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State Department Settles with Microwave Engineering Corporation

State concluded an administrative settlement with the North Andover, Mass.-based Microwave Engineering Corporation (MEC) June 22 for its alleged violation of the Arms Export Control Act, 22 U.S.C. 2751 *et seq.*, and the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120-130. Under the terms of the Consent Agreement, MEC will pay a civil penalty of \$100,000 though it will not face administrative debarment as the company voluntarily disclosed to State and implemented remedial measures.

The agreement addresses “the alleged unauthorized export of technical data to foreign person employee of MEC from the People’s Republic of China, a country against which the U.S. maintains an arms embargo.” The settlement was agreed to following an “extensive” review by the State’s Office of Defense Trade Controls Compliance (DTCC) in the Bureau of Political-Military Affairs.

In Jan. 2012, Rudolf Cheung, then-head of research and development at MEC, pleaded guilty in D.C. U.S. District Court to his role in a conspiracy to export military antennas from the U.S. to Singapore and Hong Kong without a license.

G20 Trade Restrictions at All Time High

New trade restrictive measures by G20 economies reached the highest monthly average since the World Trade Organization (WTO) began issuing monitoring reports in 2009. Between mid-Oct. 2015 and mid-May 2016, G20 economies applied 145 new trade-restrictive measures for an average of 21 measures per month, up from 17 per month in the previous reporting period, a WTO reported issued June 21 found. Since 2009, 1,583 trade restrictive measures have been implemented by G20 countries with 1,196 still in place.

According to the report, though some G20 economies have eliminated trade restrictions, “the rate by which this is done remains too low to dent the stockpile of such measures.” An increase in the number of trade remedy investigations, particularly in steel and chemicals, is the driving force behind the uptick. The report noted that WTO members are using proper forums to address trade frictions “constructively and transparently.”

Prospects for world trade through the end of 2016 and beyond “remain uncertain.” “The most recent WTO trade forecast of 7 April 2016 predicted merchandise trade volume growth of 2.8% in 2016, unchanged from 2015. Despite a number of positive developments, the global environment remains challenging and continued vigilance is required,” read the report.

“These trade-restrictive measures, combined with a notable rise in anti-trade rhetoric, could have a further chilling effect on trade flows, with knock-on effects for economic growth and job creation. If we are serious about addressing slow economic growth then we need to get trade moving again, not put up barriers between economies,” said WTO Director-General Roberto Azevedo.

Boeing Reveals Aspects of Multibillion Dollar Deal with Iran Air

Like its competitor Airbus, Boeing is jumping into the Iranian aviation market with both feet. In a letter sent to two congressional critics June 23, Tim Keating, Vice President of Government Operations for The Boeing Company, outlined aspects of the company’s deal with Iran Air. The Islamic Republic’s national airline will purchase 80 passenger planes in a variety of models collectively worth \$17.6 billion and lease 29 Boeing 737s. Delivery, pending U.S. government approval, will begin next year and run through 2025.

As part of the Joint Comprehensive Plan of Action (JCPOA), sanctions were lifted on Iran’s aviation program, though non-nuclear sanctions related to terrorism and human rights abuses remain in place. Boeing competitor Airbus signed a \$27 billion 118-plane deal with Iran in January.

Lawmakers who opposed the JCPOA have moved to discourage the transaction. Rep. Peter Roskam (R-Ill.), who along with Rep. Jeb Hensarling (R-Texas) received Keating’s letter, introduced the “No Dollars for Ayatollahs Act” June 21. The proposed legislation would impose a “100% excise tax on any transactions which directly or indirectly enable the Islamic Republic to make financial transactions in American currency.” Rep. Charles W. Boustany Jr. (R-La.) the same day introduced the “Preventing Investment in Terrorist Regimes Act.”

Roskam, who has long been critical of Boeing’s efforts to do business with Iran Air (see **WTTL**, May 9, page 6), said in a statement, “It’s tragic to watch such an iconic American company make such a terribly short-sighted decision. If Boeing goes through with this

deal, the company will forever be associated with Iran's chief export: radical Islamic terrorism."

"You can be assured that if at any time we become aware that any party with which we are conducting business is no longer approved by the U.S. government that we will cease doing business with that party," wrote Keating.

BIS Releases Final Version of Enforcement Penalty Guidance

Commerce's Bureau of Industry and Security (BIS) published its final version of its Guidance on Charging and Penalty Determinations in Settlement of Administrative Enforcement Cases, which outlines BIS policy for assessing penalties for violating the Export Administration Regulations (EAR). The changes will go into effect July 22 and were initially proposed in Dec. 2015 (see **WTTL**, Jan. 4, page 4).

The new guidance brings BIS penalty assessment provisions into alignment with those of Treasury's Office of Foreign Assets Control (OFAC) and gives significant weight to voluntary self-disclosures (VSDs). If a case is based on a VSD, then the penalty assessed can be reduced by half.

Formulae for figuring out base penalties for egregious and non-egregious cases are defined in the new guidance and were the subject of many comments during the public review period. In a non-egregious VSD case, the base penalty is half the transaction value, but no greater than half the statutory maximum of \$250,000. For a non-egregious case that does not involve a VSD, the base penalty will be capped at \$250,000 per violation. Egregious cases that involve VSD will be up to half of the applicable statutory maximum (\$125,000). An egregious case not involving VSD will receive a base penalty up to the applicable statutory maximum (\$250,000). Aggravating and mitigating factors will still be considered when assessing the actual penalty on top of the base penalty.

WTO Appellate Body Vacancy Drama Continues

WTO members have not agreed on how to fill two vacancies in the Appellate Body it was reported June 22. The vacancies have remained due to the U.S. objection to the reappointment of Seung Wha Chang of South Korea and the expiration of Yue Jiao Zhang of China's final term (see **WTTL**, June 6, page 7).

Though there are fears that the vacancies will "exacerbate" waiting periods for resolving appeals, the U.S. said it will not back down. Korea, along with approximately a dozen other WTO members, issued a statement reiterating its "serious concerns" with the U.S. blocking Chang's reappointment.

U.S. Trade Representative Michael Froman got a big thumbs up in a letter from six of his predecessors.

“[It] has been the long-standing position of the United States that panels and the Appellate Body are required to apply the rules of the WTO agreements in a manner that adheres strictly to the text of those agreements, as negotiated and agreed by its Members,” wrote Ron Kirk, Susan Schwab, Mickey Kantor, Carla Hills, Clayton Yeutter, and William Brock.

Noting that improvements to the dispute settlement procedures have not been reached for years, Canada proposed inviting members to voluntarily suggest and agree to procedural agreements that would only be implemented in cases involving participating members. Switzerland, Australia, Chinese Taipei and New Zealand supported the effort while others said they need to review whether to participate.

Meanwhile, the U.S. rejected Canada’s request for a panel to weigh in on Canada’s complaints against U.S. countervailing duties on glossy or supercalendared paper (see **WTTL**, April 4, page 1). The U.S. maintains that Canadian manufacturers of the paper products receive “massive subsidies” that the U.S. requested for two years be removed.

Two compliance panels involving the U.S. were established. The DSB agreed to set up a panel to investigate China’s compliance in a previous ruling regarding countervailing duties placed on imported broiler/poultry products from the U.S. The U.S. said China has failed to bring its measure into compliance. The EU, Canada and Japan indicated interest in the dispute as third parties. DSB also agreed to establish a compliance panel in the dolphin-safe tuna labelling dispute between the U.S. and Mexico. The U.S., in an unusual step, requested a panel to confirm its conformity in response to Mexico’s request for authority to retaliate aka sanctions.

ITC Commissioners Unanimous in Cold-Rolled Steel Ruling

United States International Trade Commission unanimously determined June 22 that “U.S. industry is materially injured by reason of imports of cold-rolled steel flat products from China and Japan” Commerce previously determined were sold in the U.S. at less than fair value, and in the case of Chinese companies, subsidized by the government. The final ITC report will be available online by July 26.

The Commission determined that goods that entered the U.S. from China prior to Dec. 22, 2015 will not be subject to retroactive countervailing duties. Goods that entered the U.S. from China and Japan prior to March 7 will not be subject to retroactive antidumping duties. Last month Commerce put antidumping duties of 256.44% on imports of cold-rolled flat steel products from China and 71.35% on the same products from Japan (see **WTTL**, May 23, page 5).

Sen. Sherrod Brown (D-Ohio) applauded ITC’s finding. “Ohioans have seen the impact of unfair trade practices – like dumping – firsthand. The surge in unfairly traded steel has

shut down factories and put our steelworkers out of jobs. Today's decision will hold China and Japan accountable for their actions and provide needed relief to our domestic steel industry," said Brown.

UK Says 'See EU Later!'

In a decision that sent the global market into a tailspin, UK residents voted June 23 by a slim margin of 52-48% to leave the European Union. The vote prompted the resignation of British Prime Minister David Cameron and questions about future trade with the UK and the status of the Transatlantic Trade and Investment Partnership (TTIP).

"Although leaving Europe was not the path I recommended, I am the first to praise our incredible strengths. I've said before that Britain can survive outside the European Union, and indeed that we could find a way. Now, the decision has been made to leave, we need to find the best way. And I will do everything I can to help," said Cameron outside 10 Downing Street.

U.S. officials quickly weighed in June 24. President Obama, who had cautioned against the breakup, said, "The people of the United Kingdom have spoken, and we respect their decision. The special relationship between the United States and the United Kingdom is enduring, and the United Kingdom's membership in NATO remains a vital cornerstone of U.S. foreign, security, and economic policy.

"So too is our relationship with the European Union, which has done so much to promote stability, stimulate economic growth, and foster the spread of democratic values and ideals across the continent and beyond. The United Kingdom and the European Union will remain indispensable partners of the United States even as they begin negotiating their ongoing relationship to ensure continued stability, security, and prosperity for Europe, Great Britain and Northern Ireland, and the world."

Added USTR Michael Froman, "The importance of trade and investment is indisputable in our relationships with both the European Union and the United Kingdom. The economic and strategic rationale for TTIP remains strong. We are evaluating the impact of the United Kingdom's decision on TTIP and look forward to continuing our engagement with the European Union and our relations with the United Kingdom."

Treasury Secretary Jack Lew said in a statement, "We continue to monitor developments in financial markets. I have been in regular contact in recent weeks with my counterparts and financial market participants in the UK, EU and globally and we are continuing to consult closely. The UK and other policymakers have the tools necessary to support financial stability, which is key to economic growth."

Experts had long warned of the consequences of the so-called Brexit. Said William Reinsch, Distinguished Fellow at the Stimson Center, "It's sad to see the British

turn their backs on their thousand-year history of looking outwards. They will likely come to regret it, but in the short-term it falls on us to pick up the pieces and move on. Now is the time for the U.S. to stand firm in recognizing the interconnected world we all live in and the role a strong, rules-based trading system plays in it.

“That means reaffirming our commitment to the EU and concluding TTIP and pushing ahead with approving TPP. It also means making a firm commitment to the UK and the reaffirmation of the special relationship we have long had. President Obama may have put them in the back of the queue when it comes to negotiating a trade agreement, but he should put that aside and move quickly to work out a bilateral agreement that builds on our relationship.”

Obama Touts TPP at SelectUSA Investment Summit

“I don’t mind being America’s pitchman,” President Obama told the crowd of 2,400 investors from 70 markets June 20 at the third SelectUSA Investment Summit after he had rattled off a long list of economic accomplishments from his two-terms in office. Ever the salesman, Obama used the opportunity to promote the Trans-Pacific Partnership that has proven contentious this election cycle.

“Never before have we had such high standard free trade agreements that level the playing field. And when complete, when we’ve gotten it done, the Trans-Pacific Partnership will do even more to lower the cost of exporting, eliminating taxes and custom duties, and raising intellectual property standards that protect data and ideas and jobs,” said Obama.

Commerce Secretary Penny Pritzker backed her boss. She said in her remarks, “While the United States already offers significant market access through free trade agreements with 20 countries, we know that is not enough. Our entire Administration is committed to enacting important new trade agreements like the Trans-Pacific Partnership, which opens doors to Asia-Pacific, the fastest growing region in the world.”

“In today’s world, where business doesn’t stop at borders, and when trade is how we shape economic change to our advantage, when the term ‘global economy’ is redundant because of global supply chains being tied into every element and every aspect of our lives, these partnerships are the keys to success for all of us no matter where we live, no matter if you’re a small startup or a major multinational,” added Obama.

*** * * Briefs * * ***

ITC: ITC voted to launch four Section 337 investigations, agency said June 20. ITC will investigate: certain personal transporters, components thereof, and packaging and manuals; certain carbon spine board, surgical collar, CPR masks and various medical

training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components; certain inflatable products with tensioning structures and processes for making the same; certain semiconductor devices, semiconductor device packages, and products containing the same.

TRADE PEOPLE: Irving Williamson became U.S. International Trade Commission June 17, ITC announced June 20. Williamson succeeds Meredith Broadbent whose term expired June 16. Williamson sworn in as ITC member in 2007 and previously chaired ITC 2012-2014.

CATFISH: House Energy and Commerce Committee and Health Subcommittee sent letter to House leadership June 22 requesting consideration of S.J.Res. 28 prior to recess. Bill would transfer jurisdiction over catfish back to FDA from USDA. “Both USDA and GAO agree that there is no food safety justification for this regulatory divide,” signatories wrote (see **WTTL**, May 2, page 9). House adjourned for break without consideration of S.J.Res. 28.

BRIBERY: Subsidiary of Mass. technology company Analogic Corporation June 21 reached non-prosecution agreement and agreed to pay \$3.4 million penalty to resolve improper payments made in Russia and other countries in violation of Foreign Corrupt Practices Act. Analogic reached settlement same day with SEC and agreed to pay \$7,672,651 in disgorgement and \$3,810,311 in prejudgment interest.

AVIATION SUMMIT: 7th U.S.-China Aviation Summit concluded June 21. China to invest approximately \$12 billion in coming year developing civil aviation projects, including new airports, USTDA reported. Grant signed between USTDA and Civil Aviation Administration of China to support technical assistance workshops. “In addition to this grant, the Summit provided the opportunity to reflect on our progress and set ambitious goals for the future. We look forward to working together on these mutually beneficial objectives,” said USTDA Director Leocadia Zak.

CHINA: Sens. Ben Sasse (R-Neb.) and Al Franken (D-Minn.) introduced amendment June 21 to allow Congress to define China’s economy as market-based or non-market-based. Executive branch holds power to define China’s economy. China insists it be granted market economy status per 2001 WTO accession protocols (see **WTTL**, June 6, page 7).

PPI POLL: Progressive Policy Institute published June 22 shows trade popular with voters in swing states of Colo., Fla., Nev. and Ohio and with Democrats. 66% of Democrats and 54% swing voters polled said “new trade agreements can help the economy and create good paying jobs if we ensure strong labor and environmental standards.”

TPP: More than 400 businesses associated with U.S. Coalition for TPP sent letters June 23 to lawmakers telling them to pass trade deal. “As congressional leaders and the administration work to address some outstanding issues and agree on a path for a successful vote this year, we urge you to encourage that effort and express your support for moving forward on a strong, market-opening TPP this year,” signatories, including Adidas and J.C. Penney Corporation, Inc., wrote.