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PNTR Vote Breaks Free

After partisan delays relating to the Global Magnitsky Act, the Senate unanimously voted April 7 to revoke Russia's Permanent Normal Trade Relations (PNTR) status. Once signed by President Biden, the action makes good on a pledge made March 11 with the European Union and fellow G-7 members Canada, France, Germany, Italy, Japan and the United Kingdom. Senator Rob Portman (R-Ohio) applauded the legislation's passage, which also bans Russian energy imports to the U.S., saying "*Free trade with the United States is a privilege, not a right. Invading a sovereign nation, a democracy no less, is certainly grounds for us to take that privilege away.*"

White House Bans US Investment in Russia

President Biden signed an executive order April 6 banning all new investment in Russia, "exempting essential humanitarian and related activities that benefit the Russian people and people around the world: ensuring the availability of basic foodstuffs and agricultural commodities, safeguarding access to medicine and medical devices, and enabling telecommunications services to support the flow of information and access to the internet which provides outside perspectives to the Russian people. [...] U.S. and Western companies can continue to operate in these sectors in Russia. When necessary, relevant departments and agencies will issue appropriate exemptions and carveouts to ensure such activity is not disrupted."

Not to be outdone, the same day the House Committee on Oversight and Reform approved legislation (HR 7185) that would **prohibit the federal government from doing business with any company operating in Russia**, and, The Senate Finance Committee introduced draft legislation that would **eliminate foreign tax credits for companies operating in Russia**. Finance Committee Chairman Ron Wyden (D-Ore) and committee member Rob Portman (R- Ohio) said that companies choosing to keep doing business in Russia and paying taxes to the Russian government should not be eligible for tax credits.

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Senators Call to Lift Ukrainian Steel Tariffs

Senators Patrick Toomey (R-Pa.) and Dianne Feinstein (D-Calif.) called for the Biden Administration to lift the 25 percent tariff on steel imports from Ukraine. When the war in Ukraine ends, the senators wrote, the nation's steel industry will be a key part of its economic recovery and lifting U.S. tariffs will help speed that effort.

"We respectfully request that you remove the 25 percent U.S. tariff on steel imports from Ukraine to help it eventually stabilize and rebuild its economy," said the April 6 letter. "The United States should do everything it can to ensure that the Ukrainian people can effectively rebuild after the war. Lifting the U.S. tariff on steel from Ukraine is a small but meaningful way for the U.S. to signal support for Ukraine and to provide stability and improve the country's long-term economic outlook."

BIS Cites Airlines for Export Controls Violations

In the first enforcement actions taken by Commerce in response to the sanctions imposed after February's invasion of Ukraine, BIS issued orders denying export privileges of three Russian Airlines – Aeroflot, Azur Air, and UTair. These three Temporary Denial Orders (TDOs) terminate the right of these airlines to participate in transactions subject to the Export Administration Regulations (EAR), including exports and reexports from the United States. Any U.S.-origin aircraft or foreign aircraft that includes more than 25% controlled U.S.-origin content is subject to a license requirement.

Aeroflot, Utair, and Azur Air engaged in and continue to engage in recent conduct prohibited by the EAR by operating controlled aircraft subject to the EAR without the required BIS authorization. Violations included:

- Aeroflot flights into and out of Moscow from/to Beijing, China; Delhi, India; Antalya and Istanbul, Turkey; and Dubai, United Arab Emirates, respectively.
- Azur Air flights into and out of Moscow, Russia from/to Antalya, Turkey; Male, Maldives; Dubai, United Arab Emirates; and Nha Trang, Vietnam, respectively.
- UTair flights into and out of Russia from/to Khujand and Dushanbe, Tajikistan; Yerevan, Armenia; Baku and Ganja, Azerbaijan; Jeddah, Saudi Arabia; and Tashkent, Uzbekistan, respectively.

The issuance of a TDO is one of the most significant civil sanctions under the EAR and is issued by the Assistant Secretary for Export Enforcement to deny the export privileges of a company or individual to prevent an imminent or on-going export control violation.

February Trade Figures Released April 5

- Exports of goods and services \$228.6 billion, the highest on record.
- Exports of industrial supplies and materials \$59.9 billion, the highest on record.
- Imports of consumer goods (\$73.1 billion), the highest on record.
- February's overall trade deficit in goods and services was (\$89.2 billion)

Yale Scorecard on Sanctions Compliance

While 600 companies have pulled out of Russia, the degree of commitment varies, according to an ongoing review by the Yale School of Management. High profile total departures like BP, Exxon and Shell have ceased operations completely, and nearly 250 U.S. firms have suspended operations without permanently divesting. Disney, IBM, Visa and Xerox fall into this category.

About 75 firms have partially suspended activity. For example PepsiCo continues its dairy marketing, and Wall Street banks like JP Morgan and Goldman Sachs are profitably trading the dislocated markets in Russian debt and derivatives. At least 96 multinationals have announced they are pausing further investment while continuing to operate as before, including Cargill, Johnson & Johnson, Siemens and Abbott and Amerisource Bergen.

At least 162 companies have announced no voluntary changes to their operations in Russia. Koch Industries claims that to close its plants would invite nationalization, while International Paper (IP) says it “may sell” its stake in Ilim Group, a Russian forest products company. A recent IP news release confirmed “International Paper has no intention to seek suspension of operations or initiate any liquidation or bankruptcy proceedings with respect to Ilim Group.” Other firms staying the course include AB InBev, Acer, Danaher, ThyssenKrupp, Jabil and Red Bull.

Could Tariff Reform Whip Inflation?

In a review of a recent report advocating tariff reductions to combat inflation, former Treasury Secretary Lawrence Summers endorsed the idea. The report by the Peterson Institute for International Economics claims a two percent decrease in tariffs would deliver a one-time reduction in consumer price index inflation of around 1.3 percentage points, amounting to \$797 per US household, about half the size of pandemic relief in 2021.

Excerpts:

“These estimates are, in a sense, conservative because they are estimates only of first round effects. When you reduce tariffs and reduce prices, it reduces wage demands. And when you reduce wage demands, that leads to subsequent reductions in prices and contributes to further disinflation.

“Additionally, these estimates meet a test that I always found very important as an economic policymaker, which is you can understand where they came from. It is not that we put all the numbers into the computer, and this is what came out. It is basic economic logic, carefully calculated.

“How big a deal is the 1.3 percent decrease in the CPI that the authors estimate? The authors suggest that it's \$800 per household. That is a lot of money for many households in this country. For a household that consumes 500 gallons of gasoline a year, that is the equivalent of more than a dollar a gallon increase in the price of gasoline.

“This inflation reduction through tariff removal is an order of magnitude more significant than anything that can be achieved over the next two to three years through antitrust action. It is probably two orders of magnitude more important than the meat packing fixation, which has been the subject of several presidential events.

“So, in the sphere of microeconomic measures that might plausibly bear on inflation over the next two to three years, this is by far the biggest measure available, and it should be seen in that way.

“If we are anywhere near 6 percent inflation rate, and at risk of that accelerating, we have a quite substantial problem. We need all the help that we can get in responding to it. The administration should focus on things that are real and important, like trade protection, not on things that are small and inconsequential, like dubious price gouging allegations.

Technical Advisory Committee Nominations Sought

The Bureau of Industry and Security (BIS), Department of Commerce is recruiting candidates for its Technical Advisory Committees (TACs). Members advise Commerce on technical parameters for export controls applicable to dual-use items (commodities, software, and technology) and on the administration of those controls. Representatives are selected from firms producing a broad range of items currently controlled for national security, non-proliferation, foreign policy, and short supply reasons or that are proposed for such controls.

Six TACs advise Commerce within specified areas: **Information Systems TAC:** Control List Categories 3 (electronics), 4 (computers), and 5 (telecommunications and information security); **Materials and Equipment TAC:** Control List Categories 1 (materials, chemicals, microorganisms, and toxins) and 2 (materials processing); **Sensors and Instrumentation TAC:** Control List Category 6 (sensors and lasers); **Transportation and Related Equipment TAC:** Control List Categories 7 (navigation and avionics), 8 (marine), and 9 (propulsion systems, space vehicles, and related equipment); and the **Emerging Technology TAC** (identification of emerging and foundational technologies that may be developed over a period of five to ten years with potential dual-use applications). The sixth TAC, the **Regulations and Procedures TAC**, focuses on the Export Administration Regulations (EAR) and procedures for implementing the EAR. TAC members are appointed by the Secretary of Commerce and serve terms of not more than four consecutive years. Members must obtain secret-level clearances prior to their appointment. *Info: Yvette Springer at Yvette.Springer@bis.doc.gov.*

Supply Chain Working Group - Call for Comments

Bureau of Industry and Security (BIS) requests public comments on how to advance supply chain resilience and security in key sectors: **Semiconductors; solar photovoltaics; critical minerals** and materials including rare earth magnets, **lithium-ion batteries**, and material **inputs to semiconductors; and pharmaceuticals** to inform the work of the United States-

European Union (EU) Trade and Technology Council (TTC) Secure Supply Chains Working Group. Info: *T Kevin Coyne, U.S.-EU Trade and Technology Council Secure Supply Chains Working Group, Bureau of Industry and Security, at ttc_secure_supply_chains@doc.gov*

Calendar

Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on April 26, 2022, at 1:00 p.m., Eastern Daylight Time, via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology. The open session will be accessible via teleconference. Inquiries to Yvette Springer at Yvette.Springer@bis.doc.gov

Information Systems Technical Advisory Committee (ISTAC) will hold an open session April 27 1:00 p.m. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology. The open session will be accessible via teleconference. To join the conference, submit inquiries to Yvette Springer at Yvette.Springer@bis.doc.gov

Defense Trade Advisory Group (DTAG) will meet in open session from 1:00 p.m. until 5:00 p.m. on Thursday, April 28, 2022. Topics: (1) industry perceptions of Controlled Unclassified Information (CUI) (2) recommendation for modification or creation of an exemption allowing an export and associated import (on a one-for-one basis) for defense articles to be exported to a foreign original equipment manager (OEM) for repair or replacement and imported into the United States as a replacement or repaired item, and (3) a list of terms that are used in the International Traffic in Arms Regulations (ITAR) but not defined, for which the DTAG considers a definition to be a high priority. *Registration: DTAG Deputy Assistant Secretary Michael Miller, at DTAG@state.gov*

Senate Confirmations

James C. O'Brien was confirmed as State's **Head of the Office of Sanctions Coordination**, with the rank of Ambassador. O'Brien is a principal and founder of Albright Stonebridge group. He was special presidential envoy for the Balkans in the Clinton Administration and worked for 12 years at the State Department in the Secretary's office, the office of policy planning, and the legal adviser's office. He is a graduate of Yale Law School and Macalester College.

Katherine Vidal was confirmed as **Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office**. Most recently managing partner of Winston & Strawn's Silicon Valley office, Vidal began her career as an electrical engineer at General Electric and Lockheed Martin. Her BSEE is from Binghamton University, her MSEE from Syracuse University, and JD From the University of Pennsylvania.

In addition to Assistant Secretary of the Treasury for Investment Security, **unfilled positions** at Treasury include Under Secretary for International Affairs, Assistant Secretary for Management, Assistant Secretary for International Markets, Treasurer of the United States and General Counsel. Under Secretary of Agriculture for Trade and Foreign Agricultural Affairs and Chief Agricultural Negotiator at the USTR also remain vacant, to the consternation of farmers and legislators alike.

Briefs

China Trade Goods exports to China grew by 21 percent to an all-time high of \$149.2 billion in 2021. On the other hand, in 2020, the latest year of services data available, services exports to China contracted by 33 percent to \$37 billion, the lowest amount since 2013, reflecting the devastating impact of the pandemic on travel and education. This according to a report released April 5 by the U.S. China Business Council.

GE Engineer Spied for China April 7, a federal jury convicted a Xiaoqing Zheng, 59, of conspiracy to commit economic espionage. Zheng worked for GE Power & Water in Schenectady, New York, as an engineer specializing in sealing technology. Zheng and others in China conspired to steal GE's trade secrets surrounding GE's steam and gas turbine technologies. Sentencing is scheduled for Aug. 2. Zheng faces up to 15 years in prison, a fine of up to \$5 million, and a term of supervised release of up to three years.

Oligarch Indicted, \$10 million Seized Konstantin Malofeyev, 47, of Russia, was charged April 6 with conspiracy to violate U.S. sanctions and violations of U.S. sanctions in connection with his hiring of a former Fox News producer and transferring his \$10 million investment in a U.S. bank to a business associate in Greece. Along with the indictment, the United States issued a seizure warrant for Malofeyev's U.S. investment.

Burma Sanctions The House approved by voice vote April 6 legislation (HR 5497) imposing sanctions on Burma's military. The bill would create a new position at the State Department, a Special Coordinator for Burmese Democracy, to promote an international effort to impose and enforce multilateral sanctions on Burma and coordinate US interagency efforts on Burma.

Gray Market IVF Products The International Trade Commission April 6 issued a limited exclusion order barring entry of certain in vitro fertilization products imported by FastIVF of Scottsdale, Arizona and Hermes Ezcanesi of Istanbul, Turkey in response to a complaint filed by EMD Serono, a subsidiary of Merck KgA. The Commission found that FastIVF and Hermes Ezcanesi imported and sold "gray market" IVF Products, engaging in false designation of source, unfair methods of competition and false advertising.

Since 1981, trade practitioners have relied on WTTL for concise, relevant reporting on Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls.
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