

consolidated tape.”²⁸ This commenter states: “Because the noncompliant company list and BC indicator give no further detail about the company’s infraction or degree of noncompliance, investors may assume that a company is in danger of being delisted when only a relatively minor infraction exists.”²⁹

The Commission believes that it is not unreasonable for the NYSE to require a company that is listed on its facility to notify the Exchange when it becomes aware that it is out of compliance with the Exchange’s listing standards. With respect to the concern that the BC indicator provides no details about the reasons why the BC indicator was appended to the company’s stock symbol, the NYSE’s Web site provides the reason why a company has been placed on the non-compliant list.³⁰

Finally, the Commission believes that the technical and other minor changes in the proposal improve and add to the clarity of the Exchange’s corporate governance listing rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,³¹ that the proposed rule change (SR-NYSE-2009-89), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-28890 Filed 12-3-09; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61008; File No. SR-NASDAQ-2009-094]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Require That Companies Provide Nasdaq With at least Ten Minutes Prior Notification When Releasing Material Information and Eliminate a Potential Inconsistency With Commission Guidance on the Use of Company Websites To Satisfy Public Disclosure Requirements

Correction

In notice document E9-27998 beginning on page 61186 in the issue of Monday, November 23, 2009, make the following correction:

On page 61186, in the second column, the docket number is corrected to read as set forth above.

[FR Doc. Z9-27998 Filed 12-03-09; 8:45 am]

BILLING CODE 1505-01-D

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS394]

WTO Dispute Settlement Proceeding Regarding China—Measures Related to the Exportation of Various Raw Materials

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on November 4, 2009, in accordance with the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”), the United States requested that the WTO Dispute Settlement Body establish a dispute settlement panel to review the U.S. claims concerning restraints on the export from China of various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc (the “materials”). That request may be found at <http://www.wto.org> contained in a document designated as WT/DS394/7. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings,

comments should be submitted on or before January 19, 2010 to be assured of timely consideration by USTR.

ADDRESSES: Public comments should be submitted electronically to <http://www.regulations.gov>, docket number USTR-2009-0016. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Shubha Sastry, Assistant General Counsel, or Katherine Tai, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-6139 or (202) 395-9589.

SUPPLEMENTARY INFORMATION: Pursuant to Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)(1)), USTR is providing notice that the United States has requested the WTO Dispute Settlement Body to establish a dispute settlement panel pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). Such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within approximately nine months after it is established.

Major Issues Raised by the United States

China imposes restraints on the export from China of various forms of bauxite (“bauxite” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes, as listed in Attachment 1 of Notice “2009 Export Licensing Management Commodities List” (Ministry of Commerce and General Administration of Customs, Notice (2008) No. 100, January 1, 2009) (“2009 Export Licensing List”) and/or the following eight-digit HS numbers as listed in Table 7 of Notice Regarding the 2009 Tariff Implementation Program (State Council Tariff Policy Commission, *shuiweihui* (2008) No. 40, January 1, 2009) (“2009 Export Duty List”): 2508300000/25083000, 2606000000/26060000, 26204000), coke (“coke” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List:

²⁸ See Davis Polk Letter.

²⁹ *Id.*

³⁰ See <http://www.nyse.com/regulation/nyse/bcindex.html>. The Web site lists companies that are non-compliant with the Exchange’s corporate governance listing standards separately from those non-compliant with other standards, and states: “A noncompliant issuer is added to the list seven business days after the NYSE notifies the issuer of the deficiency; if the noncompliance results from a death or illness of a director, the issuer is added to the list six months after the event. An issuer is removed from the list one business day after the NYSE determines that the issuer is in compliance with NYSE corporate governance listing standards.” The reason why a company is on the list can be seen via a link entitled, “View more information on issuers noncompliant with NYSE corporate governance standards.”

³¹ 15 U.S.C. 78s(b)(2).

³² 17 CFR 200.30-3(a)(12).

2704001000/27040010), fluorspar (“fluorspar” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 2529210000/25292100, 2529220000/25292200), magnesium (“magnesium” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 81041100, 81041900, 81042000), manganese (“manganese” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 81041100, 81041900, 81042000/8111001010/81110010, 8111001090/81110010), silicon carbide (“silicon carbide” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 2849200000, 3824909910), silicon metal (“silicon metal” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 28046900), yellow phosphorus (“yellow phosphorus” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 28047010), and zinc (“zinc” includes but is not limited to items falling under the following ten-digit Chinese Commodity Codes as listed in the 2009 Export Licensing List and/or the eight-digit HS numbers as listed in the 2009 Export Duty List: 2608000001/26080000, 2608000090/26080000, 79011111000/790111100, 7901119000/79011190, 7901120000/79011200, 7901200000/79012000, 79020000, 26201100, 26201900).

These restraints include: quantitative restrictions in the form of quotas on the export of bauxite, coke, fluorspar, silicon carbide, and zinc; and export duties on bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus, and zinc. Additional restraints in connection with the export of the materials include, but are not limited to: restrictions on the right of Chinese enterprises as well as

foreign enterprises and individuals to export; requirements that foreign-invested enterprises must satisfy in order to export; non-automatic export licensing; excessive fees and formalities in connection with exportation; requiring that prices for the materials meet or exceed a minimum price before they may be exported. China administers certain of these export restraints through its ministries and other organizations under the State Council, as well as chambers of commerce and industry associations, in a manner that is not uniform, impartial, and reasonable. China also does not publish certain measures pertaining to requirements, restrictions, or prohibitions on exports.

USTR believes that these export restraints are inconsistent with China's obligations under Article VIII:1(a) and VIII:4, Article X:1 and X:3(a), and Article XI of the *General Agreement on Tariffs and Trade 1994*; paragraphs 2(A)2, 5.1, 5.2, 8.2, and 11.3 of Part I of the *Protocol on the Accession of the People's Republic of China* (“Accession Protocol”); and the provisions of paragraph 1.2 of Part I of the Accession Protocol (which incorporates commitments in paragraphs 83, 84, 162, and 165 of the *Report of the Working Party on the Accession of China*).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to <http://www.regulations.gov> docket number USTR-2009-0016. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number USTR-2009-0016 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment.” (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the website by clicking on “How to Use This Site” on the left side of the home page.)

The <http://www.regulations.gov> site provides the option of providing comments by filling in a “General

Comments” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

1. Must clearly so designate the information or advice;
2. Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
3. Must provide a non-confidential summary of the information or advice.

Any comment containing confidential information must be submitted by fax to Sandy McKinzy at (202) 395-3640. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov> or by fax. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this dispute settlement proceeding, accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened or in the event of an appeal from such a panel, the U.S. submissions, any non-confidential submissions, or non-confidential summaries of submissions, received from other participants in the dispute; the report of the panel; and, if

applicable, the report of the Appellate Body.

Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the <http://www.regulations.gov> Web site.

Daniel Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. E9-28903 Filed 12-3-09; 8:45 am]

BILLING CODE 3190-W0-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS384 and WTO/DS386]

WTO Dispute Settlement Proceeding Regarding United States—Certain Country of Origin Labeling (COOL) Requirements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (“USTR”) is providing notice that on November 19, 2009, the World Trade Organization Dispute Settlement Body established a dispute settlement panel at the request of Canada and Mexico under the *Marrakesh Agreement Establishing the World Trade Organization* (“WTO Agreement”) concerning certain mandatory country of origin labeling (COOL) requirements. Those requests may be found at <http://www.wto.org> contained in documents designated as WT/DS384/8 for Canada and WT/DS386/7 for Mexico. USTR invites written comments from the public concerning the issues raised in these disputes.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before January 8, 2010, to be assured of timely consideration by USTR.

ADDRESSES: Comments should be submitted electronically to www.regulations.gov, docket number USTR-2009-0004. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission. If (as explained below), the comment contains confidential

information, then the comment should be submitted by fax only to Sandy McKinzy at (202) 395-3640.

FOR FURTHER INFORMATION CONTACT: Probir J. Mehta, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3150.

SUPPLEMENTARY INFORMATION: USTR is providing notice that a dispute settlement panel has been established pursuant to the *WTO Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”). If a dispute settlement panel is established, the panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within nine months after it is established.

Major Issues Raised by Canada

In its request for the establishment of a panel, Canada challenges provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture (“USDA”) Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture.

Canada alleges that the COOL requirements are inconsistent with the *General Agreement on Tariffs and Trade 1994* (“GATT 1994”), Articles III:4, IX:2, IX:4, and X:3(a), the *Agreement on Technical Barriers to Trade* (“TBT Agreement”), Articles 2.1, 2.2, and 2.4, or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures* (“SPS Agreement”), Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(e), and 2(j). Additionally, Canada alleges these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of GATT 1994, Article XXIII:1(b).

Major Issues Raised by Mexico

In its request for establishment of a panel, Mexico challenges the *Agricultural Marketing Act of 1946*, as amended by the 2002 and 2008 Farm Bills, the U.S. Department of Agriculture (“USDA”) Interim Final Rule on COOL published on August 1, 2008 and August 28, 2009, respectively,

the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture.

Mexico alleges that the U.S. measures are inconsistent with the GATT 1994, Articles III:4, IX:2, IX:4, and X:3(a), the TBT Agreement, Articles 2.1, 2.2, 2.4, 12.1, and 12.3, or, in the alternative, the SPS Agreement, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(d), and 2(e). Additionally, Mexico alleges these violations nullify or impair the benefits accruing to Mexico under those Agreements and further appear to nullify or impair the benefits accruing to Mexico within the meaning of the GATT 1994, Article XXIII:1(b).

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in this dispute. Persons may submit public comments electronically to <http://www.regulations.gov> docket number USTR-2009-0004. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395-9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number USTR-2009-0004 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment.” (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on “How to Use This Site” on the left side of the home page.)

The <http://www.regulations.gov> site provides the option of providing comments by filling in a “General Comments” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “General Comments” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business