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BIS Allows Limited ZTE Transactions

While the full denial order against Chinese telecom company ZTE is still in place, the Bureau of Industry and Security (BIS) July 2 issued a limited authorization order, which allows four specific types of transactions. The order was based on "a number of requests for authorization" that BIS received after issuing the full denial order in April (see **WTTL**, June 25, page 1).

> These transactions include: continued operation of existing networks and equipment in contracts executed before April 15; support to existing handsets, including software updates or patches; cybersecurity research and vulnerability disclosure; and limited transfer of funds for such transactions. The authorization, which runs through Aug. 1, extends to all persons, except those in Country Group E Countries (currently, Cuba, Iran, North Korea, Sudan and Syria).

Under the umbrella of cybersecurity, BIS authorized, subject to other provisions in the Export Administration Regulations (EAR), "the disclosure to ZTE of information regarding security vulnerabilities in items owned, possessed, or controlled by ZTE when related to the process of providing ongoing security research critical to maintaining the integrity and reliability of communications networks and equipment."

At a board meeting July 5, ZTE also replaced its president, executive VPs and chief financial officer, all to comply with the requirements of the June deal with BIS. A week prior, ZTE replaced 14 board directors with eight new directors at its general meeting June 29. Li Zixue, party committee secretary of Xi'an Microelectronics, reportedly a unit of China Aerospace Science and Technology Corporation, the largest state-owned shareholder of ZTE's parent, will serve as board chairman.

U.S.-China Trade Battle Escalates

Whatever hopes there were that a trade war could have been averted were dashed July 6 when U.S. duties on $34 billion worth of Chinese goods went into effect per the Section

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301 investigation. In response, China immediately struck back by placing a 25% tariff on 545 U.S. products, roughly worth $34 billion, and vowing to take its case to the World Trade Organization (WTO).

The U.S. "violated the WTO rules and launched the largest trade war in economic history to date," a spokesperson for China's Ministry of Commerce (MOFCOM) said in a statement (via Google translate). "The Chinese side promised not to fight the first shot, but in order to defend the core interests of the country and the interests of the people, they had to be forced to make the necessary counterattacks. We will promptly inform the WTO about the situation and work with countries around the world to jointly safeguard free trade and the multilateral system," it added.

> "At the same time, China reiterated that we will unswervingly deepen reform, expand opening up, protect entrepreneurship, strengthen property rights protection, and create a good business environment for Chinese companies in the world. We will continue to assess the impact of the company and will work to take effective measures to help the business," the MOFCOM statement read.

If the president's rhetoric is to be believed, then trade tensions will continue to mount. According to pool reports, Trump told reporters July 5 that he is prepared to place tariffs on another $16 billion of Chinese goods and may be willing to slap tariffs on $550 billion of Chinese goods, which is more than the U.S. imported from China in 2017.

Separately, the U.S. Trade Representative's (USTR) office July 6 released a process to exclude products from additional tariffs on Chinese imports (see **WTTL**, June 25, page 1). The public has 90 days to file a request for product exclusion ending Oct. 9. The public will then have 14 days to rebut and then another seven days to reply in support or opposition to requests. Exclusions will be effective for one year and will apply retroactively to July 6.

Credit Suisse Pays $77 Million for Corrupt Hiring Practices

Credit Suisse Group AG (CSAG) and its Hong Kong-based subsidiary, Credit Suisse (Hong Kong) Limited (CSHK), agreed July 5 to pay Justice and the Securities and Exchange Commission (SEC) $77 million to settle charges of violating the Foreign Corrupt Practices Act (FCPA) for its role in a scheme to corruptly win investment banking business by hiring more than 100 friends and family of Chinese officials.

"Between at least 2007 and 2013, Credit Suisse provided valuable employment to the relatives and friends of certain foreign government officials in the Asia-Pacific region (APAC) as a personal benefit to the requesting officials in order to obtain or retain investment banking business or other benefits for the bank," the SEC order noted.

"Credit Suisse's referral hires often lacked technical skills, were less qualified, and had significantly less banking and other relevant experience than candidates hired through Credit Suisse's other employment channels," the NPA said. "Credit Suisse received investment banking mandates from Chinese SOEs [state-owned enterprises] whose executives referred or were connected to candidates hired by Credit Suisse. Credit Suisse earned over $46 million in revenues from those mandates," it added.

> While Credit Suisse had policies on the books against this behavior, they were not enforced. "As early as 2007, Credit Suisse's Global Anti-Bribery Policy specified that '[o]ffers of employment, including internships, to Government Officials, their family members, or associates,' could be considered to be 'things of value' under the FCPA, and were prohibited if offered 'to obtain or retain business, or otherwise secure an improper advantage,'" the NPA noted.

Under the terms of its settlement with the SEC, Credit Suisse Group AG agreed to pay $25 million in disgorgement of profits and $4.8 million in prejudgment interest. CSHK will pay a $47 million criminal penalty under a non-prosecution agreement (NPA). CSHK did not voluntarily and timely disclose the conduct at issue, Justice said.

Credit Suisse announced the settlement in its own statement June 6. "Since 2013 Credit Suisse has implemented numerous enhancements to its compliance and controls function and it remains committed to upholding the highest standards of integrity and fair business practices in every jurisdiction in which it operates," it said.

Canada Wins Paper Dispute, Commerce Drops Duties

Canada scored a near-complete victory in its dispute with the U.S. over supercalendered (SC) paper. A WTO dispute panel July 5 upheld many of Canada's claims that U.S. countervailing duties (CVD) applied to SC paper imports and Commerce's use of adverse facts available (AFA) were inconsistent with WTO rules. The next day, Commerce reportedly dropped the CVD order after a changed circumstances review.

Canada initially requested dispute settlement consultations in March 2016. As a result of a Commerce final duty order in December 2015, CVD rates of 17.87 to 20.18% were applied to SC paper frequently used in glossy publications. Consultations were held in May 2016 but failed to produce a settlement. Canada therefore requested a panel, which the WTO Dispute Settlement Body established in July 2016 (see **WTTL**, July 25, 2016, page 3). The two countries have 60 days to decide whether to appeal the panel's findings.

The panel found that Commerce acted inconsistently with regards to several articles of the Agreement on Subsidies and Countervailing Measures (SCM) with respect to how it viewed electricity supplied to a Canadian paper producer. The panel also found that Commerce acted inconsistently with the SCM Agreement by applying AFA to discovered programs. Commerce then used a rate that had been calculated using AFA to come up with an all-others rate, which the panel also ruled inconsistent.

The panel declined to rule on several claims with respect to other forms of assistance and rejected Canada's claims under the SCM Agreement and the GATT 1994, regarding

Commerce's "failure to adjust the all-others rate in respect of subsidies that were not available to non-investigated exporters," according to the ruling.

Separately, Montreal-based Resolute Forest Products Inc., one of the producers in the WTO case, announced in a press release July 6 that Commerce is formally revoking the CVD order, retroactive to Aug. 3, 2015. "Collection of cash deposits on imports of SC paper from Canada will cease, and all cash deposits that have been collected from importers of record since August 3, 2015, will be returned with interest," the firm said.

> According to the firm, Commerce revoked the CVD order pursuant to its final determination in a Changed Circumstances Review. The agency initiated the review in May after Verso Corporation, the principal remaining U.S. producer and the only remaining petitioner, wrote to Commerce Secretary Wilbur Ross, that it was no longer interested in continuing the CVD order.

"All other interested parties in the SC paper proceedings, including the federal and provincial governments in Canada, notified the Department that they supported Verso's request for a Changed Circumstances Review," Resolute noted.

In a statement July 6, USTR Robert Lighthizer called the panel report "the latest example of judicial activism at the WTO seeking to undermine those laws and make it harder for Members to address unfair trade." He also cited the terminated CVD duties. "Remarkably, however, Canada has refused to drop this litigation. In other words, Canada appears to be more interested in attacking our anti-subsidy laws than in resolving this particular dispute," Lighthizer said.

U.S. Warns Allies Against Continuing Iran Deals

A week after a State official sternly warned U.S. allies to reduce imports of Iranian oil, the administration held the line against allies doing business with Iran following the U.S. withdrawal from the Joint Comprehensive Plan of Action (JCPOA). The U.S. is "not looking to grant licenses or waivers," Brian Hook, director of policy planning at State, said in a press briefing July 2.

"We are not looking to grant licenses or waivers, because doing so would substantially reduce pressure on Iran and this is a campaign of imposing pressure. And so, we are not looking to grant licenses or waivers broadly on the re-imposition of sanctions because we believe pressure is critical to achieve our national security objectives," Hook said. State is prepared to work with countries reducing their imports on a case-by-case basis, he added.

The first sanctions will "snap back" Aug. 6. Remaining sanctions will go back into effect Nov. 4 (see **WTTL**, July 2, page 5). Secretary of State Mike Pompeo and Treasury Secretary Steven Mnuchin created "joint teams of senior officials to visit every region in the world," noted Hook. Since the teams' launch June 4, they have visited 13 countries in Europe and East Asia, though most of the focus has been on Europe, he admitted.

Russia Requests WTO Consultations on 232 Tariffs

Another week, another round of retaliation and dispute consultations lobbed at the U.S. over Section 232 tariffs on steel and aluminum imports. As the U.S. was gearing up for its Independence Day celebrations, Russia became the latest country to request WTO consultations on the tariffs, while other trading partners imposed retaliatory duties and safeguard measures of their own.

In its notice circulated to WTO members July 2, Russia claims the duties are inconsistent with provisions of the General Agreement on Tariffs and Trade and the Agreement on Safeguards. This is the seventh dispute initiated by a WTO member over 232 tariffs; the other complainants are China, India, the European Union (EU), Canada, Mexico and Norway (see **WTTL**, July 2, page 2).

> Separately, the EU announced July 6 it intends to implement provisional safeguard measures on steel. "The Commission's plan received overwhelming support by Member States gathered in the Safeguards Committee and the new measures will enter into force once formally adopted by the Commission in July. Additional duties will be levied only after a tariff rate quota, based on the level of traditional imports, is reached," it said in a press release.

Mexico began its second stage of retaliatory tariffs July 5, primarily focused on U.S. agriculture exports. Meanwhile, Canada's tariffs on billions of dollars of U.S. goods went into effect July 1 (see **WTTL**, July 2, page 1). Argentina, Brazil and Korea, who escaped the tariffs through negotiation, now are subject to threshold quotas per a presidential proclamation.

Customs and Border Protection (CBP) posted the details of the quotas on its website. Beginning July 1, "imports from any such country in an aggregate quantity under any such subheading during any of the periods January through March, April through June, July through September, or October through December in any year that is in excess of 500,000 kg and 30% of the total aggregate quantity provided for a calendar year for such country, as set forth on CBP.gov shall not be allowed," the website noted.

Mexican NAFTA Negotiator Expected to Stay Course

Andrés Manuel López Obrador clinched the Mexican presidential election July 1, paving the way for Jesús Seade, a former WTO official, to take up the mantle of NAFTA negotiations. Seade will replace Kenneth Smith Ramos in December when Obrador takes office.

Among many career accomplishments, Seade was formerly a principal economist at the World Bank, the Mexican ambassador to the GATT and chief negotiator to the Uruguay Round, GATT deputy director-general and founding WTO deputy director-general. In a series of interviews with news outlets over the past month, Seade said he plans to continue negotiations in the same vein as his predecessor.

Following Obrador's win, the U.S. and Canadian leadership reached out to the president-elect. "Canada and Mexico are close friends and longtime partners. We share common goals, strong people to people ties, and a mutually beneficial trading relationship that is the envy of the world – reflected in our joint effort to update [NAFTA] for the 21st century," said Canadian Prime Minister Justin Trudeau in a statement.

During a photo op with the Dutch prime minister July 2, President Trump con-firmed his phone call with Obrador. "We talked about border security, we talked about trade, we talked about NAFTA, we talked about a separate deal just Mexico and the United States," he said. White House economic adviser Larry Kudlow recently suggested the president would prefer bilateral negotiations (see **WTTL**, June 11, page 7).

KORUS Changes Have Little Impact on U.S. Truck Industry, ITC Says

Changes to automotive provisions in the Korea-U.S. Free Trade Agreement (KORUS) won't have much of an impact on U.S. truck production and imports, the International Trade Commission (ITC) said in a report released July 2. At the behest of USTR Robert Lighthizer, the ITC investigated the "probable economic effect" of modifications to staging of duty treatment for certain motor vehicles under KORUS and "on domestic producers of the affected articles" (see **WTTL**, April 16, page 4).

> Under the original KORUS finalized in 2007, the 25% truck tariff would drop to 16.7% by 2019, 8.3% by 2020 and be eliminated altogether by 2021. Under the KORUS modification negotiated by the Trump administration, the 25% tariff will remain in place through 2040 and then be eliminated in 2041.

The market for light and medium/heavy trucks in the U.S. is primarily supplied domestically by American producers and producers in Mexico and Canada as a result of NAFTA. While Korean companies sell passenger vehicles to the U.S., they currently sell "few to no light or medium/heavy trucks" in the U.S., the report noted.

Since so few Korean trucks are sold in the U.S., the ITC entertained five scenarios and found that the one in which Korean producers "supply the U.S. market through a combination of Korean exports and transplant production at a market share similar to that of other foreign truck producers," to be the most likely.

Using that scenario, ITC concluded that by delaying the elimination of the tariff by 20 years, the U.S. avoids importing 59,000 light trucks from Korea (7.1% of total U.S. imports in 2017) and a corresponding drop-off in U.S. production of 46,000 light trucks (1.6%). The modifications could avoid an increase of 7,600 medium/ heavy truck (10.5% of total U.S. imports in 2017) imports from Korea and a 3,700 (1.4%) decline in medium/heavy truck domestic production. The U.S. produced 2.84 million light trucks in 2017 and imported 832,555 that year.

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in May jumped 14% from year ago to record-high $144.9 billion, Commerce reported July 6. Services exports gained 7.25% to $70.4 billion from May 2017. Goods imports increased 8.7% from May 2017 to $210.7 billion, as services imports gained 6.6% to $47.7 billion.

TRADE PEOPLE: White House July 2 named Clete Willems acting deputy director for international policy of National Economic Council, replacing Everett Eissenstat, who announced his departure in June. Willems is currently special assistant to president for international trade, investment and development. Previously, he was USTR chief counsel for negotiations, legislation, and administrative law and prior to that, legal advisor to U.S. Mission to WTO in Geneva.

AGOA: In July 3 Federal Register USTR announced that imports of eligible products from eSwatini (formerly known as Swaziland) qualify for AGOA textile and apparel benefits. USTR restored AGOA eligibility in December 2017 (see **WTTL**, Jan. 1, page 4). Country's name changed to Kingdom of eSwatini in April 2018. Country "has adopted an effective visa system and related procedures to prevent the unlawful transshipment of textile and apparel articles and the use of counterfeit documents in connection with the shipment of such articles," notice said…. In July 6 Federal Register USTR invited public comments on annual review of eligibility of sub-Saharan African countries. AGOA Implementation Subcommittee of Trade Policy Staff Committee will convene public hearing Aug. 16.

CYLINDERS: In 4-0 preliminary votes July 5, ITC found U.S. industry may be injured by allegedly dumped imports of steel propane cylinders from China and Thailand and subsidized imports from China. Commissioner Jason Kearns did not participate in these investigations.

TPA: As expected, Trade Promotion Authority (TPA) automatically renewed July 1 (see **WTTL**, July 2, page 7). "Extension of TPA is critical to negotiating accountable, enforceable and reciprocal trade deals that will benefit American workers, farmers and ranchers. The Trump Administration is pursuing a number of potential bilateral free trade agreements, and TPA extension means we may continue to aggressively pursue these opportunities," USTR Robert Lighthizer said in statement July 2.

PRIVACY SHIELD: In non-binding resolution July 5 EU Parliament called on European Commission to suspend Privacy Shield unless U.S. is fully complaint by Sept. 1 (see **WTTL**, Oct. 23, 2017, page 7). "In view of the recent revelations of misuse of personal data by companies certified under the Privacy Shield, such as Facebook and Cambridge Analytica, [Parliament] calls on the U.S. authorities responsible for enforcing the Privacy Shield to act upon such revelations without delay in full compliance with the assurances and commitments given to uphold the current Privacy Shield arrangement and, if needed, to remove such companies from the Privacy Shield list," it said. "The revelations clearly show that the Privacy Shield mechanism does not provide adequate protection of the right to data protection," resolution added.

PIPE FITTINGS: Commerce issued affirmative final determinations in antidumping (AD) and CVD investigations of imports of cast iron soil pipe fittings from China. Commerce calculated 27.18% dumping rate for mandatory respondent Shanxi Xuanshi Industrial Group, 22.11% for Wor-Biz Trading and 24.65% for all other exporters eligible for separate rate. China-wide entity dumping margin calculated at 360.39% based on AFA. Commerce calculated 34.87% subsidy rate for Shanxi Xuanshi, 7.37% for Wor-Biz and, using AFA, 133.94% for Shijiazhuang Chengmei Import & Export Co. Rate of 23.28% for all other Chinese producers/exporters.