s imposition of an historically large number of economically significant regulations for the stagnant economic growth and lack of job creation. They were particularly perturbed that the president’s [explicit promise](#) to establish transparency, public participation, and collaboration as hallmarks of his administration appears to have been empty. Accusing the administration of “not adher[ing] to these principles while issuing regulations,” they said they were “concerned that as we approach the end of your current term, this commitment will be further undermined by a final push to issue a set of ‘midnight regulations,’ with little opportunity for oversight.”

EPA Proposes Mandatory Electronic Reporting for TSCA Data Submission

The U.S. Environmental Protection Agency (EPA) on April 13 announced a [proposed rule](#) to require electronic reporting for certain information submitted to the agency under the Toxic Substances Control Act (TSCA). The proposed rule would require electronic reporting rather than paper-based reporting for various TSCA actions including submission of information relating to chemical testing, health and safety studies, and other information. When final, EPA will only accept data, reports, and other information submitted through EPA’s Central Data Exchange, a centralized portal that enables electronic submission of data. The agency is soliciting comments on this proposed rule for 60 days.

Comments Invited on Proposed Amendments to CITES on Trade in Flora and Fauna

Fish and Wildlife Service
Deadline: June 11, 2012
Federal Register: [April 11, 2012 \(Vol.77 No.70\)](#)
Contact: Rosemarie Gnam
Ph.D. (703) 358–1708

The sixteenth regular meeting of the Conference of the Parties to CITES (CoP16) is tentatively scheduled to be held in Thailand, March 3-15, 2013. In this notice the Fish and Wildlife Service describes proposed amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendices (species proposals) that the United States might submit for consideration at CoP16 and invites comments and information on the proposals. CITES is an international treaty designed to control and regulate international trade in certain animal and plant species that are now or potentially may be threatened with extinction, and are affected by trade. These species are included in Appendices to CITES, which are available on the CITES Secretariat’s Web site at <http://www.cites.org/eng/app/2011/E-Dec22.pdf>.

Mango Assessment Fee Raised for First Handlers, Importers

Agricultural Marketing Service
Final rule
Effective September 1, 2012
Federal Register: [April 12, 2012 \(Vol.77 No.71\)](#)
Contact: Veronica Douglass
(888) 720-9917

The Agricultural Marketing Service is increasing the assessment rate on first handlers and importers of mangos from 0.5¢ per pound to 0.75¢ per pound. The increase is permitted under the Mango Promotion, Research, and Information Order, which is authorized by the Commodity Promotion, Research, and Information Act of 1996. The National Mango Board says that it recommended this action to ensure that the board’s research and promotion programs continue to be adequately funded.

Amendment to Clementine Inspection Regulations

Animal and Plant Health
Inspection Service
Final rule
Effective: May 16, 2012
Federal Register: [April 16, 2012](#)
([Vol.77 No.73](#))
Contact: Paul McGowan (301)
851-2312

The Animal and Plant Health Inspection Service (APHIS) is amending the regulations governing the importation of clementines from Spain by removing from the regulations the number of clementines per consignment intended for export to the United States that are required to be sampled by APHIS inspectors. In place of this number, the agency will state in the regulations that inspectors will cut and inspect a sample of clementines determined by APHIS.

Fresh Pitaya Fruit from Central America

Animal and Plant Health
Inspection Service
Final rule
Effective: May 16, 2012
Federal Register: [April 16, 2012](#)
([Vol.77 No.73](#))
Contact: David Lamb (301) 851-
2103

The Animal and Plant Health Inspection Service (APHIS) will allow the importation of fresh pitaya fruit from Central America into the continental United States. As a condition of entry, the pitaya fruit must be produced in accordance with a systems approach that includes requirements for monitoring and oversight, establishment of pest-free places of production, and procedures for packing the pitaya fruit.

Fresh Bananas from the Philippines

Animal and Plant Health
Inspection Service
Proposed rule
Deadline: June 15, 2012
Federal Register: [April 16, 2012](#)
([Vol.77 No.73](#))
Contact: Meredith Jones (301)
851-2289

The Animal and Plant Health Inspection Service (APHIS) will allow the importation of fresh bananas from the Philippines into the continental United States. As a condition of entry, the bananas would have to be produced in accordance with a systems approach that would include requirements for importation of commercial consignments, monitoring of fruit flies to establish low-prevalence places of production, harvesting only of hard green bananas, and inspection for quarantine pests by the national plant protection organization of the Philippines. The bananas would also have to be accompanied by a phytosanitary certificate with an additional declaration stating that they were grown, packed, and inspected and found to be free of quarantine pests in accordance with the proposed requirements.

Alcohol Labeling Must Disclose Cochineal Extract and Carmine

Alcohol and Tobacco Tax and
Trade Bureau
Final rule; Treasury decision
Effective: May 16, 2012
Federal Register: [April 16, 2012](#)
([Vol.77 No.73](#))
Contact: Lisa Gesser (202) 453-
1039 ext. 292

The Alcohol and Tobacco Tax and Trade Bureau is revising its regulations to require the disclosure of the presence of cochineal extract and carmine on the labels of any alcohol beverage product containing one or both of these color additives. This rule responds to a final rule issued by the Food and Drug Administration. This rule is effective as of May 16, 2012. Transitional rules are provided that will require compliance by April 16, 2013. Voluntary compliance with this final rule may begin immediately.

Impact of Changes to Air Transport Requirements for Lithium Cells and Batteries

Pipeline and Hazardous
Materials Safety Administration
Proposed rulemaking
Deadline: May 11, 2012
Federal Register: [April 11, 2012](#)
([Vol.77 No.70](#))
Contact: Kevin A. Leary (202)
366-1074

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is seeking comments on the impact of changes to the requirements for the air transport of lithium cells and batteries that have been adopted into the 2013-2014 International Civil Aviation Organization Technical Instructions on the Transport of Dangerous Goods by Air (ICAO Technical Instructions). PHMSA is considering whether to harmonize with these requirements and is publishing this notice to allow interested persons an opportunity to supplement comments to its January 11, 2010 [Notice of Proposed Rulemaking](#). PHMSA seeks comments from the public on the impact of these changes, and requests that

commenters include specific data with verifiable references. A full report of these changes is available through the ICAO at <http://www.icao.int/safety/DangerousGoods/Pages/DGP.aspx>.

Packaging Requirement for Transporting Liquids by Air

Pipeline and Hazardous Materials Safety Administration
Final rule
Effective: July 1, 2012
Federal Register: [April 16, 2012 \(Vol.77 No.73\)](#)
Contact: Michael G. Stevens
(202) 366-8553

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is amending the Hazardous Materials Regulations to require closures of inner packagings containing liquids within a combination packaging intended for transportation by aircraft to be secured by a secondary means or, where a secondary closure cannot be applied or it is impracticable to apply, permit the use of a leakproof liner. These amendments are consistent with the 2011-2012 edition of the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions). This rule is effective July 1, 2012. Voluntary compliance with all amendments are authorized May 16, 2012.

Information Collection: Transfers of Schedule 1 Chemicals and End-Use Certificates

Bureau of Industry and Security
Comment request
Deadline: June 15, 2012
Federal Register: [April 16, 2012 \(Vol.77 No.73\)](#)
Contact: Larry Hall (202) 482-4895

The Bureau of Industry and Security (BIS) invites comments on its information collection requirement pertaining to Chemical Weapons Convention (CWC) provisions of the Export Administration Regulations. The CWC prohibits the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. This collection implements the following provision of the treaty:

Schedule 1 notification and report: Under Part VI of the CWC Verification Annex, the United States is required to notify the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to implement the CWC, at least 30 days before any transfer (export/import) of Schedule 1 chemicals to another State Party. The United States is also required to submit annual reports to the OPCW on all transfers of Schedule 1 Chemicals.

End-Use Certificates: Under Part VIII of the CWC Verification Annex, the United States is required to obtain End-Use Certificates for transfers of Schedule 3 chemicals to Non-States Parties to ensure the transferred chemicals are only used for the purposes not prohibited under the Convention.

Openings for Trade Professionals in the Federal Government

Agency	Job Title	Salary Range	Close
State Dept./Office of Export Controls	Foreign Affairs Officer	\$105,211-136,771	April 16
Export-Import Bank	Attorney-Advisor	\$76,644-118,481	April 16
Commerce Dept./Int'l Trade Admin.	Program Analyst	\$62,467-115,742	April 18
Homeland Sec./Immig. & Customs Enf.	Criminal Invest./Liaison (Stuttgart)	\$99,628-129,517	April 19
Commerce Dept./Int'l Trade Admin.	International Trade Specialist	\$47,448-111,148	April 21
Export-Import Bank	Loan Specialist	\$76,644-118,481	April 23
Department of the Treasury	Dep'y Asst. Gen. Coun. (Int'l Affairs)	\$119,554-179,700	April 28
U.S. Trade Representative	Minister Couns. for Trade (Beijing)	\$119,554-165,300	April 30
Commerce Dept./Int'l Trade Admin.	Senior Imp. Admin. Officer (Beijing)	\$94,064-138,137	April 30
USDA Economic Research Service	Director, Market & Trade Econ. Div.	\$119,554-179,700	May 21
U.S. Patent and Trademark Office	Attorney Advisor	\$89,033-155,500	June 7
USDA Economic Research Service	Research Agricultural Economist	\$74,872-115,742	Aug. 31
USDA Economic Research Service	Research Agricultural Economist	\$74,872-155,500	Aug. 31

Cases & Sanctions

Commerce Has More Work on Antidumping Reviews

Prepared by Laura Fraedrich
Kirkland & Ellis LLP
(202) 879-5990
lfraedrich@kirkland.com

[Qingdao Sea-Line Trading Co. v. United States](#), slip op. 12-39 (Ct. Int'l Trade Mar. 21, 2012)

[Lifestyle Enterprise, Inc. v. United States](#), slip op. 12-45 (Ct. Int'l Trade Mar. 28, 2012)

[Applikon Biotech., Inc. v. United States](#), slip op. 12-44 (Ct. Int'l Trade Mar. 28, 2012)

Garlic Values in Dispute

Qingdao challenged the results of the Department of Commerce's new shipper review under the antidumping duty order on fresh garlic from China. The U.S. Court of International Trade ("CIT") agreed that the review was deficient in certain respects and remanded the matter to Commerce. First, the CIT ruled that Commerce had to further explain its use of garlic bulb prices from a time prior to the period of review and to explain why garlic bulb size justifies this practice. Also, the CIT directed Commerce to further review the use of certain financial statements. Specifically, Commerce should explain why the use of the Tata Tea statement constitutes the best available information, "taking into account Commerce's previous finding that it better reflects the production of peeled garlic, as distinct from the production of [Qingdao's] whole garlic bulbs." Commerce also must evaluate another financial statement submitted by Qingdao to see if it constitutes the best available information for use.

More Woodworking Ahead for Commerce

The CIT reviewed the Department of Commerce's remand determination regarding an administrative review of the antidumping duty order on wooden bedroom furniture from China and concluded that two issues still needed work. First, the CIT ruled that Commerce failed to corroborate the adverse facts available rate with data relating to the commercial reality of the exporter to which the rate was applied. The CIT also noted that the rate was "from a new shipper review three to four years prior to this administrative review" and "also an extreme outlier when viewed in light of the prior new shipper reviews, the two previous administrative reviews, and the investigation." Second, the CIT ruled that unless Commerce decides to open the record it must use the volume set of data to value wood inputs rather than the weight data used in the review. The CIT noted that the use of weight-based data understates the wood input surrogate value.

CIT Explains Classification Decision

The United States moved for rehearing, modification or reconsideration to correct the CIT's decision regarding the classification of Applikon's Bioreactor Systems. The CIT granted the motion to the extent it requested further explanation of the court's decision but denied the request for alternative classification. The CIT ruled that the Bioreactor Systems should be classified under subheading 8479.82.00, HTSUS. The CIT noted that the alternative subheadings suggested by the United States did not apply due to Section XVI Note 4 and Chapter 84 Note 7.

Following CVD Threats, China Widens the Band in Floating the Renminbi

The People's Bank of China posted [Announcement 2012 No. 4](#) on April 14, declaring that it will double the band within which the renminbi (RMB) is allowed to float. More specifically,

Effective from April 16, 2012 onwards, the floating band of RMB's trading prices against the US dollar in the inter-bank spot foreign exchange market is enlarged from 0.5 percent to 1 percent, i.e., on each business day, the trading prices of the RMB against the US dollar in the inter-bank spot foreign exchange market will fluctuate within a band of ± 1 percent around the central parity released on the same day by the China Foreign Exchange Trade System. The spread between the RMB/USD selling and buying prices offered by the foreign exchange-designated banks to their customers shall not exceed 2 percent of the central parity, instead of 1 percent,

The bank cited several reasons for this move, including its desire "to meet market demands, promote price discovery," and "further improve the managed floating RMB exchange rate regime based on market supply and demand with reference to a basket of currencies." Other observers see an effort on China's part to appease demands from its trading partners, some of whom — especially Brazil and the United States ([WTR Vol. 28 No. 11](#)) — have threatened to name China a foreign-exchange manipulator and take action against imports from that country under the countervailing duty laws.

United States and India Engaged in Tit-for-Tat Trade Disputes

The United States and India appear to be engaged in a round of tit-for-tat trade disputes that began with the recent U.S. complaint against India on sanitary and phytosanitary restrictions on poultry, which led to a formal request for consultations ([DS430](#)) on March 6. India has followed with two complaints of its own, one formal and the other still informal, but if U.S. officials wish to continue the cycle there is material near at hand.

India requested consultations with the United States on April 12 regarding U.S. countervailing duties (CVDs) levied against Indian steel products ([DS436](#)). As of press time the document specifying the Indian complaint (designated WT/DS436/1) had not yet been posted to the WTO website. The [CVD orders currently in place](#) against India concern carbon steel plate, hot-rolled carbon steel flat products, and pre-stressed concrete steel wire strand, and the Department of Commerce reached a [preliminary subsidy finding](#) against Indian steel pipe this March. It is not yet clear which of these cases are cited in the complaint.

India may also initiate formal proceedings soon in the visas case. As previously reported ([WTR Vol. 28 No. 12](#)), India contends that the United States discriminated against its firms when it raised visas fees in 2010. While India is reported to have sought consultations on the matter the Office of the U.S. Trade Representative says that it has not yet received a formal request.

Should U.S. officials wish to develop a new complaint against India they need look no farther than a *demarche* that a large number of private sector organizations have made to that country on its government procurement policies. The issue is not likely to arise in the WTO, where India is pointedly not one of the signatories to the plurilateral [Government Procurement Agreement](#), but could become a source of friction in the bilateral relationship. Global technology and business groups cosigned a [letter to Prime Minister](#)

[Manmohan Singh](#) on April 4 objecting to new preferential market access rules for the Department of Information Technology. Thirty-five associations from Australia, Canada, Europe, Hong Kong, Japan, Korea, Taiwan, and the United States expressed concern that the preferential rules will hurt domestic competitiveness in India and could potentially spark retaliatory responses by India's trading partners. Among the many U.S. signatories were the U.S. Chamber of Commerce, the U.S. Council for International Business, and the U.S.-India Business Council.

These regulations, which were approved earlier this year, officially mandate preferences for domestically manufactured electronic goods that have security implications for the country. The required percentage of domestic value-added in order to qualify as "domestic" for purposes of procurement will increase in each of the five years in which the regulation is in force, from 25% in Year One to 45% in Year Five. According to an official Ministry [newsletter](#) "The policy is expected to create an indigenous manufacturing eco-system for electronics in the country."

The industry groups voiced particular worry that the impact of the government-procurement regulations could be felt in the broader economy because the domestic-content requirements could push Indian suppliers to source exclusively domestically if they wanted to compete for government contracts.

Sanctions on Foreign Financial Institutions' Purchases of Iranian Petroleum

Executive Office of the President
Federal Register: [April 10, 2012](#)
([Vol.77 No.69](#))

President Obama signed Presidential Determination No. 2012-05 on March 30 confirming that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to allow compliance with statutory directives to "permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions."

Actions Taken under the Trade-Remedy Laws by the International Trade Administration (ITA) and the U.S. International Trade Commission (ITC)

Law	Product	Exporters	Action	FR Vol.77
AD	Lightweight thermal paper	Germany	ITA final results of 2009-2010 administrative review weighted average margin is 3.99 percent	#68
AD	Ammonium nitrate	Russia	ITA invites requests for administrative review	#69
AD	Cut-to-length carbon-quality steel plate	Korea	ITA final results of administrative review weighted average margin is 1.64 percent	#69
AD	Crawfish tailmeat	China	ITA final results of administrative review weighted average margin ranges from 18.87 to 70.12 percent and rescission of review in part	#69
AD	Glycine	China	ITA preliminary partial affirmative determination of circumvention of order and initiation of scope inquiry	#69
AD	Wooden bedroom furniture	China	ITA final rescission of new shipper review	#69

Law	Product	Exporters	Action	FR Vol.77
AD	Orange juice	Brazil	ITA preliminary results of administrative review weighted average margin ranges from 0.00 to 22.03 percent and preliminary no shipment determination	#70
AD	Polyester staple fiber	Taiwan	ITA extension of deadline for preliminary results of administrative review	#70
AD	Seamless standard, line, and pressure pipe	Romania	ITA extension of deadline for preliminary results of administrative review	#70
AD	Kitchen appliance shelving and racks	China	ITA final results of administrative review weighted average margin ranges from 0.00 to 95.99 percent and rescission of review in part	#70
AD	Glycine	China	ITA preliminary results of administrative review weighted average margin is 0.00 percent and rescission of review in part	#70
AD	Uncovered innerspring units	China	ITA final results of administrative review weighted average margin is 234.51 percent and final rescission in part	#71
AD	Stainless steel plate in coils	Belgium	ITA final results of changed circumstances review	#71
AD	Chlorinated isocyanurates	China	ITA final results of changed circumstances review weighted average margin is 2.66 percent	#71
AD	Saccharin	China	ITA preliminary results of administrative review weighted average margin is 329.94 percent and rescission of review in part	#71
AD	Orange juice	Brazil	ITC negative final determination of sunset review	#72
AD	Silicomanganese	Brazil, China, Ukraine	ITC schedules full five-year reviews	#72
AD	Kitchen appliance shelving and racks	China	ITA extends deadline for preliminary results of administrative review	#73
AD	Citric acid and citrate salts	China	ITA extends deadline for preliminary results of administrative review	#73
AD	Lightweight thermal paper	Germany	ITA partial rescission of administrative review	#73
AD	Cast-iron pipe fittings	China	ITA initiation and preliminary results of changed circumstances review and intent to revoke order in part	#73
AD/ CVD	Drawn stainless steel sinks	China	ITC unanimous preliminary affirmative injury determinations	*
CVD	Kitchen appliance shelving and racks	China	ITA final results of administrative review	#70
CVD	Seamless standard, line, and pressure pipe	China	ITA rescission of administrative review	#71
CVD	Honey	Argentina	ITA rescission of administrative review	#71
CDV	Stainless steel sinks	China	ITA correction to initiation of investigation	#73

Studies & Events

New “Wise Men’s” Group Formed at the WTO

Turning to a device that one of his predecessors in the General Agreement on Tariffs and Trade (GATT) employed, Director General Pascal Lamy of the World Trade Organization (WTO) appointed a WTO Panel on Defining the Future of Trade. This is reminiscent of a “Wise Men’s Group” put together in the mid-1980s at a time of uncertain direction in the GATT system. The new group is appointed in an even more unclear environment, when the Doha Round of WTO negotiations is near collapse and the center of trade negotiations has moved away from the WTO into bilateral, regional, and plurilateral alternatives.

The purpose of the group is to examine and analyse challenges to global trade opening in the 21st century. The twelve panelists have been asked to look at the drivers of today and tomorrow’s trade, to look at trade patterns and at what it means to open global trade, bearing in mind its role in contributing to sustainable development, growth, jobs, and poverty alleviation. Lamy expressed the hope that the group’s analysis “will spark debate and open new channels of thinking on how we can best confront the stumbling blocks that today’s rapidly evolving world has strewn in our collective path.”

[Thomas J. Donohue](#), CEO of the [U.S. Chamber of Commerce](#), is the U.S. member. Donohue has headed the Chamber since 1997 and is an active advocate of a more aggressive approach to trade liberalization. That was demonstrated last week by his participation in the first-ever [CEO Summit of the Americas](#), where he delivered a [speech](#) calling for expedited entry into force of the two recently approved free trade agreements with Colombia and Panama, negotiation of an economic partnership agreement with Brazil, and a strategy to stitch the hemisphere’s many trade agreements together. That follows a proposal he floated last November for a [new agenda in the Asia-Pacific region](#) and a speech in February on [American business and economic statecraft](#). In that last address he declared that “[w]e have to find a way forward at the World Trade Organization” but offered no suggestions on how that might best be accomplished.

The other members of this group include a wide range of regions, professions, and perspectives:

- ✓ Talal Abu-Ghazaleh, Chairman and Founder, Talal Abu-Ghazaleh Overseas Corporation, Jordan
- ✓ Sharan Burrow, Secretary-General, International Trade Union Confederation, Brussels
- ✓ Helen Clark, UNDP Administrator, New York
- ✓ Frederico Fleury Curado, President and CEO, Embraer S.A, Brazil
- ✓ Victor K. Fung, Chairman of Fung Global Institute and Honorary Chairman of the International Chamber of Commerce, Hong Kong, China
- ✓ Pradeep Singh Mehta, Secretary-General, CUTS International, India
- ✓ Festus Gontebanye Mogae, Former President of Botswana
- ✓ Josette Sheeran, Vice Chairman, World Economic Forum, Geneva
- ✓ Jürgen R. Thumann, President, BUSINESSEUROPE, Brussels
- ✓ George Yeo, Former Foreign Minister, Singapore and Vice Chairman of Kerry Group Limited
- ✓ Fujimori Yoshiaki, President and CEO, JS Group Corporation, Tokyo

The WTO Panel on Defining the Future of Trade will meet several times in 2012. In the autumn, it will have the opportunity to hear the views of WTO Members over these challenges. The first meeting of the group will be on May 16 in Geneva.

Commerce Secretary Bryson Adds Seven Members to Manufacturing Council

Commerce Secretary John Bryson announced the appointment of seven new members to the Manufacturing Council, a private-sector committee appointed to advise Commerce on the U.S. manufacturing sector. The new appointees to the Manufacturing Council are:

- ✓ Gregory Booth, President & Chief Executive Officer, Zippo Manufacturing Company, Pennsylvania;
- ✓ Mark Chandler, Senior Vice President, General Counsel and Secretary, Cisco Systems, Inc., California;
- ✓ Peter Dorsman, Executive Vice President, Industry Solutions Group and Global Operations, NCR, Georgia;
- ✓ Dr. Albert Green, CEO, Kent Displays / Improv Electronics, Ohio;
- ✓ Mary Ann Hynes, Senior Vice President, General Counsel, Corporate Secretary and Chief Compliance Officer, Corn Products International, Inc., Illinois;
- ✓ Joel Lorentzen, Chief Executive Officer and President, Genesis Systems Group LLC, Iowa; and
- ✓ Roy Sweatman, President, Southern Manufacturing Technologies, Florida.

They join [19 members](#) already appointed to the council.

Forthcoming PIIE Analysis: Safeguards on Tires Saved 1200 Jobs at \$900K Each

The policy brief “US Tire Tariffs: Saving Few Jobs at High Cost” will be posted soon to the website of the [Peterson Institute for International Economics](#).

In 2009 President Obama granted a petition filed under a special “[selective safeguard](#)” law for China to impose restrictions on imports of tires. He later cited this action in his 2012 State of the Union message as an example of how his administration will stand up to China. According to a forthcoming analysis by Gary Hufbauer and Sean Lowry, however, while this initiative may have saved 1200 jobs the total cost to U.S. consumers from higher prices on Chinese tires was around \$1.1 billion in 2011. That amounted to a cost of \$900,000 per job saved. The net cost would be higher still if one were to count the subsequent losses by U.S. poultry exporters who were targeted by China in a revenge case.

Study on Intellectual Property-Intensive U.S. Industries

The Commerce Department released a report on [Intellectual Property and the U.S. Economy: Industries in Focus](#) on April 11 that seeks to bolster the argument in favor of strong intellectual property (IP) protection as a fundamental requirement for economic prosperity. The report compares IP-intensive industries with to the economy as a whole. It finds that although IP-intensive industries have not performed as well in job growth relative to other sectors over the last two decades, they tend to produce jobs that are higher-paying, attract or require more highly educated employees, and are responsible for a significant share of U.S. foreign exports.

The Office of the U.S. Trade Representative released a statement putting the report’s findings in the context of “a robust intellectual property chapter in the [TransPacific Partnership] TPP negotiations; ensuring that our trade agreements

are properly implemented; and using the ‘Special 301’ process of reporting on intellectual property protection and enforcement and bilateral engagement, to enhance the protection and enforcement of IPR in our trading partners, and ensure greater market access so that legitimate U.S. exports of IP-intensive products can reach global consumers.” The International Intellectual Property Alliance also enthusiastically endorsed the report, praising the administration “for buttressing the factual record that undergirds this key strategic direction for U.S. economic and trade policy.”

USITC Investigation: Trade Facilitation in the East African Community

U.S. International Trade Commission
 Deadline: May 10, 2012
 Transmittal of report: July 2, 2012
 Federal Register: [April 12, 2012 \(Vol.77 No.71\)](#)
 Contact: Falan Yinug (202-205-2160)

The U.S. International Trade Commission (USITC) is seeking input for a newly initiated investigation on trade facilitation in the East African Community (EAC). The investigation, *Trade Facilitation in the East African Community: Recent Developments and Potential Benefits*, was requested by the U.S. Trade Representative. The United States and the EAC recently began preliminary discussions on a potential new trade and investment partnership that aims to support regional integration and greater U.S.-EAC trade and investment.

The USITC invites written input for its new investigation from all interested parties. Further information on the scope of this investigation and the procedures for written submissions is available in the USITC’s [notice of investigation](#).

WTO Sees Slowing Growth for Trade in 2012

A [report](#) by the World Trade Organization (WTO) finds that the global trade expansion slowed last year, and predicts that the trend will continue in 2012. Although world trade grew in 2011 by 5% over 2010, that was actually a sharp deceleration from the 2010 rebound of 13.8%. Further, they project that growth will slow further still to 3.7% in 2012. The report attributed the slowdown to the global economy losing momentum due to a number of shocks, including the European sovereign debt crisis, recessions and slowing growth in manufacturing, natural catastrophes, political events leading to interruptions in global oil supplies or supply chain disruptions, and other factors.

AEI Report: Is the Chinese Economy Slowing Down?

The American Enterprise Institute (AEI) asks [Is China Slowing Down?](#) in a policy study by John H. Makin. The report flatly states that China’s economy is indeed slowing down, from a reported 9.2% annual rate of growth at the end of last year to approximately 7% during the first quarter of this year. While manufacturing is slowing, China is also experiencing a housing slump. The author examines some of the ramifications for the global economy, depending on how China’s current and incoming leaders decide to deal with challenges.

China’s slowing internal growth has been accompanied by a sharp drop in exports. Furthermore, China’s appreciation of the renminbi (RMB) currency appears to have ended since the start of 2012. The report argues that, from Beijing’s vantage point, an end to RMB appreciation makes economic sense because less currency strength makes China’s exports less expensive in global markets where growth is slowing. Less currency appreciation also helps China avoid shrinking its share of the smaller global export market. Furthermore, the drop in China’s inflation rate has lessened the need to allow currency strength (lower prices of imported goods) to blunt inflation pressures.

Teleconference Meeting to Prepare for Codex Committee on Food Labeling

Agriculture Department
Public meeting: April 18, 2012
(1:00-3:00 pm ET)
Teleconf.: 1-888-858-2144.
Participant code: 6208658
Federal Register: [April 9, 2012](#)
[\(Vol.77 No.68\)](#)
Contact: Doreen Chen-Moulec
(202) 205-7760

The Agriculture Department is sponsoring a public meeting to provide information and receive public comments on agenda subheadings and draft U.S. positions that will be discussed at the 40th Session of the Codex Committee on Food Labeling (CCFL) of the Codex Alimentarius Commission (Codex), which will be held in Ottawa, Ontario, Canada from May 15-18, 2012. Documents related to the 40th Session of the CCFL will be accessible via <http://www.codexalimentarius.org/meetings-reports/en/>.

Oil and Gas Trade Mission to Israel

Commerce Department
Due: August 24, 2012
Federal Register: [April 11, 2012](#)
[\(Vol.77 No.70\)](#)
Contact: David McCormack
(202) 482-2833

The Department of Commerce is organizing an Executive-led October 27-31, 2012 Oil and Gas Trade Mission to Israel. The mission is intended to include representatives from leading U.S. companies that provide services to oil and gas facilities, from design and construction through to project implementation, maintenance of facilities, and environmental protection.

Free Beta Customs Broker Exam Preparation App Available

To download a free copy of the beta go to the [Customs Broker Exam Practice Application webpage](#) on CUSTOMS Info. For more information go to <http://www.customsinfo.com>.

[Customsinfo](#) invites interested persons to download a free copy of the company's new, beta version of its Customs Broker Exam Preparation App. The application works on any windows PC and includes the past eight Customs Broker Exams. Along with the exam installation zip-file is the "Most Tested" spreadsheet to help a user focus on the most important section of the HTSUS and 19 CFR in when studying for the exam.

New Research: North American Integration

Stephen T. Zamora,
"Rethinking North America:
[Why NAFTA's Laissez Faire Approach to Integration Is Flawed, and What to Do About It](#)" University of Houston Law Center Number 2012-A-5 (2012).

This article analyzes what the author terms NAFTA's "headless" approach to integration, resulting in the ad hoc, temporary and bilateral settlement of cross-border issues as they arise, to the detriment of sustainable growth of the North American economy. It explores alternative mechanisms for improving North American relations, including the formation of trilateral networks of governmental and quasi-governmental officials, and the promotion of civil society initiatives involving NGOs, universities, and other non-governmental actors.

Michael J. Zimmer and Susan Bisom-Rapp, "[North American Border Wars: The Role of Canadian and American Scholarship in U.S. Labor Law Reform Debates](#)" Loyola University Chicago School of Law Research Paper No. 2012-002

The authors argue that Canadian-influenced labor law scholarship has played a central role in U.S. policy debates, creating a favorable intellectual environment for labor law convergence. The opponents of U.S. labor law reform also deploy scholarship aimed at the Canadian experience in order to reinforce the divergent paths of the two systems, as do Canadian scholars acting defensively to forestall greater convergence of the Canadian regime to the U.S. model. The authors illustrate these points by examining debates surrounding the Employee Free Choice Act, a U.S. reform that was based on the Canadian experience.

Calendar of Events

For the full calendar of trade events go to <http://www.WashingtonTradeReport.com/calendar>

Date	Type	Event	More Information
April 17	Remedies	USITC final injury vote in AD/CVD investigations of refrigerator-freezers from Korea and Mexico; certain steel wheels from China	USITC pages on refrigerator-freezers and steel wheels
April 17-19	Meeting	World Customs Organization and the Korea Customs Service jointly co-host the WCO Global AEO Conference in Seoul, Korea.	World Customs Organization
April 19	Meeting	Open meeting of the U.S.-China Economic and Security Review Commission	Commission website
April 19	Remedies	USITC final injury vote in AD investigations of certain steel nails from the United Arab Emirates; certain stilbenic optical brightening agents from China and Taiwan	USITC pages on nails and brightening agents
April 21-26	Meeting	Thirteenth session of the United Nations Conference on Trade and Development (UNCTAD XIII) in Doha	UNCTAD XIII website
April 22	Election	Presidential election in France (first round)	Election Guide
April 23	Remedies	USITC final injury vote in AD/CVD investigation of galvanized steel wire from China and Mexico	USITC
April 23	Report	USITC report to House Ways and Means Committee on the global competitiveness of the U.S. business jet aircraft industry	USITC release
April 23-25	Meeting	2 nd Annual International Trade Compliance Conference	On line
April 23-25	Meeting	Council of Supply Chain Management Professionals 8 th European conference	On line
April 24	Meeting	WTO Dispute Settlement Body meeting	Agenda TBD
April 24-26	Course	Complying with U.S. Export Controls (Milpitas, CA)	Bureau of Industry and Security
April 26	Data	BEA releases advance GDP by industry 2011	Bureau of Economic Analysis
April 27	Remedies	Approx. date for ITA final AD determination on high pressure steel cylinders from China	Federal Register Vol.76 No.241
April 27	Data	BEA releases advance estimate of 1 st quarter 2012 GDP	Bureau of Econ. Analysis
April 27	Regulatory	Due date for comments to APHIS on an information collection for restricted and controlled importation of nonfood animal and poultry products and byproducts	Federal Register February 27, 2012 (Vol.77 No.38)
April 28-May 6	Legislative	House of Representatives not in session	House Calendar