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Administration Will Investigate Auto Imports

While still grappling with the effects of two other Section 232 investigations on steel and aluminum imports, Commerce May 23 quickly initiated a similar investigation to determine the impact imports of automobiles - including SUVs, vans and light trucks - and automotive parts have on national security.

> "There is evidence suggesting that, for decades, imports from abroad have eroded our domestic auto industry," Commerce Secretary Wilbur Ross said in a statement. The department "will conduct a thorough, fair, and transparent investigation into whether such imports are weakening our internal economy and may impair the national security," he added.

According to Commerce, imports of passenger vehicles have grown from 32% of cars sold domestically to 48% over the past 20 years. Meanwhile, the rate of U.S. employment in motor vehicle production has declined 22% from 1990 to 2017. In a Federal Register notice scheduled for May 30, Commerce invited public comments and requests to appear at the public hearing, both due June 22. Rebuttal comments are due July 6. Commerce will hold a public hearing July 19 and 20 in Washington.

Lawmakers, Car Manufacturers Question Auto Tariffs

The administration's announcement brought sharp criticism from senators on both sides of the aisle and from foreign manufacturers. Not surprisingly, U.S. auto workers support the investigation, while auto dealers denounced the move.

"I am very concerned about the president abusing the authorities granted to him in Section 232," Sen. Bob Corker (R-Tenn.) said in a statement. "There is no reason to use this provision to consider imposing tariffs on the automobile industry, and this appears to be either an attempt to affect domestic politics ahead of the election or for some other

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transactional purpose regarding ongoing trade discussions. This is a dangerous course and should be abandoned immediately," Corker said.

"Taxing cars, trucks and auto parts coming into the country would directly hit American families who need a dependable vehicle, whether they choose a domestic or a global brand. Instead of taking from the pocketbooks of hardworking Americans, I urge the administration to remain focused on addressing China's trade practices and to work constructively with our trading partners to increase opportunities overseas for American businesses, farmers, ranchers and workers," chimed in Senate Finance Committee Chairman Orrin Hatch (R-Utah).

> From the other side of the aisle, Sen. Ron Wyden (D-Ore.) questioned how the investigation fits into a larger trade strategy. "The administration has yet to explain how this latest action fits into a coherent strategy to increase American auto jobs and wages for American workers, or whether it is just designed to create more chaos and confusion. Given the President's recent moves to pull back on enforcement against China, I increasingly doubt such a strategy exists," he said.

Here for America, an initiative of the Association of Global Automakers, claimed there is no need to protect the domestic market. "Contrary to the assumption underlying the investigation on import vehicles, the U.S. auto industry is thriving. To our knowledge no one is asking for this protection," said John Bozzella, the association's president and CEO, in a statement. "If these tariffs are imposed, consumers are going to take a big hit because they will have fewer vehicle choices and higher car and truck prices. This course of action will undermine the health and competitiveness of the U.S. auto industry and invite retaliation by our trading partners," he added.

The United Auto Workers (UAW), which typically backs Democrats, applauded the administration's efforts. "I welcome the fact that they're investigating this and considering," said UAW President Dennis Williams during a media roundtable. He added that the U.S. has become a "dumping ground" for other countries with foreign countries subsidizing U.S. competitors.

Auto dealers disagreed. "To treat auto imports like a national security threat would be a self-inflicted economic disaster for American consumers, dealers, and dealership employees," American International Automobile Dealers Association (AIADA) President and CEO Cody Lusk said in a statement. "It can't be repeated enough: Tariffs are taxes. American families who can least afford a 25% price increase on vehicles will bear the burden of this tariff," he added.

President Tweets ZTE Deal, Congress Squawks

During a markup session May 22, the Senate Banking Committee advanced in a 23-2 vote an amendment to the CFIUS reform bill that would block the president's efforts to reverse sanctions on Chinese phone company ZTE, similar to one the House Appropriations Committee passed earlier in May (see **WTTL**, May 21, page 1).

At press time, the White House reportedly had briefed Congress on a tentative deal that would keep the Chinese firm operational. In true fashion, the president tweeted about the deal late May 25: "Senator Schumer and Obama Administration let phone company ZTE flourish with no security checks. I closed it down then let it reopen with high level security guarantees, change of management and board, must purchase U.S. parts and pay a $1.3 Billion fine. Dems do nothing but complain and obstruct."

> Three days earlier, the president previewed a potential deal during remarks with Korean President Moon Jae-in May 22. Trump mentioned that he was looking at ways to save the Chinese company as a "favor" to President Xi Jinping. He also linked then unlinked the efforts from the larger trade talks with China.

"I'm saying that I'm not talking about the trade deal. I don't like to talk about deals until they're done. So we'll see what happens. But that deal — I will say, that deal could be much different from the deal that finally emerges. And it may be a much better deal for the United States," Trump said. "So what I envision is a very large fine of more than a billion dollars. Could be a billion-three. I envision a new management, a new board, and very, very strict security rules. And I also envision that they will have to buy a big percentage of their parts and equipment from American companies," he added.

Sen. Marco Rubio (R-Fla.) responded disdainfully to reports of a deal May 25. "Yes they have a deal in mind. It is a great deal... for ZTE & China. China crushes U.S. companies with no mercy & they use these telecomm companies to spy & steal from us. Many hoped this time would be different. Now congress will need to act," Rubio tweeted.

"Everyone from the Director of the FBI to the former head of NSA has said that this was a real risk to the United States. So why in the world we would be allowing them to move forward with these components and undermine U.S. national security is what's puzzling people," amendment sponsor Sen. Chris Van Hollen (D-Md.) told NPR May 23.

The CFIUS bill along with the Van Hollen amendment was then included into the National Defense Authorization Act (NDAA) for fiscal year 2019 (see related story, page 4). The NDAA bill also includes a provision that prohibits the Defense secretary from "procuring or obtaining, as well as entering into, extending, or renewing a contract with an entity that uses telecommunications equipment or services produced by Huawei Technologies Company or ZTE Corporation," according to a Senate Armed Services Committee fact sheet.

OFAC Extends Wind-Down Time for Another Russian Firm

It worked the first time. In hoping for a repeat performance, Treasury's Office of Foreign Assets Control (OFAC) May 22 issued General License (GL) 15 extending the authorization for transactions related to the "maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States," involving GAZ Group, until Oct. 23.

GAZ Group, Russia's leading manufacturer of commercial vehicles, was designated April 6 for being owned or controlled by, directly or indirectly, Oleg Deripaska, an associate of former Trump campaign chairman Paul Manafort.

> At that time, OFAC designated seven Russian oligarchs, including Deripaska and 12 companies they own or control, 17 senior Russian government officials and a state-owned Russian weapons trading company and its subsidiary, a Russian bank. In a bid to avoid sanctions, Deripaska resigned May 18 as director of sanctioned firm, EN+ and subsidiaries including RUSAL (see **WTTL**, May 21, page 9).

"Consistent with OFAC regulations, parties may be removed by demonstrating a change in the circumstances that led to their designation. In the case of GAZ Group, absent other adverse information and consistent with the facts and circumstances of any petition for delisting, the path for the United States to provide sanctions relief is through divestment and relinquishment of control of GAZ Group by any Specially Designated Nationals," including Deripaska, OFAC wrote in a frequently asked question (FAQ) posted May 22.

Congressional Committees Advance CFIUS Bills

Setting up a conference fight over the best platform to update and expand the jurisdiction of the Committee on Foreign Investment in U.S. (CFIUS), three congressional committees advanced versions of the Foreign Investment Risk Review Modernization Act (FIRRMA) (S. 2098/H.R. 5841).

The Senate Banking Committee advanced its amended FIRRMA bill in a unanimous vote May 22. Chair Mike Crapo (R-Idaho) and Ranking Member Sherrod Brown (D-Ohio) circulated a draft amendment in the nature of a substitute to the bill 10 days earlier (see **WTTL**, May 14, page 1). Two days later, the Senate Armed Services Committee included bill in National Defense Authorization Act (NDAA) for fiscal year 2019. The committee then voted 25-2 to send the NDAA bill to the Senate floor.

On the same day as the Banking Committee vote, the House Financial Services Committee voted 53-0 to move its version of FIRRMA as a standalone bill. "For months, we have fought for the strongest CFIUS reform bill possible that would preserve our foreign investment while preventing the sale of critical military related technology companies," said bill sponsor Rep. Robert Pittenger (R-N.C.) in his opening statement.

"To gain an additional edge, in recent years, there has been an increase in foreign investments from China into U.S. technology companies, including in the financial, agriculture and transportation sectors. And we have seen some companies structure deals to gain access to sensitive technology and information and evade CFIUS's national security review," Brown said in his opening statement to the markup session.

Canadian Wine Restrictions Prompt U.S. WTO Request

Red or white? Citing current regulations that are "discriminatory" against U.S. wines, the administration May 25 popped the cork on talks with Canada over import restrictions, requesting the establishment of a formal World Trade Organization (WTO) dispute-settlement panel to examine the sale of wine in grocery stores in British Columbia (BC).

> "Discriminatory regulations implemented by British Columbia are unfairly keeping U.S. wine off of grocery store shelves, and that is unacceptable. Canada and all Canadian provinces, including BC, must play by the rules. The Trump administration will continue to hold our trading partners accountable by vigorously enforcing U.S. rights under our trade agreements and by promoting fair and reciprocal trade through all available tools, including the WTO," U.S. Trade Representative (USTR) Robert Lighthizer said in a statement.

Since April 2015, only provincial wine can be sold on BC store shelves, while imports are relegated to a "store within a store." The U.S. previously requested WTO consultations with Canada in October 2017, but those talks did not resolve the dispute (see **WTTL**, Oct. 9, 2017, page 8).

"We want customers in British Columbia to have the opportunity to buy our great American wine. The practice of discriminating against U.S. wine is unfair and cannot be tolerated any longer. Our wine producers rely on export markets and they deserve fair treatment, especially by our northern neighbors in British Columbia," added Agriculture Secretary Sonny Perdue.

Appeals Court Remands Two Cases on Aluminum Extrusions

The Court of Appeals for the Federal Circuit (CAFC) remanded two cases brought by the Aluminum Extrusions Fair Trade Committee relating to whether kitchen appliance door handles fall within the scope of the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from China.

In *Whirlpool Corporation v. U.S.* May 23, CAFC affirmed-in-part, reversed-in-part, vacated-in-part, and remanded a Court of International Trade (CIT) ruling on whether Whirlpool's kitchen appliance door handles with end caps ("assembled handles") fall within the scope of the AD and CVD orders.

"Although the CIT properly recognized that 'the general scope language provides that [an aluminum extrusion] remains in the scope even though it has been subjected to one of three specified types of post-extrusion processes,' the CIT erred when it stated that assembly processes were absent from the specified post-extrusion processes," Chief Judge Sharon Prost wrote for three-judge panel

The panel agreed with the CIT that "if Commerce had actually intended to sweep into the scope all finished merchandise consisting solely of aluminum extrusion components and fasteners, it would have done so in the scope language rather than expressly confining its fasteners exception to the finished goods kit exclusion," Prost wrote.

In his partial dissent, Circuit Judge Jimmie Reyna wrote, "The record is clear, however, that Commerce has addressed the question of whether Whirlpool's handles are excluded under the finished merchandise exclusion. In its initial scope determination, Commerce determined that the good in question is a covered good; there are no components or parts included, whether loose or attached. Accordingly, it does not fall under either the finished merchandise exclusion or the finished goods kits exclusion."

> In *Meridian Products, LLC v. U.S.* May 22, the court reversed and remanded a CIT ruling on remand of an original Commerce determination that imports of certain extruded aluminum door handles for kitchen appliances that are packaged for importation with two plastic end caps and two screws are within the scope of relevant AD and CVD orders. On remand, Commerce determined, under protest, that the subject products are not included in the scope of the relevant orders.

"We hold that Commerce's original scope ruling determination that the Type B handles are included within the general scope of the antidumping and countervailing duty orders on aluminum extrusions from China is reasonable and supported by substantial evidence. We also conclude that Commerce's original scope ruling that the Type B handles are not excluded from the scope of the order under the 'finished goods kit' exclusion provision is reasonable and supported by substantial evidence," Reyna wrote for three-judge panel.

OFAC Adds Sanctions on Aviation Services, Aircraft

In a show of toughness following the administration's withdrawal from the Joint Comprehensive Plan of Action, Treasury's Office of Foreign Assets Control announced more sanctions against entities and individuals who do business with Iranian airlines or support the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF) (see **WTTL**, May 21, page 6).

OFAC May 24 designated nine individuals and entities procuring export-controlled, U.S.-origin goods destined for blocked Iranian airlines, including Mahan Air, pursuant to Executive Order (EO) 13224. OFAC further identified 31 aircraft in which previously designated entities have an interest. Two days earlier, OFAC designated five Iranian individuals who provided ballistic missile-related technical expertise to Yemen's Huthis on behalf of the IRGC-QF.

"Countries and companies around the world should take note of the risks associated with granting landing rights and providing aviation services to the airlines used by Iran to export terrorism throughout the region. The deceptive practices these airlines employ to illegally obtain services and U.S. goods is [sic] yet another example of the duplicitous ways in which the Iranian regime has operated," Treasury Secretary Steven Mnuchin said in a statement.

"The sting of sanctions will be painful if the regime does not change its course from the unacceptable and unproductive path it has chosen to one that rejoins the league of nations. These will indeed end up being the strongest sanctions in history when we are complete," Secretary of State Mike Pompeo said in a speech May 21.

WTO Members Complain about U.S. Steel, Aluminum Tariffs

The U.S. continues to get hammered at the WTO over its steel and aluminum import tariffs. Most recently, India requested WTO dispute consultations with the U.S. regarding the tariffs in a notice circulated to members on May 23.

> India notified the Trade in Goods Council May 18 of its proposed suspension of concessions and other obligations referred to in the Safeguards Agreement. India views the U.S. actions as safeguard measures despite being taken in the name of national security. The U.S. declined India's request for consultations, therefore the U.S. has "imposed definitive safeguard measures without giving affected Members any opportunity for consultations on the proposed safeguard measures and without the possibility of adjusting the measures in light of the comments of those Members," India noted.

Turkey notified the council of proposed suspension of concessions and other obligations May 21. Like India, the U.S rebuffed Turkey's previous consultation request. Russia notified the WTO May 18, as did Japan. The same day, the European Union informed the organization that it may apply additional duties on U.S. goods to compensate for the tariff measures (see **WTTL**, May 21, page 10).

NAFTA Talks Continue, Vote Unlikely This Year

It looks less and less likely that a new NAFTA deal will get a vote in this Congress, but negotiators continue to look for a way forward. After a meeting May 24, Mexican President Enrique Pena Nieto and Canadian Prime Minister Justin Trudeau stated their "strong concerns" over new Section 232 investigations initiated by Commerce (see story page 1), but say they are optimistic.

President Trump took a different tact speaking to reporters on the White House lawn May 23. "We'll get along with Canada, we'll get along with Mexico, but I have to tell you, they've been very difficult to deal with. They're very spoiled because nobody's done this, but I'll tell you, what they ask for is not fair. Let me tell you, our auto workers are going to be extremely happy," he said.

Earlier in the week, Treasury Secretary Steven Mnuchin said in a television interview that a "skinny deal" is a possibility, but "for the moment, the president is focused on the agreement that he wants to get between the three countries and then we'll figure out how to get it through Congress."

Talking to reporters, Canadian Foreign Minister Chrystia Freeland diplomatically declined to address Trump's "spoiled" quote directly, but again spelled out Canada's desire to come to a "win-win-win" outcome in the negotiations. Late May 25, the White House issued a one-line readout of a call between the president and Canadian Prime Minister Justin Trudeau about NAFTA "and other trade and economic issues."

> In a series of translated tweets May 19, Mexico's chief NAFTA negotiator Kenneth Smith Ramos wrote: "In the negotiation we have closed nine chapters and six sectoral annexes, among them sanitary measures, anticorruption, telecoms, SMEs, competition, competitiveness, good reg[ulatory] practices, annexes on chemicals, pharmaceuticals and medical devices among others #NAFTAWorks."

"We are building a modern NAFTA to respond to the needs of the 21st century economy & with state-of-the-art disciplines. The last mile will require flexibility from all three parties in order to find the balances that may allow us to close the negotiation," he continued.

U.S., China Suspend Trade War

Just after a three-day hearing on the arguments for and against tariffs on Chinese imports, the trade war between China and U.S. is on hold -- for now. Following two days of talks, both sides agreed to reduce the U.S. trade in goods deficit with China, but little else, according to a joint statement May 19.

"To meet the growing consumption needs of the Chinese people and the need for high-quality economic development, China will significantly increase purchases of United States goods and services. This will help support growth and employment in the United States," the statement noted. Both sides agreed to "meaningful increases" in U.S. exports of agriculture and energy, but gave no specifics. The week before, White House advisors cited huge promises, which were quickly debunked (see **WTTL**, May 21, page 7). The U.S. will send a delegation to China to work out the details.

Democrats in Congress were not keen on the announcement. "Settling for a deal to sell substantially more commodities and natural resources to China, without leveling the terms of competition in high value, cutting-edge sectors, is effectively to roll over and cede the future to China. We urge you once again, in more pointed terms: don't sell America out and don't sell America short. The current trajectory of your administration's plans risks doing both," wrote Reps. Richard Neal (D-Mass.) and Bill Pascrell (D-N.J.) in a letter to the president May 23.

House Ways and Means Committee Democratic members called on Chairman Kevin Brady (R-Texas) to convene a hearing with administration representatives to clarify just who is leading negotiations. The lawmakers highlighted the conflicting information coming out of the White House.

"On Sunday morning, Treasury Secretary Steven Mnuchin announced on Fox News that U.S. tariffs on Chinese imports are 'on hold.' On Sunday evening, the Wall Street Journal reported that [USTR] Robert Lighthizer said that tariffs remain an important tool to protect U.S. technology," they wrote.

They also wondered why Mnuchin is leading trade negotiations with China and why Commerce Secretary Wilbur Ross has been tapped to lead the U.S. negotiating team in Beijing. "Section 141 of the Trade Act of 1974 designates the [USTR] as the chief representative of the United States for international trade negotiations and requires the USTR to report directly to the President and to Congress," they reminded Brady.

* * * Briefs * * *

CYLINDERS: Worthington Industries and Manchester Tank & Equipment Co. filed countervailing and antidumping duty petitions May 22 with ITA and ITC against steel propane cylinders from China, Taiwan and Thailand.

CFIUS: Thomas Feddo was appointed May 23 to be Treasury deputy assistant secretary for investment security, responsible for day-to-day operation of Committee on Foreign Investment in U.S. (CFIUS). Feddo was partner at Alston & Bird in Washington office. Prior to joining firm in 2016, he spent seven years at OFAC, including more than five years as OFAC's assistant enforcement director.

VENEZUELA: Day after Venezuelan snap elections, president May 21 issued Executive Order (EO) 13835, prohibiting purchase of any debt owed to Venezuelan government, including accounts receivable; any debt owed to Venezuelan government that is pledged as collateral after effective date of this order, including accounts receivable; and sale, transfer, assignment, or pledging as collateral by Venezuelan government of any equity interest in any entity in which Venezuelan government has 50% or greater ownership interest. Venezuelan government condemned EO, calling ban "unilateral and arbitrary [sic] coercive" in translated statement

GSP: ITC will investigate "probable economic effect on U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers" of certain articles being considered for addition to, removal from, or redesignation under Generalized System of Preferences (GSP), commission announced May 23. USTR requested investigation May 18. USTR also requested advice on "whether any industry in the United States is likely to be adversely affected by competitive need limitation waivers for certain countries and advice as to the probable economic effect on total U.S. imports, as well as on consumers, of the requested waivers," ITC noted.

CYPRUS: Sen. Bob Menendez (D-N.J.) May 24 introduced End the Cyprus Embargo Act to repeal U.S. embargo of USML items on Cyprus. "Cyprus has proven itself a reliable ally and strategic partner to the United States, including in counterterrorism and nonproliferation efforts," said Menendez in statement. Rep. David Cicilline (D-R.I.) introduced House version (H.R. 5508) in April. U.S. implemented policy of license denial against Cyprus in 1987.

FCPA: Two employees of international engineering consulting firm were indicted May 24 in scheme to bribe officials of state-owned oil and gas companies for benefit of U.S.-based Rolls-Royce subsidiary in exchange for contracts on gas pipeline from Kazakhstan to China. Azat Martirossian, Armenia citizen, and Vitaly Leshkov, Russia citizen, were charged in Columbus, Ohio, U.S. District Court with money laundering. Original indictment against Petros Contoguris, Greek citizen residing in Turkey, on FCPA charges was unsealed in November in Columbus federal court (see **WTTL**, Nov. 13, 2017, page 1). Martirossian, Leshkov and Contoguris are believed to be residing outside U.S., Justice noted. Rolls-Royce plc agreed in January 2017 to pay more than $800 million total penalty as part of global settlement.

UK TRADE: Sens. Rob Portman (R-Ohio) and Chris Coons (D-Del.) May 22 launched Senate UK Trade Caucus. Goal of caucus is to build congressional support for bilateral trade agreement between U.S. and United Kingdom (UK). "The United Kingdom is one of the most important markets for U.S. exports. Thousands of American businesses and millions of jobs depend on fair and open trade with the UK," Coons said in statement.

SOUTHEAST ASIA: Deputy USTR Jeffrey Gerrish met with Philippine economic ministers and business leaders May 23 to discuss "trade and investment issues and ways to enhance the bilateral economic relationship," according to USTR statement. Meeting followed November 2017 talks between President Trump and Philippine President Rodrigo Duterte. Day prior, Gerrish met with Vietnamese officials to discuss reducing U.S. bilateral goods trade deficit and outstanding issues related to automobiles, agricultural trade and electronic payment services.

STAPLE FIBER: Commerce May 24 announced affirmative final determinations in antidumping duty (AD) investigations of imports of fine denier polyester staple fiber from China, India, Korea and Taiwan. Dumping margins: China 65.17-103.06%, India 21.34%, Korea 0-45.23% and Taiwan 0-48.86%. Petitioners are DAK Americas LLC, Nan Ya Plastics Corporation, America, and Auriga Polymers Inc. ITC final injury determinations expected by July 9.

STEEL: Corrosion-resistant steel (CORE) and certain cold-rolled steel flat products imported from Vietnam and produced from Chinese substrate circumvent antidumping (AD) and countervailing duty (CVD) orders on those product imports from China, Commerce announced May 21. Customs and Border Protection (CBP) will collect AD and CVD cash deposits on CORE products at 199.43% AD and 39.05% CVD. CBP will collect cash deposits on cold-rolled steel products at rates of 199.76% (AD) and 256.44% (CVD). Cash deposits apply to all unliquidated entries on or after Nov. 4, 2016, date inquiries initiated. Steel Dynamics, Inc., California Steel Industries, AK Steel, ArcelorMittal USA LLC, Nucor and US Steel requested investigations.

SPACE: President May 25 signed Space Policy Directive that will reorganize Commerce space-related functions into "one-stop shop" as announced in February (see **WTTL**, Feb. 26, page 1). After signing, Commerce Secretary Wilbur Ross announced that department will deliver to Congress its proposal to establish new office, Space Policy Advancing Commercial Enterprise (SPACE) Administration. Under proposal, Office of Space Commerce and Commercial Remote Sensing Regulatory Affairs office will move from National Oceanic and Atmospheric Administration (NOAA) to new SPACE Administration.