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Commerce Will Investigate Titanium Sponge Imports

Not afraid of congressional efforts to limit the administration's authority to impose Section 232 tariffs, Commerce will investigate whether the "quantity or circumstances" of titanium sponge imports threaten U.S. national security, the department announced March 4.

> In unanimous preliminary votes in October 2017, the International Trade Commission (ITC) previously found that U.S. industry is not injured by allegedly dumped imports of titanium sponge from Japan and Kazakhstan and subsidized imports from Kazakhstan (see **WTTL**, Oct. 16, 2017, page 8). As a result of those negative determinations, the antidumping and countervailing investigations ended.

"Titanium sponge has uses in a wide range of defense applications, from helicopter blades and tank armor to fighter jet airframes and engines," Commerce Secretary Wilbur Ross said. However, the department also said titanium sponge is unsuitable for the most demanding military and aerospace applications, because it is difficult to stockpile for long periods as it degrades.

Imports account for more than 60% of U.S. titanium sponge consumption, Commerce said in announcing the investigation. Only one U.S. facility has the capacity to process titanium ore into the sponge used in manufacturing. Commerce launched the investigation in response to a September 2018 petition by Ohio producer Titanium Metals Corporation. Public comments are due to the department by April 22.

Never Get Involved in a Trade War in Asia

If only campaign promises and bluster could lead to economic results. While imports and exports both rebounded in 2018 for the second year in a row, imports grew even more, leading to the highest goods trade deficit in ten years.

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Total merchandise exports grew 7.6% to $1.67 trillion in 2018, while imports jumped 8.6% from last year to $2.6 trillion, Commerce reported March 6.

Preliminary 2018 vs. 2017 U.S. Merchandise Trade Figures (in billions)

	2018 Exports	2017 Exports	% Change	2018 Imports	2017 Imports	% Change
Total	**$1,664.1**	**$1,546.8**	**7.6%**	**$2,542.8**	**$2,342.9**	**8.5%**
BY COUNTRY/REGION						
Canada	298.7	282.4	5.8	318.5	299.9	6.2
Mexico	265.0	242.9	9.1	346.5	314.0	10.3
European Union (28)	318.6	283.5	12.4	487.9	434.9	12.2
Germany	57.6	53.8	7.8	125.9	117.7	6.9
France	36.3	33.6	8.2	52.5	48.9	7.4
United Kingdom	66.2	56.3	17.6	60.8	53.1	14.6
Japan	74.9	67.7	10.7	142.6	136.5	4.4
China	120.3	130.4	-7.7	539.5	505.6	6.7
NICs: HK, Singapore, Taiwan, Korea	157.2	143.8	9.3	153.6	140.6	9.3
South/Central America	163.8	150.2	9.0	122.3	115.9	5.5
BY SECTOR						
Agriculture	$139.7	$138.2	1.1%	$128.8	$121.0	6.4%
Aircraft, parts, engines	130.4	120.9	7.9	55.5	51.4	8.0
Autos, parts, engines	158.6	157.6	0.6	372.3	359.0	3.7
Clothing	3.2	3.0	6.7	92.0	88.3	4.3
Chemicals- Organic	38.5	33.9	13.6	51.3	43.8	17.1
Chemicals -Inorganic	11.5	11.3	1.8	12.1	10.6	14.2
Petroleum, total categories	172.4	125.1	37.8	225.6	186.5	21.0
Iron & steel	14.1	14.7	-4.1	39.4	36.9	6.8
Metalworking machines	5.3	4.9	8.2	11.4	10.4	9.6
Pharmaceuticals	47.7	45.0	6.0	120.2	99.5	20.8
Semiconductors	48.4	47.7	1.5	54.1	53.8	0.6
Telecommunications	37.2	38.2	-2.6	74.1	74.3	-0.3

Services exports increased 3.8% to $828.1 billion from 2017, as services imports increased 2.85% to $557.9 billion.

Merchandise exports in December dipped 0.8% from a year ago to $135.6 billion. Services exports gained 1.85% to $69.5 billion from December 2017. Goods imports increased 3.4% from December 2017 to $217.2 billion, as services imports gained 2.0% to $47.7 billion.

A tariff war with China caused exports there to drop 7.7% in 2018, compared to 2017 when they jumped 12.6%. Imports from China increased 6.7% from the year before, compared to growing the previous year by 9.2% and produced a $419 billion trade deficit, almost half of the total $878.7 billion.

"The selective interventions of the administration on trade have been helpful to key sectors, but these actions haven't put a dent in the massive deficit," Alliance for American Manufacturing President Scott Paul said in a statement. "The administration's fiscal policies have helped to boost the trade deficit, as has its reluctance to engage more actively in exchange rate misalignment," he added.

Paul also urged the administration to continue pushing China in its talks. "If the president wants to back his words with actions, any trade deal with China will insist on dramatic, structural changes in Beijing's state-led economy, which have contributed to massive industrial overcapacity in key sectors. The next few weeks of negotiations with China are critical to the future of American manufacturing," he said.

Russian Telecom Firm Pays $850 Million to Settle FCPA Violations

Russian telecommunications provider Mobile TeleSystems PJSC (MTS) and its Uzbek subsidiary Kolorit Dizayn Ink LLC (KOLORIT) agreed March 6 to pay $850 million to resolve Securities and Exchange Commission (SEC) and Justice charges of violating the Foreign Corrupt Practices Act (FCPA) in a scheme to pay bribes in Uzbekistan to win business.

> Swedish telecom provider Telia Company AB and its Uzbek subsidiary, Coscom LLC, agreed in September 2017 to pay $965 million in a global settlement with the SEC and Justice to resolve similar charges (see **WTTL**, Sept. 25, 2017, page 1).

"During the course of the scheme, MTS made at least $420 million in illicit payments for the purpose of obtaining and retaining business, and those payments generated more than $2.4 billion in revenues. These illicit payments were made through a variety of means, including equity transactions with the government official, sham contracts, and in the form of charitable contributions or sponsorships at the direction of the government official," the SEC order noted.

"In or around 2009, MTS and [subsidiary] Uzdunrobita acquired KOLORIT, an Uzbek advertising company. Certain MTS management knew that the price paid by MTS for KOLORIT was inflated to $39.6 million in order to compensate Foreign Official in exchange for Uzdunrobita continuing to operate in Uzbekistan," according to the deferred prosecution agreement (DPA) MTS signed with Justice

At the same time, charges were unsealed in Manhattan U.S. District Court against Gulnara Karimova, a former Uzbek official who is the daughter of the former president of Uzbekistan, and against Bekhzod Akhmedov, the former CEO of Uzdunrobita, for a scheme involving more than $865 million in bribes from MTS, VimpelCom Limited (now VEON) and Telia.

"Obtaining a resolution of the Uzbek investigations was in the Company's best interests. The resolution and settlement allow MTS to focus fully on the implementation of MTS' business strategy to be a first-in-class digital telecom company," MTS' President and CEO Alexey Kornya said in a statement.

"By entering into the DOJ resolution and the SEC settlement, MTS affirmed its commitment to ensuring that its business policies, processes and procedures strictly comply with all relevant anti-corruption legislation. In the resolution, the DOJ recognized MTS' ongoing enhancements to its compliance program and internal accounting controls," the company added.

USTR Cuts off India and Turkey's GSP Benefits

Citing lack of market access in one case and sufficient economic development in the other, the administration will terminate India's and Turkey's designations as beneficiary developing countries under the Generalized System of Preferences (GSP) program, because they "no longer comply with the statutory eligibility criteria," U.S. Trade Representative (USTR) Robert Lighthizer announced March 4.

India's termination "follows its failure to provide the United States with assurances that it will provide equitable and reasonable access to its markets in numerous sectors" the USTR's office said. Turkey's termination "follows a finding that it is sufficiently economically developed and should no longer benefit from preferential market access" to the U.S. market, it added.

> USTR began reviewing Turkey's GSP eligibility in August 2018 "based on concerns related to its compliance with the GSP market access criterion" (see **WTTL**, Aug. 6, 2018, page 7). The agency instituted a review of India's eligibility three months earlier for similar reasons (see **WTTL**, April 16, 2018, page 4).

Industry and lawmakers responded quickly. "The Indian government hasn't engaged enough to address market access issues. For the sake of the many Americans and Indians who relied on GSP benefits, I hope that India will work to quickly address these legitimate concerns," Senate Finance Committee Chair Chuck Grassley (R-Iowa) said in a statement.

The U.S. dairy industry applauded the administration's decision. "For 16 years India has enjoyed unilateral access to U.S. markets while flaunting their obligation to provide fair market access mandated under the GSP program, and harming American dairy farmers in the process," said Jim Mulhern, National Milk Producers Federation (NMPF) president and CEO.

Other groups cautioned the decision's effect on U.S. jobs. The actions "would raise taxes on American employers by $300-$400 million per year and hurt U.S. exporters, both directly and indirectly. Having dealt with temporary GSP lapses in the past, American companies know all too well that loss of GSP results in lost sales, fewer investments, and ultimately job cuts in the United States," Daniel Anthony, Executive Director of the Coalition for GSP, said in a statement.

In 2019, the trade office will conduct similar GSP-eligibility assessments with countries in Europe and the Western Hemisphere, USTR said in its annual Trade Policy Agenda released March 1. "USTR will continue to hold countries that are not meeting the GSP criteria to account, and will ensure that all countries receiving benefits under the GSP program live up to the statutory eligibility criteria," it said.

Trade Deficit with FTA Partners Hard to Tweet Away

This is starting to sound familiar. As the Trump administration hails success in renegotiating two of its largest free trade agreements (FTAs) and bemoans trade deficits as the root of all economic evil, statistics March 6 show that the U.S. racked up an $82.5

billion trade deficit with the 20 countries with which it already has FTAs. With all the talk of a renegotiated NAFTA agreement, the deficit with Mexico alone (record-high -$81.5 billion) accounts for almost all the FTA deficit.

2018 Trade with FTA Countries (in millions)

	U.S. Exports	U.S. Imports	Balance
Australia	$25,306	$10,126	$15,181
Bahrain	2,036.5	990.7	1,045.9
Canada	298,728	318,481	-19,754
Chile	15,340	11,366	3,974
Colombia	14,996	13,789	1,207
Costa Rica	6,345.5	4,878.7	1,466.8
Dominican Republic	8,561.2	5,309.2	3,252.0
El Salvador	3,415.9	2,509.0	907.0
Guatemala	6,648.9	4,208.7	2,440.2
Honduras	5,600.2	4,703.2	897.0
Israel	13,715.2	21,763.4	-8,048.2
Jordan	1,606.5	1,813.5	-207.0
Korea, South	56,344	74,291	-17,946
Mexico	265,010	346,528	-81,517
Morocco	2,945.1	1,565.5	1,379.6
Nicaragua	1,603.2	3,587.0	-1,983.8
Oman	2,421.3	1,280.8	1,140.4
Panama	6,884.9	462.1	6,422.8
Peru	9,633.8	7,883.4	1,750.4
Singapore	33,141	27,256	5,885
TOTAL	**780,283.4**	**862,792.2**	**-82,506.8**

Barring those two countries, the other 18 FTAs would produce a $19 billion merchandise trade surplus (see chart this page).

Goods exports to the 20 FTA partners grew to $780.3 billion from 2017, while imports also grew to $862.8 billion. Both imports from and exports to Mexico reached the highest levels in six years.

As has been true for the last several years, the explanation comes down to two sectors: oil and autos. Energy imports from Canada and Mexico account for the bulk of the trade deficit with those NAFTA partners.

The U.S. imported $60.8 billion in crude oil from Canada in 2018 and $14.4 billion from Mexico. Total U.S. exports of crude oil reached $47.1 billion last year, an increase of more than $25 billion from 2017.

Along with oil, autos are another large factor in NAFTA that has drawn major complaints from U.S. unions about trade with Mexico. While the U.S. has a surplus with Canada for all trade in cars, trucks and parts, it has a $91.2 billion deficit with Mexico. In talks to renegotiate both NAFTA and the Korea-U.S. FTA (KORUS), autos and other industrial sectors are points of contention.

The $17.9 billion deficit with South Korea creates another public relations challenge for trade supporters. But as with Mexico, the main cause of that shortfall is almost entirely the auto trade, with the U.S. suffering a $19.5 billion deficit with Seoul in this sector. Among other FTA partners, the U.S. is running a surplus with CAFTA-DR nations, as well as with some countries that have agreed to their own Trans-Pacific Partnership (TPP), including Australia, Chile, Peru and Singapore.

Agencies Request Comments on Launch Vehicles, Satellites

Consistent with the Space Policy Directive that the president signed in May 2018 State and the Bureau of Industry and Security (BIS) March 8 requested comments on ways to streamline export controls in U.S. Munitions List (USML) Categories IV (launch vehicles) and XV (spacecraft), and their parallel entries in the Commerce Control List (CCL).

> These items include launch vehicles, guided missiles, ballistic missiles, rockets, torpedoes, bombs and mines; and spacecraft and related articles. Comments are due April 22. While the agencies have not proposed any specific changes, they will respond to comments in a future proposed rule "if a rulemaking is warranted based on the comments received," State said.

The Space Policy Directive aimed to reorganize Commerce space-related functions into a "one-stop shop" (see **WTTL**, May 28, 2018, page 10). Specifically, the order directed the National Space Council to "initiate a review of export licensing regulations affecting commercial space flight activity."

In one comment prompt, the BIS notice listed specific controlled technologies, including satellite thrusters (bi-propellant, electric, and liquid apogee engines); gyroscopes; inertial navigation systems; large aperture earth observation cameras; spacecraft antenna systems and adaptive Global Navigation Satellite System (GNSS) antennas; suborbital systems with propulsion systems currently controlled under USML; kapton tape; star trackers; and astrocompasses.

"Are there additional specific space-related technologies not described in the list which warrant further review by State or Commerce given their current or anticipated near term commercial applications?" BIS asked.

State noted that in the past, agencies created separate regulatory categories for specific missions, for example, the James Webb Space Telescope in the most recent revisions to Category XV in January 2017 (see **WTTL**, Jan. 16, 2017, page 8). To avoid this, "the department is seeking comments from the public on a way to provide technical differentiation within U.S. export control regulations between the space-based optical telescopes for astrophysics missions and those used for Earth observation."

Both agencies asked this question: "What are the cost savings to private entities by shifting control of additional specific commercial items from the USML to the CCL? To the extent possible, please quantify the current cost of compliance with USML control of an item and any cost savings if a particular change was implemented."

USTR Continues Aggressive Trade Agenda

If anyone thought an imminent deal with China signaled a softer administration trade policy, the USTR's annual Trade Policy Agenda released March 1 should make her think again. Like USTR Robert Lighthizer's testimony before Congress in February, the report used the words "aggressive" and "enforcement" multiple times.

In general, "the administration has undertaken a major revision of U.S. trade obligations – as well as much stricter enforcement of U.S. trade laws – to create a fairer and more efficient global economy," the report noted (see **WTTL**, March 4, page 3). The administration "will continue pursuing new trade deals – and stronger enforcement – throughout 2019," it added.

> One of the administration's top 2019 priorities is congressional approval of the U.S.-Mexico-Canada Agreement (USMCA), its renegotiated NAFTA update. "The USMCA gives more priority to the interests of American workers than any prior deal signed by the United States. It is not merely a new trade deal – it is a new paradigm for future agreements," the report said.

USTR also explained its continued rejection of proposals to fill WTO Appellate Body vacancies. "For more than 15 years and across multiple U.S. Administrations, the United States has been raising serious concerns with the Appellate Body's disregard for the rules set by WTO Members and adding to or diminishing rights or obligations under the WTO Agreement," it said.

In 2019, the U.S. expects the Dispute Settlement Body (DSB) to "continue to focus on the administration of the dispute settlement process in the context of individual disputes," USTR noted. The U.S. "will continue to raise its systemic concerns with Appellate Body overreaching and press for WTO Members to take responsibility to ensure the WTO dispute settlement system operates as intended and agreed," it added.

* * * Briefs * * *

<u>CABINETS</u>: Newly formed American Kitchen Cabinet Alliance filed countervailing and antidumping petitions March 6 with ITA and ITC against wooden cabinets and vanities from China. American kitchen cabinet industry is worth $9.5 billion and supports over 250,000 U.S. jobs, Alliance said in press release.

<u>EXPORT ENFORCEMENT</u>: Paul Stuart Brunt of Bellevue, Wash., was sentenced March 1 in Seattle U.S. District Court to three years' probation for scheme to smuggle dozens of firearms to Turkey and Iraq without licenses between October 2016 and November 2017. Codefendant Rawnd Khaleel Aldalawi of Seattle was sentenced in January to 12 months and one day in prison for his role in scheme (see **WTTL**, Jan. 14, page 6). Aldalawi pleaded guilty in September to conspiracy to violate Arms Export Control Act; Brunt pleaded guilty in July. Federal jury indicted Aldalawi and Brunt in January 2018.

<u>RUSSIA</u>: OFAC March 6 issued general licenses (GLs) 13K and 15E, extending previous GLs that expanded sanctions relief for Russian conglomerate GAZ Group. Specifically, OFAC extended GL expiration date to July 6.

<u>END OF ROAD</u>: Supreme Court March 4 denied certiorari in two trade cases: *Papierfabrik August Koehler SE v. U.S.* on foreign company's misconduct in dumping case (see **WTTL**, Jan. 9, 2017,

page 1) and *Well Luck Company, Inc. v. U.S.* on classification of sunflower seeds (see **WTTL**, April 16, 2018, page 5).

CRAWFISH: CAFC March 5 affirmed CIT ruling in *China Kingdom (Beijing) Import v. U.S.* In case concerning final results of administrative review and new shipper review of antidumping duty order on freshwater crawfish tail meat from China, appellants argued CIT erred in sustaining Commerce's calculations of weighted average dumping margins for each respondent. "Commerce was able to use its normal methodology to 'calculate appropriate financial ratios,' despite the Oceana Report's failure to 'provide disaggregated expenses for raw materials or labor cost,' because Commerce's manufacturing overhead ratio groups 'materials, labor, and energy costs' in the denominator," Circuit Judge Evan Wallach wrote for three-judge panel.

NASA: NASA Inspector General (IG) March 7 reported on office's export control-related oversight work. During past year, Office of Investigations closed three investigations related to misuse and unauthorized access to export-controlled information. In addition, office "completed four audits that examined NASA's controls over sensitive information and information technology (IT) assets and security systems, many of which contain data subject to export control laws," IG said.