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U.S., Mexican Officials Reach Deal to Avert Tariffs

As Republican lawmakers and almost every U.S. business and agriculture group joined the chorus against threatened 5% tariffs in all Mexican imports, the president June 7 announced a deal to indefinitely suspend the duties that were scheduled to go into effect June 10. Whether the threat itself was a bluff or a successful use of leverage will be the subject of debate among trade observers in days to come.

> "Mexico, in turn, has agreed to take strong measures to stem the tide of Migration through Mexico, and to our Southern Border," the president tweeted way past closing time. "This is being done to greatly reduce, or eliminate, Illegal Immigration coming from Mexico and into the United States. Details of the agreement will be released shortly be the State Department," he added.

Earlier that day, 140 business and agriculture associations denounced the tariffs, which "would harm U.S. consumers, workers, farmers and businesses of all sizes across all sectors, making us less competitive and undermining efforts to negotiate strong trade deals in the future. We oppose unilateral tariffs and any subsequent retaliation. We are committed to working together to pass USMCA through Congress, but a successful effort depends on keeping North American trade tariff-free," the groups wrote.

The day before, the House New Democrat Coalition (NDC) supported postponing consideration of NAFTA 2.0 implementation, despite the administration's formal notification in May (see **WTTL**, June 3, page 1). The group urged House leadership to "to secure a commitment from Senator McConnell and President Trump to advance a bipartisan domestic priority ahead of consideration of implementing legislation to update NAFTA."

Administration Blocks Certain Travel, Cruises to Cuba

While U.S. companies and travelers should have known it was coming, the administration's move June 5 to block certain group travel and cruise ships' passage to Cuba

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came as a surprise and sent travel agents scrambling. Bureau of Industry and Security (BIS), Treasury's Office of Foreign Assets Control (OFAC) and State took "coordinated actions to support the President's policy to restrict non-family travel to Cuba," BIS said.

> Agencies began formally implementing the administration's new policy in November 2017, reversing President Obama's move toward more open Cuban relations. Since then members of Congress in both parties have introduced bills to end the embargo of the island. Most recently Sens. John Boozman (R-Ark.) and Michael Bennet (D-Colo.) in May reintroduced legislation to allow private financing of U.S. agricultural exports to Cuba (see **WTTL**, May 20, page 7).

Specifically, BIS amended License Exception Aircraft, Vessels and Spacecraft (AVS) to remove authorization for the export or reexport to Cuba of most non-commercial aircraft and all passenger and recreational vessels on temporary sojourn. BIS also established a general export licensing policy of denial for such aircraft and vessels.

For its part, OFAC removed the authorization for group people-to-people educational travel to the island. The change includes a "grandfather clause" authorizing certain travel where "the traveler has already completed at least one travel-related transaction (such as purchasing a flight or reserving accommodation)" prior to June 5. The changes do not affect 11 other categories of allowed travel, including academic programs, professional meetings and support for the Cuban people.

Cuba Changes Surprise Lawmakers, Cruise Lines

Florida lawmakers, including Reps. Charlie Crist (D-Fla.) and Kathy Castor (D-Fla.), responded immediately to the administration's tightening of Cuban travel. "Banning U.S. cruise lines and most Americans from traveling to Cuba hurts Florida's economy and is a major step backwards for U.S.-Cuba policy. The American people are our best ambassadors for spreading democracy and freedom," the two said in a joint statement.

In contrast, Sen. Marco Rubio (R-Fla.) praised the administration, which "is keeping U.S. dollars out of the pocket of the oppressive Cuban military and its subsidiaries," he said in a statement. "As the Cuban regime continues to export its destructive communist agenda throughout our hemisphere, and to directly empower the narco-terrorist Maduro regime, the United States must use all tools available under U.S. law to counter the Cuban regime's deceitful activities to undermine U.S. policy," Rubio added.

The announcement sent passengers who were booked on upcoming travel on major cruise lines into panic. For example, Norwegian Cruise Lines immediately ceased all calls to Cuba and "are modifying previously scheduled sailings as appropriate. We share your disappointment and frustration caused by this unexpected change. Like you, we were surprised by this sudden modification to policy," the company posted on its website June 6. The cruise line offered passengers options of a full refund or a future cruise credit. "Guests who booked Cuba sailings with us will be contacted very shortly with a detailed communication. Please bear with us as we carefully work through each sailing," it noted. Cuban advocacy groups denounced the move. "This political grandstanding aimed at Florida in the run up to the 2020 elections is so unfortunate for the millions of Cubans that will feel the crunch from less U.S. visitors," said Collin Laverty, president of Cuba Educational Travel. "It's also terrible for U.S. companies that are providing employment and paying taxes in the U.S. and creating an economic footprint on the island."

BIS Nominee Nikakhtar Gets Moment in Spotlight

Sitting on a panel of six seemingly unrelated nominees, Nazak Nikakhtar, nominated to be Bureau of Industry and Security (BIS) under secretary, got her moment in the sun June 5 at an abbreviated Senate Banking Committee hearing. As has come to be expected, Nikakhtar was diplomatic on specific policy views in response to questions the committee directed her way.

For example, in an answer to Sen. Bob Menendez (D-N.J.) on question on 3-D gun blueprints and the transfer of U.S. Munitions List (USML) guns and ammunition to Commerce jurisdiction, she said, "I am committed to working with every member of Congress." Menendez in February put a "hold" on the transfers after receiving a 30-day formal 38(f) notice from State (see **WTTL**, April 1, page 1).

Nikakhtar also answered questions on the non-yet-public Section 232 report on autos and auto parts, in which she participated. Sen. Pat Toomey (R-Pa.) called it "highly objectionable" that the report had not yet been made public and said it was hard to understand how to judge her credentials without seeing the report.

Sen. Chris Van Hollen (D-Md.) echoed that sentiment in his questioning, saying Section 232 constituted a "gross abuse" of national security claims used to gain trade leverage. In response, Nikakhtar said, "trade is not my jurisdiction."

In her opening statement, Nikakhtar addressed ongoing BIS efforts. "We are engaging with industry to identify emerging technologies that can undermine our national security. In addition, I have begun an initiative to work with like-minded allies on better export control coordination and wider end-use checks."

> "The key to our success is maintaining U.S. technological superiority and economic interests through multilateral coordination that is more forward leaning, better use of intelligence data and analytics, robust enforcement of our laws, and a tightly coordinated whole-of government approach, that includes more proactive engagement with Congress," she noted.

Also appearing at the hearing were: Thomas Feddo, who was nominated to be Treasury deputy assistant secretary for investment security, responsible for the day-to-day operation of the Committee on Foreign Investment in the U.S. (CFIUS); Paul Shmotolokha to be Export-Import (Ex-Im) Bank first VP; and Ian Paul Steff to be assistant Commerce secretary and director general of the U.S. and Foreign Commercial Service.

Financial Services Committee Starts Ex-Im Reauthorization Process

Now that Export-Import (Ex-Im) Bank has a quorum of board members, and more in the works, lawmakers and industry groups can turn their attention to the reauthorization of the bank, which expires in September. The House Financial Services Committee began that process with a hearing June 4, where there seemed to be consensus among the witnesses of the bank's importance.

At its first meeting since July 2015, the newly confirmed Ex-Im Bank board May 30 increased the dollar amount of short- and medium-term transactions eligible for individual delegated authority (IDA) and approved two new officers (see **WTTL**, June 3, page 6).

> Committee Chair Maxine Waters (D-Calif.) set the tone of the hearing. "Failure to reauthorize and strengthen Ex-Im would result in the loss of tens of thousands of jobs, as U.S. exporters suffer declining overseas sales. This includes thousands of small and medium-sized businesses across the country," she said. "Without a strong and competitive Ex-Im, companies may be forced to move jobs to locations where export credit is still available, and American workers will suffer," Waters added.

Witnesses at the hearing seemed almost unanimous in their support of the bank's reauthorization. "We urge you to move forward quickly on a robust and long-term reauthorization of the Ex-Im Bank to enable the agency to fulfill its principal mission of supporting American jobs through exports, while revitalizing it to be a more effective counterweight to the growing challenge facing our nation" through foreign export credit agencies (ECAs), Linda Menghetti Dempsey, National Association of Manufacturers VP, international economic affairs.

Archana Sharma, CEO of Pennsylvania textile and design company AKAS Tex, LLC, was introduced to the Ex-Im Bank in 2013. The bank's export credit insurance program "came as a blessing to us as it enabled us to offer credit terms to our international customers and encourage them to place larger orders," she said. "Now that we could offer credit terms to overseas customers it leveled the playing field and gave us an edge over international competitors because the quality of our U.S. made fabrics was superior," Sharma added.

AKAS has been hailed as a "success story" on the Ex-Im website. The company's revenue has grown from $500,000 in 2010 to over $4.6 million in 2018, Sharma told the committee. "A large part of the growth has come from our exports due to our ability to offer credit terms," she added.

CAFC Sides with Customs on Classification of Ford Vans

The Court of Appeals for Federal Circuit (CAFC) June 7 reversed a Court of International Trade (CIT) decision on the tariff classification of Ford Transit Connect 6/7 vans. Central to the underlying dispute were the vans' second-row seats, which Ford unbolted and removed after clearing Customs, Circuit Judge Evan Wallach wrote for three-judge panel *Ford Motor Company v. U.S.*

Customs and Border Protection (CBP) originally classified Ford's 2012 Transit Connect 6/7 vehicles under U.S. Harmonized Tariff Schedule (HTSUS) Heading 8704, which covers "motor vehicles for the transport of goods" and which bears a 25% *ad valorem* duty rate. Ford challenged the classification to the CIT, arguing the van should be covered under HTSUS Heading 8703, "motor cars and other motor vehicles principally designed for the transport of persons," which bears a lower 2.5% *ad valorem* duty rate.

> "On balance, the structural design features, auxiliary design features, and inherent use considerations establish that the subject merchandise is not classifiable under HTSUS Heading 8703. The subject merchandise is not principally designed for the transport of persons," Wallach wrote.

Wallach took issue with Ford's processing of its vans, which the CIT decision overlooked. "The CIT rejected the argument that Ford's post-importation processing constituted a disguise or artifice, determining instead that Ford's removal of the rear seats 'after importation is immaterial' and that Ford engaged in legitimate tariff engineering," he added.

Mexican Tariffs Could Cost Hundreds of Thousands U.S. Jobs

The 5% tariffs President Trump threatened to impose, then suspended, on all Mexican imports would have been very costly to Washington, according to an economic analysis released June 3 by the Perryman Group, a Texas-based economic research firm. "The net losses to the U.S. economy for every year a 5% tariff is in place would include an estimated $41.5 billion in gross domestic product and $24.6 billion in income. The overall job loss would be about 406,000," the group noted. At press time, U.S. and Mexican officials announced a deal to avoid the tariffs (see related story, page 1).

The analysis contends that the principal group to feel the squeeze would be American consumers. The tariffs "would likely cause costs to U.S. consumers and businesses to rise substantially. People and firms in the U.S. would pay more for Mexican goods because while tariffs are collected at the border, they are largely passed on to consumers and producers," the study argued.

Moreover, the group asserts that Texas, which is on the president's radar for re-election, would bear the brunt of the tariffs' impact. "Texas would bear the lion's share of this loss given the extensive commerce that occurs between the state and Mexico. Mexico is Texas' largest export market by a substantial margin, accounting for 35% of exports from the state in 2018."

The Perryman Group estimates that "the proposed 5% tariff would result in additional direct costs of $8.7 billion. When multiplier effects are considered, these higher costs would likely cause losses to the Texas economy including almost $11.9 billion in gross product and nearly $7.1 billion in income each year as well as 117,335 jobs." "Mexico has long been a top trading partner for the United States. In fact, Mexico recently passed China to become the largest, due in part to trade issues with China which have reduced the volume of U.S.-China trade," the group noted.

For the first quarter of 2019, U.S. exports to Mexico totaled $64.0 billion, while imports were $86.6 billion. "Some of the products imported from Mexico are consumer items, but many others are inputs for U.S. goods. Household budgets are affected, as are firm profits and competitiveness," it added.

> "If Mexico retaliates and imposes tariffs on the U.S., which is likely, the negative effects on the economy would be even greater. U.S. exports would become less affordable for Mexican customers, purchases would be reduced, and U.S. firms would suffer in the Mexican market," the Perryman report concluded.

Even beyond tariffs, there is much more to worry about, including "changes in investment patterns, supply chains, and strategic plans. Any increase in the level of the tariffs would also increase the economic harm. With a replacement for [NAFTA] not yet finalized, negotiations could become more difficult. All in all, the potential economic harm from tariffs on imports from Mexico totals tens of billions in gross product and hundreds of thousands of jobs, but the fallout could be much greater over time."

U.S., China Exchange Insults, Threaten Markets

In a fight that harkens back to fights with siblings on long road trips, the U.S. and China traded claims of "she started it," "it wasn't me" and "it's all his fault." Responding to tariff increases and the addition of a major Chinese telecom firm to the Entity List, China issued a white paper June 3, prompting the U.S. Trade Representative's (USTR) office and Treasury to hit back in a joint statement of their own.

The Bureau of Industry and Security (BIS) added Huawei and 68 non-U.S. affiliates to the Entity List May 15, then issued a narrow and temporary General License (GL) five days later. Huawei then filed suit in federal court challenging the constitutionality of U.S. policy (see **WTTL**, June 3, page 1).

In the white paper, China argued that the current U.S. administration has "provoked frequent economic and trade friction with its major trading partners" since taking office. In response, "China has had to take forceful measures to defend the interests of the nation and its people," it added.

"At the same time, committed to resolving disputes through dialogue and consultation, China has engaged in multiple rounds of economic and trade consultations with the U.S. in an effort to stabilize the bilateral commercial relationship. China's position has been consistent and clear – that cooperation serves the interests of the two countries, that conflict can only hurt both, and that cooperation is the only correct choice for both sides," the white paper noted.

USTR and Treasury reaffirmed the administration's reasoning. "It is important to note that the impetus for the discussions was China's long history of unfair trade practices. Our negotiating positions have been consistent throughout these talks, and China back-pedaled on important elements of what the parties had agreed to."

"One such position was the need for enforceability, a position necessitated by China's history of making commitments that it fails to keep. But our insistence on detailed and enforceable commitments from the Chinese in no way constitutes a threat to Chinese sovereignty. Rather, the issues discussed are common to trade agreements and are necessary to address the systemic issues that have contributed to persistent and unsustainable trade deficits," the U.S. officials noted.

> In the end, Chinese Foreign Ministry Spokesperson Geng Shuang said at a press conference June 4, "The U.S. statement is full of sophistry that confounds black and white." He said, "I advise the U.S. side to carefully read China's White Papers and stop being so engrossed in self-righteousness and make-belief."

Even before the most recent finger-pointing, U.S. industry was concerned about the fight's effect on the world markets. "Each volley in the U.S.-China trade dispute causes semiconductor companies to wince and financial markets to wobble, while pushing us farther from a deal that would benefit both economies, the two largest in the world. We urge both sides to avoid further escalations, get back to the negotiating table, and reach a high-standard, enforceable, and sustainable agreement," Semiconductor Industry Association (SIA) President & CEO John Neuffer said in a statement May 31.

Separately, USTR extended the amount of time certain goods exported from China have to enter the U.S. Products exported from China prior to May 10 "will remain subject to an additional 10% tariff if they enter into the U.S. before June 15," USTR noted in the Federal Register June 10. That date was previously June 1. "This limited extension will further account for customs enforcement factors and the transit time between China and the United States by sea," it added.

Can U.S. Trade Return to Normalcy?

President Trump's escalating tariff war has created tensions with both allies and adversaries alike: Germany, Mexico, Canada, France, the European Union (EU), Japan and China. He has had heated disagreement with German Chancellor Angela Merkel, Canadian Prime Minister Justin Trudeau, and French President Emmanuel Macron.

And a few weeks ago, he had a dismissive outburst in Japan to a question on the Trans-Pacific Partnership (TPP) demonstrating his repulsion for multilateralism (see **WTTL**, June 3, page 4). The question is: has Trump pushed his trading partners so far apart that there is no return from the brink?

Using the D-Day celebration in Europe as a backdrop, two economists David S. Jacks and Dennis Novy in a paper entitled, Trade Blocs and Trade Wars during the Interwar Period, pose several relevant questions with implications for 2019: What precisely were the causes and consequences of the trade wars in the 1930s? Were there perhaps deeper forces at work in reorienting global trade prior to the outbreak of World War II? And, what lessons may this particular historical episode provide for the present day?

The authors argue that "the trade wars mainly served to intensify pre-existing efforts towards the formation of trade blocs which dated from at least 1920. More speculatively, we argue that the trade wars of the present day may serve a similar purpose as those in the 1930s, that is, the intensification of China- and U.S.-centric trade blocs."

> All during his presidential run and later as president, Trump vented publicly about the trade deficits with America's trading partners and vowed to do something about it. Among his first steps was to reject both the TPP and the Trans-Atlantic Trade and Investment Partnership (TTIP). The principal goal of these agreements was to reduce tariffs to zero and create a rules-based system for member accession. That is to say, to play you needed to join the club and be a compliant partner.

This was one of the lessons following World War II. But his strategy was to impose tariffs, issue Executive Orders and invoke national security in trade negotiations to achieve the best possible outcome for the U.S. Just this week, Trump threatened and then suspended Mexico with increasing tariffs on all Mexican goods if it did end illegal migration to the U.S. (see related story, page 1).

Trump applauded Britain leaving the EU without lamenting the implications for both the Western trading alliance and Britain. In 2018, Britain sold the U.S. some $60 billion of goods and services. It is one of the few nations where the U.S. has a trade surplus (the U.S. exported some $66.2 billion to the UK). But with Brexit set for year's end, it's anyone's guess what the trading arrangement with the EU (its closest trading partner) is going to be, much less with the U.S. In a meeting with outgoing Prime Minister Theresa May, Trump would only say "all will be well." The question is what would a new trade deal or no-deal with the EU and the U.S. look like and what are its implications for world trade?

With respect to U.S.-German trade relations, the president finds galling that Germany's exports are twice as much as the U.S. In 2018, Germany exported $125.9 billion versus U.S. $52.6 billion. Among its exports are German cars which the administration threatened with a tariff but withdrew hours before its statutory deadline (see **WTTL**, May 20, page 3). Commerce Secretary Wilbur Ross in February submitted the results of a Section 232 investigation on autos and auto parts imports but kept it secret.

In addition, Trump's relationship with Merkel is acrimonious at best. He chastised Merkel for not paying her fair burden for NATO's upkeep. As Europe's longest-serving leader, with plans to leave office in 2021, she is its biggest cheerleader for multilateral agreements: EU, NATO and the Paris Climate Accord. He believes in "America First," even among allies. So, it was no surprise that in her commencement address to the Harvard class a few days ago, she took a broad swipe at the president, without mentioning him by name. "Protectionism and trade conflicts jeopardize free international trade and thus the very foundations of our prosperity. So, we can and must do everything humanly possible to truly master this challenge to humankind," she cautioned.

Another tactic that has been harmful to world trade is blocking the WTO Appellate Body (AB) from filling an ongoing vacancy (see **WTTL**, June 3, page 5). Following months of deliberation, the administration once again told the WTO Dispute Settlement Body (DSB) that it would not support a proposal by 75 other WTO members to fill the vacancies. Trump has argued that the U.S. loses more cases than it wins. But experts disagree, arguing that you have just the same rate of winning as losing. Decisions can be appealed, but once adjudicated by the AB, they are final. While not every country has a judge on the body, the U.S. does.

A U.S. trade agreement with China may be on a trajectory of no peaceful return (see related story, page 6). Trade watchers expect partners including Chinese President Xi Jinping and Trump to clarify their trading positions at the G-20 scheduled for Japan later this month. Prior to that meeting, there is an expectation that the leaders' emissaries' would hold preliminary discussions. However, it is unclear if the discussions would lead to an end to hostilities or a long period of inaction by the trading partners, which is expected to have a precarious impact on world trade.

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in April fell 2.4% from year ago to $136.9 billion, Commerce reported June 6. Services exports gained 2.0% to $69.9 billion from April 2018. Goods imports decreased 0.95% from April 2018 to $208.7 billion, as services imports jumped 5.5% to $48.9 billion.

VENEZUELA: OFAC June 6 issued amended Venezuela-related General Licenses (GLs) 7B, 8A and 13A to "clarify these general licenses do not authorize transactions or dealings related to the exportation or reexportation of diluents, directly or indirectly, to Venezuela." Agency issued GLs in January authorizing maintenance and wind-down operations in connection with designation of Venezuelan state-owned oil company Petroleos de Venezuela, S.A. (PdVSA) (see **WTTL**, Feb. 4, page 4). "Diluents (including, for example, crude oil and naphtha) play a key role in the transportation and exportation of Venezuelan petroleum," agency noted in new FAQ.

CHERRIES: In 5-0 preliminary vote June 6, ITC found U.S. industry may be injured by allegedly dumped and subsidized imports of dried tart cherries from Turkey.

GSP: USTR June 4 requested ITC investigate effects of modifications to GSP program on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers. Petition for removal includes polyethylene terephthalate (PET) from Pakistan; waivers of Competitive Need Limitations (CNLs) include stearic acid from Indonesia and spectacle lenses from Thailand, and redesignation petitions cite orchids from Thailand and plywood and assembled flooring from Indonesia.

MORE GSP: As expected, president May 31 terminated India's designation as a beneficiary developing country under GSP as country "has not assured the United States that India will provide equitable and reasonable access to its markets," White House statement said. Administration announced termination in March (see **WTTL**, March 11, page 4).

NOMINATIONS: President June 5 nominated Amy Karpel to be member of ITC for term ending June 16, 2023, replacing Irving A. Williamson, whose term expired. Karpel was previously nominated to fill seat of Commissioner F. Scott Kieff, who resigned (see **WTTL**, Jan. 21, page 3).

LUMBER: Canada June 4 appealed WTO dispute panel report on softwood lumber. Panel in April upheld one of Canada's complaints against U.S. practices in antidumping investigations, including "zeroing" while dismissing, or declining to rule on, additional claims (see **WTTL**, April 15, page 4).

TRADE PEOPLE: U.S. Chamber of Commerce June 5 named Suzanne Clark as organization's president, while Thomas Donohue committed to remain CEO through June 2022. Clark, who was senior executive VP, "successfully led the cultural transformation of the Chamber over the last 5 years," Chamber noted. Donohue has been CEO since 1997.

EXPORT ENFORCEMENT: Peyman Amiri Larijani, Iranian citizen and former Turkish resident, was indicted June 4 in D.C. U.S. District Court on charges of conspiracy to export U.S. goods specifically U.S.-origin commercial aircraft engines, to Iran and provide services to blocked Iranian entity Mahan Air. Total of 38 charges in two indictments also include conspiracy to conceal from U.S. companies and U.S. government that U.S.-origin goods were destined for Iranian aviation business end-users and to evade U.S. sanctions. From December 2010 through July 2012, Larijani was operations manager for Turkish-based company Kral Aviation, which was also charged in both indictments.

IRAN: OFAC June 7 designated Iran's largest petrochemical holding group Persian Gulf Petrochemical Industries Company (PGPIC) and 39 subsidiary companies and foreign-based sales agents for providing financial support to engineering conglomerate of Islamic Revolutionary Guard Corps (IRGC). State in April designated IRGC as foreign terrorist organization.

SECTION 232: In June 10 Federal Register Commerce launched online portal to replace regulations.gov for exclusion requests, objections to exclusion requests, rebuttals and surrebuttals in connection with Section 232 steel and aluminum tariffs. Agency created portal to "streamline the exclusions process while enhancing data integrity and quality controls," it said in interim final rule. Commerce held public user testing of new system in December (see **WTTL**, Nov. 26, 2018, page 6). More information: https://www.commerce.gov/page/section-232-investigations

SANCTIONS: Western Union Financial Services, Inc. of Denver agreed June 7 to pay $401,697 to settle almost 5,000 violations of OFAC terrorism sanctions. Between December 2010 and March 2015, Western Union processed 4,977 transactions totaling approximately $1.275 million, which were paid out to third-party, non-designated beneficiaries who chose to collect their remittances at blocked shopping center in The Gambia. Western Union voluntarily self-disclosed apparent violations. OFAC designated Kairaba Shopping Center (KSC) in December 2010.