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BIS Updates Controls on Missile Technology

In the Federal Register July 7, Bureau of Industry and Security (BIS) implemented changes agreed at two 2016 meetings of the Missile Technology Control Regime (MTCR). Changes include revising 13 Export Control Classification Numbers (ECCNs), adding one ECCN, and revising two terms that are defined in the Export Administration Regulations (EAR): "missiles" and "unmanned aerial vehicles."

> As WTTL previously reported, the final rule was deemed significant, but exempt from the two-for-one executive order President Trump signed in January, BIS officials told the agency's Regulations and Procedures Technical Advisory Committee (RAPTAC) in June (see **WTTL**, June 19, page 1).

The new ECCN 9B104 will control certain aerothermodynamic facilities, a change that is expected to result in an increase of "no more than 1 application received annually by BIS, because such systems and their software and technology are exported infrequently," the notice said. Most of the other changes "are clarifications and will not change any scope of control," BIS noted repeatedly. Some changes are expected to increase by one or two the number of annual BIS license applications.

In another example, the final rule amends ECCN 7A103 by adding a definition for "inertial measurement equipment and systems" to make the control more precise and rule out items not strictly used for navigation purposes, the agency said. This change is expected to result in a decrease of 3 to 5 annual BIS license applications, it added. Other revisions include replacing the term "unmanned air vehicles" with "unmanned aerial vehicles" wherever the term appears, and replacing the phrase "silicon carbide materials" with "high-temperature materials" in the introductory text of ECCN 1C107.d.

EU, Japan Announces Trade Deal in Principle

Just ahead of the G-20 Summit, the European Union (EU) and Japan July 6 reached an agreement in principle on an Economic Partnership Agreement. The agreement will

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eliminate approximately €1 billion in annual duties paid by EU companies and open the Japanese market to EU agricultural exports. And while the U.S. pulled out of the Paris climate agreement and an Asian trade deal, this agreement will include a specific commitment to the Paris accord.

"This agreement has an enormous economic importance, but it is also a way to bring us closer. We are demonstrating that the EU and Japan, democratic and open global partners, believe in free trade. That we believe in building bridges, not walls. With Japan being the fourth-largest economy of the world with a big appetite for European products, this is a deal that has a vast potential for Europe. We expect a major boost of exports in many sectors of the EU economy," EU Trade Commissioner Cecilia Malmström said in a statement July 6.

> Negotiations took four years, and there are still some details with regard to dispute settlement that need to be ironed out. Nevertheless, European Commission President Jean-Claude Juncker said he was confident the trade agreement will go into effect by 2019.

Agriculture groups used the EU-Japan agreement to urge the Trump administration to negotiate its own trade deal with Japan. "We can't stand by while countries around the world negotiate agreements that give them a competitive advantage over American products," said National Pork Producers Council (NPPC) President Ken Maschhoff in a statement.

Japan is the highest value market for U.S. pork exports, buying almost $1.6 billion of U.S. pork products in 2016, according to the NPPC. "Demand in Japan for U.S. pork is very strong despite tariffs and other import measures that limit market access for it," the group noted.

Under Spotlight, European Union Criticizes WTO

The EU used the spotlight of its biennial Trade Policy Review before the World Trade Organization (WTO) July 5 and 7 to offer its own critique of the trade body. The review is meant to afford other countries an opportunity to offer critiques and ask questions, which they did to the tune of 1,053 questions from 38 member nations.

The EU's representative said that while the EU is a defender of the WTO it cannot "hold the fort on its own." The WTO's deliberative function has continued to be challenged, as domestic regulation and e-commerce discussions have been stalled by "endless procedural points and unjustified concerns," the EU added.

In sum, the EU said it does not believe that the WTO's regular work is as effective as it should be. Compliance with minimum WTO obligations, like notifying of subsidies, has deteriorated significantly, decreasing from 50% to 38%. The EU called on the WTO to tackle trade-distorting subsidies, e-commerce, and supporting small and medium-sized enterprises ahead of the WTO Ministerial Conference in Buenos Aires this December.

Not surprisingly, WTO members raised their concerns about Brexit negotiations, with Russia calling it "an unprecedented challenge for the EU." In response, the EU representative reiterated that the United Kingdom (UK) remains an EU member state with all rights and obligations. We will fully engage with WTO membership, rather sooner than later, we hope to do this very fast, he added.

China, not surprisingly, called on the EU to treat it as a market economy per Article 15 of China's Accession Protocol to the WTO (see **WTTL**, June 26, page 1). For its part, the U.S. voiced its frustration with EU barriers to U.S. agricultural products.

Deep Divisions Between U.S., Others at G-20 Meeting

At the Group of 20 (G-20) meeting in Hamburg July 7, world leaders were set to tackle issues of trade, climate change and migration. Where the other nations want wide-ranging multilateral free trade agreements, the Trump administration courts bilateral deals that adhere to its "America First" mantra.

After a long day of meetings, German Chancellor Angela Merkel told reporters that she wasn't going to "beat around the bush." "These discussions are very difficult," she said. At press time, negotiators were expected to work throughout the night to arrive at a joint statement.

> The European Union (EU) warned against the U.S. placing restrictions on steel imports. Commerce Secretary Wilbur Ross previously had said that the Section 232 steel investigation would be complete by the end of June (see **WTTL**, June 26, page 5). The White House said it was close to a decision, but decided to wait until after the G-20 meeting to decide how to move forward.

"We will respond with countermeasures if need be, hoping that is not actually necessary," European Commission President Jean-Claude Juncker said to reporters. Should the White House impose restrictions, the EU will respond quickly, in days not months, Juncker said.

On the sidelines of the G-20, President Trump and Russian President Vladimir Putin talked for two hours and 15 minutes, perhaps the most highly anticipated meeting of the summit. Secretary of State Rex Tillerson, who gave a press briefing with Treasury Secretary Steve Mnuchin, dismissed questions about whether the two leaders discussed modifying sanctions against Russia for interference in the 2016 U.S. election. "The presidents rightly focused on how do we move forward from what may be simply an intractable disagreement at this point," Tillerson said.

"The Russians have asked for proof and evidence [of election interference]. I'll leave that to the intelligence community to address the answer to that question. And again, I think the President, at this point, he pressed him and then felt like at this point, let's talk about how do we go forward. And I think that was the right place to spend our time, rather than spending a lot of time having a disagreement that everybody knows we have a disagreement," Tillerson concluded.

The day before the meeting, the heads of the International Monetary Fund, World Bank and the WTO called on the G-20 leaders to deepen trade ties. "Evidence shows that opening of economies to trade, especially in the late 20th century, boosted incomes and living standards across advanced and developing countries," they wrote.

"Since the early 2000s, however, the pace of opening has largely stalled, with too many existing trade barriers and other policies that favor chosen domestic industries over the broader economy remaining in place, and new barriers being created. Such policies can cause a chain reaction, as other countries adopt similar measures with the effect of lowering overall growth, reducing output, and harming workers," the groups added.

They also called on governments to find better ways to support workers. "Approaches such as greater emphasis on job search assistance, retraining, and vocational training can help those negatively affected by technology or trade to change jobs and industries," they said.

Ex-Im Competitiveness Report Changes Subject

After another full year without a board quorum, the Export-Import (Ex-Im) Bank changed the format of its annual competitiveness report released July 6, to avoid reporting on its own competitiveness. The 2016 report instead aimed to establish "useful reference points" for future analysis.

> Two nominees for Ex-Im Bank board positions were sent to the Senate June 19: former Reps. Spencer T. Bachus II (R-Ala.) as a board member and Scott Garrett (R-N.J.) to be Ex-Im president (see **WTTL**, Jun 26, page 9). Garrett previously voted against reauthorizing the bank's charter.

In 2016, Ex-Im Bank approved only about $200 million in medium-term authorizations and no long-term authorizations. At the same time, medium and long-term (MLT) export credit offered in alignment with the Organization for Economic Cooperation and Development (OECD) Arrangement also declined, a trend that began in 2013. Into the void stepped the BRICS countries (Brazil, Russia, India, China and South Africa), which represented 45% of the total official export credit provided worldwide.

Not surprising, most of that funding came from China, which provided more trade-related investment support than the rest of the world combined, the report noted. "In an observation just confirmed this past year, China appears to be reintroducing the concept of 'mixed credits' (i.e., blending standard export credit with development finance on the same – usually commercial – transaction) back into the ECA competitive landscape," the report noted.

"Given the highly competitive financing package that results, competitors will either have to match or give up the sectors affected. Doing the former could reverse the great success the [OECD] Arrangement has had in eliminating subsidies and providing a level playing field," the report noted.

> Without a board quorum, the bank is limited (with few exceptions) to only approving transactions up to $10 million, it said. "This has resulted in more than $30 billion worth of larger transactions being stuck in the Bank's pipeline. Those transactions, if EXIM had a quorum and could finance the exports, would support an estimated 200,000 U.S. jobs," the report noted.

Acting Bank Chairman Charles Hall said the same day that three other board members are being considered and he expects that all the nominees will be submitted to the Senate Banking Committee by the end of July, prior to Congress' August recess. Hall said he expects that the Senate Banking Committee will schedule hearings in September. "I'm very hopeful that by late September, early October, something like that, I would hope that we would have a fully functioning board and Ex-Im Bank," Hall told a Center for Strategic and International Studies event.

ITC Finds Oversupply, Government Intervention in Aluminum Industry

As the industry waits for Commerce's heralded report on aluminum on national security grounds, the International Trade commission (ITC) released its report on U.S. aluminum industry and global aluminum trade, perhaps providing a preview of the findings of its sister agency (pub. 4703). Not surprisingly, the ITC found government intervention in the global aluminum industry to be "pervasive."

> ITC launched its Section 332 investigation of the U.S. aluminum industry and global aluminum trade in April 2016 per a request from the House Ways and Means Committee (see **WTTL**, April 11, 2016, page 9). In addition to the domestic industry, the report focused on Canada, China, Gulf Cooperation Council (GCC) countries, the European Union and Russia.

Specifically, "governments employ a number of different tools to achieve their policies, including incentivizing production through cash grants and low cost electricity (e.g., in the GCC countries); keeping a domestic supply of primary aluminum via export tariffs to aid in production of downstream value-added goods (e.g., China for primary aluminum); and offering rebates on value-added taxes (VATs) to encourage exports (e.g., China for wrought aluminum)," it noted.

The report also found that competitiveness of the U.S. industry varied across segments. "The primary unwrought sector was disadvantaged in 2011–15 by relatively high electricity costs and limited investments in smelting technologies during a period of declining prices. In contrast, the secondary and wrought industries remained very competitive. Secondary aluminum benefited from abundant low-cost scrap; wrought aluminum, from proximity to and close collaboration with consumers in the large U.S. market," it said.

The global aluminum market experienced price declines of roughly 30% during 2011–15 due to oversupply and falling production costs, the commission noted, tow which primary aluminum producers reacted in different ways. For example, the U.S. States reduced primary aluminum capacity by 19% during 2011–15 (and by an additional 39% in 2016) while Europe lost 11% over this period, the ITC noted.

"In sharp contrast, China and the Gulf Cooperation Council (GCC) countries each expanded primary unwrought aluminum production capacity more than 40%, driven by government intervention and investments in cost-efficient technologies, despite the declining global prices over this period," it said.

U.S., Mexico Sign Sugar Agreements

How sweet it is! The U.S. and Mexico approved final amendments suspending tariffs on imports of Mexican sugar, Commerce said July 3. Commerce Secretary Wilbur Ross and Juan Carlos Baker Pineda, Mexico's foreign trade undersecretary, signed a finalized amendment to the Countervailing Duty Suspension Agreement, while Ross and Juan Cortina Gallardo, of the Mexican sugar industry, signed the Antidumping Duty Suspension Agreement.

> An agreement in principle was announced June 6, and Commerce released draft amendments June 14 that received the endorsement of the American Sugar Alliance (see **WTTL**, June 19, page 4). Sweetener users and other sugar industry groups remained opposed to the deal.

Finalized amendments define "refined sugar" at polarity of 99.2 degrees and above and "other sugar" at a polarity of less than 99.2 degrees and shipped in bulk, freely flowing. Petitioners had complained that Mexican semi-refined sugar ("other sugar") hindered the competitiveness of U.S. cane refiners.

The date from which the polarity division changes from 99.5 to 99.2 was moved from April 1 to May 1. After May 1, Agriculture (USDA) will specify whether "additional needs sugar," raw or refined, is needed at a polarity divide of 99.5. USDA retains the right to specify polarity of additional needs sugar needed to "rectify certain extraordinary and unforeseen circumstances" at any point in the fiscal year, according to a Commerce fact sheet.

The reference price for "other sugar" will rise from 22.25 cents to 23 cents per pound. "Refined sugar" price will rise from 26 cents to 28 cents per pound. "This enhanced pricing structure serves to ensure that U.S. producers' prices are not suppressed or undercut by imports of Mexican sugar, thereby ensuring that the agreements provide an adequate remedy to the U.S. domestic industry found to have been injured," noted the Commerce fact sheet.

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in May jumped 6.2% from year ago to $127.2 billion, Commerce reported July 6. Services exports gained 3.9% to record-high $64.8 billion from May 2016. Goods imports increased 6.9% from May 2016 to $194.7 billion, as services imports gained 5.4% to record-high $43.8 billion.

SUNSET REVIEWS: ITC July 7 voted to expedite five-year ("sunset") reviews of antidumping duty orders on certain steel nails from UAE, fresh garlic from China and certain stilbenic optical brightening agents from China and Taiwan.

AND THEN THERE WERE FOUR: ITC Commissioner F. Scott Kieff's last day was June 30. Earlier in June, he announced he would return to his previous academic position as George Washington University law professor. Republican Kieff was sworn in Oct. 18, 2013, for term that would have expired in June 2020 (see **WTTL**, Oct. 28, 2013, page 1). President sent nomination of House Ways and Means senior trade counsel Jason Kearns to Senate June 29 to replace Dean Pinkert, whose term expired in 2016.

CAFC: Court of Appeals for Federal Circuit (CAFC) July 3 affirmed CIT decision sustaining Commerce's ruling that Turkish firm Çayirova is not entitled to duty drawback adjustment on coils not related to its exports of oil country tubular goods. "Allowing for duty drawbacks for goods unrelated to the subject merchandise contravenes the statutory goal of making apples-to-apples comparisons between foreign and United States prices," Chief Judge Sharon Prost wrote for three-judge panel in *Maverick Tube Corporation vs. U.S.* Court concluded that case law is "silent with respect to the specific issue of whether duty drawback adjustments are only available to offset duties on potential inputs for subject merchandise," Prost wrote.

BOMBARDIER: Boeing requested Commerce delay its preliminary determination on company's petition against Bombardier from July 21 to Sept. 25, Commerce confirmed July 7. Company filed antidumping and countervailing duty petitions at ITA and ITC in April alleging Montreal-based manufacturer receives subsidies from Canadian government (see **WTTL**, May 1, page 10).

RUSSIA: House Foreign Affairs Committee Chairman Ed Royce (R-Calif.) July 7 submitted amendment to FY 2018 National Defense Authorization Act (NDAA) that will impose sanctions on Russia "for its violations of the INF Treaty, curb Russia's ability to produce advanced conventional weapons, and target state sponsors of terrorism who buy them," Royce said in statement. NDAA passed out of Armed Services Committee June 28 by 60-1 vote.