

ISSN 0276-8275

WTTOnline.com

A Weekly Report for Business Executives on  
U.S. Trade Policies, Negotiations, Legislation,  
Trade Laws and Export Controls

# Washington Tariff & Trade Letter®

Vol. 42, No 44

November 7, 2022

## Little Reform Expected at WTO – USTR Says

The United States is leading efforts to reform the World Trade Organization, but is not expecting discussions will lead to a large ministerial package, according to Assistant US Trade Representative for WTO and Multilateral Affairs Andrea Durkin.

“We’re not looking for a package for ministers to bless per se,” she told a program sponsors by the Yeutter Institute of the University of Nebraska. Instead, the Administration believes members can accomplish “reform by doing.”

Reform can begin by looking at the standing bodies and committees of the WTO to see which are functioning well and which are struggling – like the committees on industrial subsidies and state- trading enterprises. The failure of some countries – especially China – to notify subsidies makes it difficult for WTO members to have an accurate picture of the global trading system, she said.

In terms of the WTO’s negotiating function, Ms. Durkin said that members need to come off of “long-entrenched” positions and return to “give and take” negotiations. The **plurilateral joint statement initiatives (JSI)** point WTO members in a new direction of negotiating, she said. They allow countries that are ready to address new issues to reach an agreement. Even if not all WTO members participate in every JSI, the plurilaterals still can help set the rules in areas like domestic services and electronic commerce.

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The United States is working with other members on **reform of the dispute settlement system** and is hearing from developing countries about the difficulty of accessing the current system. A well-functioning dispute settlement system will allow WTO to settle disputes among themselves and ensure rules are not being set through litigation, according to Ms. Durkin. All WTO members agree on the need for reform, “but we need to be clear-eyed and pragmatic,” she commented. (Via WTD)

## WTO – TRIPS in a Rut

The TRIPS Council informally met again November 2nd to discuss whether to extend the TRIPS Decision adopted in June at the 12th WTO Ministerial Conference (MC12) to COVID-19 diagnostics and therapeutics.

The meeting mostly heard iterations of positions already stated and saw no indication of members moving towards convergence. The Chair of the Council, Ambassador Lansana Gberie of Sierra Leone, said that the absence of concrete text-based proposals for a TRIPS Council decision on this matter at this stage is very concerning and urged delegations to explore all options to make progress as the 17 December deadline to find a solution is fast approaching. “

“We do not have a lot of time,” the Chair said, indicating that at this point it is pointless to have meetings every other week and then have members delivering the same statements. “I think we need to be very concrete about what we want to achieve and how,” he added.

At MC12, trade ministers adopted the Ministerial Decision on the TRIPS Agreement, which confirms the right of members over the next five years to override the exclusive effect of patents and provide greater scope to take direct action to diversify production of COVID-19 vaccines through clarifications of existing flexibilities and a targeted waiver. The Decision also contains a commitment that, no later than six months from the date of its adoption (17 June), members will decide on its possible extension to cover the production and supply of COVID-19 diagnostics and therapeutics.

Three main positions are held expressed by members:

1. Extend the current decision "as is" to therapeutics and diagnostics without any additional language or definition (South Africa, India, Kenya, Tanzania on behalf of the ACP Group, Indonesia, Zimbabwe, Pakistan, Egypt, Bolivia, Argentina, and Venezuela);
2. Identify concrete evidence of IP barriers before considering an extension to therapeutics and diagnostics (Switzerland, Singapore, Japan, Canada, Korea, the European Union and the United Kingdom); and
3. Include a definition, or to agree a concrete list of products to be covered by an extension of the TRIPS Decision to therapeutics and diagnostics (Colombia, Mexico, Costa Rica, Uruguay, China and Chinese Taipei).

## COP27 Delegation Bloat

Senior U.S. officials from over 16 agencies and organizations will travel to Sharm El-Sheikh, Egypt, this week to “advance climate ambition and ensure a strong outcome” at the 2022 UN Climate Conference (COP27).

The U.S. delegation will be led by Special Presidential Envoy for Climate, John Kerry. Other senior U.S. officials include the Secretaries of State, Energy and Agriculture, the National Security Advisor, Heads of Export-Import Bank, International Development Finance Corporation, Environmental Protection Agency, the US Trade Development Agency and others. President Biden is slated to make remarks at the conference, his visit wedged between domestic elections and the G20 gathering in Bali the following week.

According to the emissions calculator at [flightfree.org](https://flightfree.org), a single passenger flying Dulles to Cairo creates:

- Distance (each way): 5,836 miles or 9,393 km
- **Round-trip emissions per passenger: 3.4 metric tons CO2 equivalent**
- Avoiding this trip is as climate friendly as being vegetarian for: 6.3 years
- Avoiding this trip is as climate friendly as carpooling for: 3.3 years
- This many people in the world emit fewer greenhouse gases in one year: 3.5 billion
- You could travel this far in an electric train like Eurostar: 14.1 times around the world
- These emissions melt this much Arctic sea ice: 109.5 square feet or 10.2 square meters

The Energizer Bunny of ministerial travel, US Trade Representative Katherine Tai will not be joining the delegation. Ambassador Tai will be in Boston for the New England Council’s 2022 Annual Celebration and to receive the organization’s New Englander of the Year Award.

## CBP – Trade Based Money Laundering Initiative

U.S. Customs and Border Protection (CBP) will be placing a greater focus on the issue of trade-based money laundering and tax evasion in Fiscal Year 2023, according to Executive Assistant Commissioner Ann Marie Highsmith. Referring to her recent participation in the International Symposium on Economic Crime in England, Highsmith notes:

“I spoke at length on an issue that we here in the Office of Trade plan to prioritize in the new fiscal year: trade-based money laundering. International criminal organizations conceal the proceeds of their illegal activity as legitimate trade. Trade-based money laundering is a common thread connecting many forms of illicit trade into a single tapestry,”

The most common form of trade-based money laundering involves the deliberate and inaccurate description on customs declarations to artificially raise or lower the value of goods declared on import or export. The trade in goods provides a pretext to wire money to accomplices abroad to pay for goods received. Transnational criminal organizations and other

bad actors disguise and move illicit profits through various forms of fraud, including importing and exporting goods at above or below market value, insurance fraud, and tax evasion. No specific organizational initiatives have been announced as yet.

## CBP to form UFLPA Working Group, Deployment Delayed

U.S. Customs and Border Protection (CBP) is planning to deploy a Uyghur Forced Labor Prevention Act (UFLPA) Region Alert enhancement to the Automated Commercial Environment (ACE). The deployment date has not yet been established. CBP is forming a Trade Support Network (TSN) UFLPA Region Alert working group to get input from the trade community on the proposed impacts of this enhancement

This enhancement will provide an early notification to importers of goods that may have been produced in the Xinjiang Uyghur Autonomous Region (XUAR) which would be subject to UFLPA restrictions per H.R. 6256. This enhancement includes electronic data interchange (EDI) impacts. Importers may request an exception to the rebuttable presumption from CBP during a detention, after an exclusion, or during the seizure process as described in the [UFLPA Operational Guidance for Importers](#)

### **\*\* Briefs \*\*\***

**Trade Deficit Increases.** The Census Bureau and the Bureau of Economic Analysis announced the nation's international trade deficit in goods and services increased to (\$73.3 billion) in September from (\$65.7 billion) in August (revised), as exports decreased and imports increased. The September increase in the goods and services deficit reflected an increase in the goods deficit of (\$6.6 billion) to (\$92.7 billion) and a decrease in the services surplus of \$1.0 billion to \$19.5 billion.

The September top four partner deficits were recorded, in billions of dollars, with China (\$32.1), European Union (\$16.0), Mexico (\$11.9), Vietnam (\$10.1). The deficit with Russia was (\$241 million).

**Korea EV Grace Period Sought** South Korea is seeking a three-year grace period on the U.S. Inflation Act in order to enable Korean automakers to keep receiving electric vehicle (EV) incentives in the United States, Seoul's foreign ministry told [Reuters](#) Friday. The foreign ministry added it had proposed that the United States offer federal EV tax credit for those companies with planned U.S. investments. South Korea reiterated its position that the new law may violate trade norms such as the U.S.-South Korea free trade agreement and World Trade Organization agreements

**New Country Commercial Guides.** In-country personnel at U.S. Embassies and Consulates have updated the Country Commercial Guides. Get an updated assessment of global business opportunities, market conditions, and great tips on doing business abroad. [\[more\]](#)

**Intellectual Property Rights Toolkit.** Protecting your Intellectual Property is an important consideration for many U.S. exporters. The new [IPR Toolkit](#) on stopfakes.gov has tools focused on many sectors and countries. *U.S. Department of Commerce - Office of Standards and Intellectual Property.* [\[more\]](#)

**OFAC / Iran – Hizballah Oil Traders** Treasury’s Office of Foreign Assets Control designated individuals, front companies and vessels involved in blending oil to conceal its Iranian origin and exporting it around the world in support of Hizballah and the IRGC-QF. The network used storage units in the Port of Sharjah in the United Arab Emirates, and blended products of Indian origin with Iranian oil to obfuscate the Iranian origin. The companies then modified or created counterfeit certificates of origin and quality for the blended oil, which was then transferred for sale abroad. The action follows OFAC’s May 25, 2022 designations of another Iranian oil smuggling network, which was led by U.S.-designated IRGC-QF officials and backed by senior levels of the Russian Federation government and state-run economic organs. [\[release\]](#)

**OFAC / Haiti - Politicians Sanctioned.** Treasury’s Office of Foreign Assets Control, along with the Government of Canada, designated Haitian nationals Joseph Lambert and Youri Latortue pursuant to Executive Order 14059 of December 15, 2021, “Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade.” Lambert is the sitting President of the Haitian Senate and has held political positions in Haiti for 20 years. Latortue is a former Haitian Senator and a longtime politician. [\[release\]](#)

**OFAC / Somalia – Arms Dealers Sanctioned.** Following actions earlier this month, OFAC further targeted a network of weapons traffickers on the Horn of Africa. The individuals and entity designated are closely integrated with ISIS-Somalia. These networks operate primarily between Yemen and Somalia and have strong ties to al-Qa’ida in the Arabian Peninsula (AQAP) and al-Shabaab. Treasury also designated a vital supporter of ISIS in Brazil, who has attempted to serve as a liaison for the terrorist group. [\[release\]](#)

**U.K. / Glencore – Fined for Bribery, Again.** Notorious commodity trader and conflict miner Glencore was fined 281 million pounds, about \$320 million, for paying bribes to West African officials of state-owned oil companies. This follows on the firm’s guilty pleas in May and payment of over \$1.1 billion to resolve US investigations into violations of the Foreign Corrupt Practices Act (FCPA) and a commodity price manipulation scheme. The U.S. Settlement includes an agreement for an independent compliance monitor for three years.

**BIS / UAE-Syria Telecoms Trader Cited.** Commerce Department’s Office of Export Enforcement mailed an Administrative Charging Letter to Mohammad Alhamra and his Dubai-based company WEBS Electronics Trading Company LLC. The Charging Letter alleges violations of the Export Administration Regulations (EAR) related to exports of U.S. telecommunications equipment and related commodities to Syria and Iran and misrepresentations and concealment of facts to BIS officials regarding these exports. The Charging Letter sets forth 14 violations by Alhamra and his firm. Under the Export Control Reform Act of 2018 (50 U.S.C. §§ 4801-4852), among possible administrative sanctions, administrative monetary penalties can reach up to \$330,947 per violation or twice the value of the transaction, whichever is greater. [\[letter\]](#)

**CBP / China - Hog Farrowing Crate EAPA Case.** Customs & Border Protection commenced a formal investigation under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015, commonly referred to as the Enforce and Protect Act (EAPA). Specifically, CBP is investigating a complaint by Hog Slat, Inc. that the importers evaded antidumping duty (AD) and countervailing duty (CVD) by entering into the United States Chinese-origin steel grating that was misclassified as non-covered merchandise. [[notice](#)].

### \*\*\* Calendar \*\*\*

**Defense Trade Advisory Group (DTAG)** will meet in open session from 1:00 p.m. until 5:00 p.m. on Wednesday, November 9, 2022. The virtual forum will open at 12:00 p.m. Requests for access to include: Name and contact information, including an email address and phone number to [DTAG@state.gov](mailto:DTAG@state.gov) by COB Monday, November 7.

### Global Year-End Review of Import/Export & Trade Compliance

**Developments.** November 15 through 17. **Baker McKenzie's** trade compliance lawyers from around the world will review the major global legislative, judicial and administrative activities and trends in export controls, trade sanctions, customs compliance, and import requirements. [[Agenda & Registration](#)]

**WSJ Risk & Compliance Forum** on Nov. 16 Speakers to include **Brian Nelson** from the U.S. Treasury Department and **Robert Silvers** from the Department of Homeland Security, along with multiple experts on corporate risk and compliance. Sign up [[here](#)] for discussions on economic sanctions, forced labor, climate change regulation, whistleblowers and cybersecurity.

**Emerging Technology Technical Advisory Committee (ETTAC)** will meet on November 18, 2022, at 9:00 a.m., Room 48019, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on the identification of emerging and foundational technologies with potential dual-use applications as early as possible in their developmental stages both within the United States and abroad. Open Session: 2:40 p.m.-4:00 p.m. The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than November 10, 2022.

**Transportation and Related Equipment Technical Advisory Committee** will meet on November 16, 2022, 9:30 a.m., in the Herbert C. Hoover Building, Room 48019, 14th Street between Constitution & Pennsylvania Avenues NW, Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov) no later than November 9, 2022.



**Materials and Equipment Technical Advisory Committee** will meet on November 17, 2022, 10:00 a.m., Eastern Standard Time, at Gryphon Scientific, LLC, 6930 Carroll Avenue, 9th Floor, Takoma Park, Maryland 20912. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov), no later than November 10, 2022.

**EU Export Control Forum** on Dec. 6. The European Commission and the Czech Presidency of the Council will hold the 2022 Annual Export Control Forum, an opportunity for experts from EU Member States and the European Parliament, industry, academia and civil society to review and discuss the latest export control developments in the EU and globally. The Forum will convene selected panels of experts, to be followed by dialogue with stakeholders. [\[Registration\]](#)

**Hannover Messe 2023** Hannover, Germany April 17 - 21, 2023. Join the U.S. Commercial Service in Germany at Hannover Messe 2023. The U.S. Pavilion at Europe's leading manufacturing show offers excellent opportunities for American companies seeking international markets. Click [HERE](#) to learn more.

**Dear Reader,**

**The Washington Tariff and Trade Letter and her sister publication The Export Practitioner are getting a makeover after forty years.**

**We are planning a major relaunch of the titles at year end Design and editorial.**

**We look forward to you and your colleagues continuing to find our material useful for your work, and we thank you for your readership.**

***Frank Ruffing, Editor***

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