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Trade and the New National Security Strategy

The Administration's new National Security Strategy calls for a new model of trade that works for the 21st century global economy. "The strategy indicates that we have to turn the page on the traditional formula for trade and adopt a new model of economics, investment, and trade that is fit for purpose for the coming decades of the 21st century on everything that has been laid bare in the last few years – supply chains, the energy transition, new standards for labor, the environment, as well as the increasing role of technology and digitization in the global economy," White House National Security Advisor Jake Sullivan told reporters October 12. [\[Report\]](#) [\[Fact Sheet\]](#)

The report cites the Administration's Indo-Pacific Economic Framework and Americas Partnership for Economic Prosperity as example of this new type of trade agreement. "We are working to update the current trading system to promote equitable and resilient growth – encouraging robust trade, countering anticompetitive practices, bringing worker voices to the decision-making table, and ensuring high labor and environmental standards," according to the report.

"We will seek new export opportunities that benefit American workers and companies, especially small- and medium-sized enterprises, push back on abuses by non-market economies, and enforce rules against unfair trade and labor practices, including intellectual property theft, discriminatory regulations, forced labor, the denial of the right to organize, and other forms of labor repression."

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Tai Says EV Spat will be Resolved

US Trade Representative Katherine Tai predicted that a dispute with the European Union over new US subsidies to electric vehicle makers will be resolved. “I have every confidence we will be able to work through this,” she said at a program sponsored by the Bretton Woods Committee.

Both the EU and South Korea have raised complaints that the tax credits for electric vehicles made in the United States disadvantages their EV manufacturers because of strict rules of origin. The EV subsidies are contained in the Inflation Reduction Act. Both Brussels and Seoul have raised the possibility of taking the United States to the World Trade Organization over the provisions as written.

A resolution can be reached without resorting to WTO litigation, Tai said. She gave no indication about the possible outlines of a deal, but said she had just spent an hour with European Trade Commissioner Valdis Dombrovskis and will be talking to him again in the coming weeks.

Tai acknowledged that the Administration is adopting new industrial policies – largely in order to compete against China. But the Administration is working with its allies as it develops those policies. Mr. Dombrovskis told reporters earlier in the day that one option would focus on whether changes could be made in the implementing regulations that would allow EU companies to receive the subsidies. Otherwise, Congress would have to approve amendments to the IRA.

The EU offers subsidies for manufacturers of EV cars, but they do not discriminate against foreign producers, he said. In the meantime, the two officials have instructed their teams to step up work on the EV issue, according to readout from the USTR. The two officials also agreed to speed the pace of ongoing discussions on the global steel arrangement and expressed commitment to reach concrete outcomes when the US-ET Trade and Technology Council meets later this year.

USTR Calls for Comments on China 301 Tariffs

Beginning the Four-Year Review of Actions Taken in the Section 301 Investigation: China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

July 6, 2018 action, covering an approximate annual trade value of \$34 billion (List 1) and the August 23, 2018 action, covering an approximate annual trade value of \$16 billion (List 20), were subsequently modified by imposing additional duties on supplemental lists of products, known as Lists 3 and 4, as well as by the temporary removal of duties on certain products through product exclusions.

Section 307(c) requires the U.S. Trade Representative to conduct a review of: (A) the effectiveness in achieving the objectives of section 301 of (i) such action, and (ii) other actions that could be taken (including actions against other products or services), and (B) the effects of such actions on the United States economy, including consumers.

To aid in this review, **USTR is opening a docket on November 15, 2022** for interested persons to submit comments with respect to any aspect of the above considerations. USTR will post submissions in the docket for public inspection, except business confidential information. You can view submissions

on USTR's web portal at <https://comments.USTR.gov> through docket number USTR-2022-0014. [\[announcement\]](#)

Two Congressional lawmakers from opposing political parties were in agreement that the tariffs should remain in place. "Absolutely not," **Sen. Jeff Merkley (D-Ore)** responded when asked if the tariffs should be rolled back during a program sponsored by Politico. Lifting the tariffs "would send the entirely wrong message to China," he said. **Rep. Darin LaHood (R-III)** said he is "not a fan" of tariffs, but in the case of China, there is no other option, given its continued theft of intellectual property. Both lawmakers said that Beijing has failed to make the economic changes that were expected when China joined the World Trade Organization.

The United States will continue to push for the market-oriented reforms China promised when it became a WTO member, **US Trade Representative Katherine Tai** said at the Coalition for Services Industries annual summit. But in the absence of China's will to undertake those reforms, the Administration will continue to look at the tools available to level the playing field.

U.S.-EU Joint Technology Competition Policy Dialogue

The Justice Department's Antitrust Division Assistant Attorney General Jonathan Kanter, Federal Trade Commission Chair (FTC) Lina M. Khan and Executive Vice President Margrethe Vestager of the European Commission met October 13 in Brussels for the second meeting of the U.S.-EU Joint Technology Competition Policy Dialogue (TCPD).

The three leaders met to take stock of the progress made on their cooperation efforts to ensure and promote fair competition in the digital economy, since the agencies launched the TCPD on Dec. 7, 2021. "The European Commission has been an invaluable partner as the Antitrust Division advances its understanding of the market realities and competition challenges presented by digital markets," said Assistant Attorney General Jonathan Kanter. "We look forward to continued close collaboration as we work to effectively enforce the antitrust laws in our jurisdictions."

"Dominance in digital markets poses global challenges, which makes global cooperation by antitrust enforcers essential," said FTC Chair Lina M. Khan. "Deepening our partnership and exchanging insights with our European colleagues can help ensure that our enforcement practices and policies reflect modern market realities. Ultimately, these efforts to promote fair competition in digital markets will benefit consumers, businesses and workers on both sides of the Atlantic."

"With today's meeting, we have continued the long standing tradition of close cooperation in competition policy and enforcement between the European Commission and the US competition authorities," said Executive Vice President Margrethe Vestager. "In the fast evolving technology sector, this cooperation is crucial to achieve a fair and inclusive digital transformation on both sides of the Atlantic."

The high-level discussion focused on several topics, including the importance of horizon scanning to identify key technologies and issues that may raise competition concerns in the future; the adoption of effective remedies in digital cases; and the forthcoming update to the U.S. Merger Guidelines.

CBP Announces New Agreements for VIP Services

U.S. Customs and Border Protection announced October 12th 24 tentative selections for new reimbursable services agreements, allowing corporate aviation departments and others to reimburse CBP for expanded services for incoming commercial and cargo traffic and international traveler arrival

The Reimbursable Services Program began in 2013, and CBP has expanded it to include 316 stakeholders. The program has provided more than 1.1 million additional processing hours at the request of CBP's partners—accounting for the processing of more than 16.7 million travelers and more than 2 million personal and commercial vehicles.

Reimbursable services under this authority include customs, agricultural processing, border security services, immigration inspections and support services at ports of entry. **A common duty is Concierge Customs Clearance for business jets.**

Recent awardees include:

- **Netflix, Inc.** (Los Angeles International Airport; Teterboro Airport; San Francisco International Airport; and San Jose International Airport)
- **Lowe's Companies LLC** (Charlotte Douglas International Airport);
- **Google, LLC** (San Jose International Airport);
- **Exxon Mobil Corporation** (George Bush Intercontinental Airport);
- **Gilead Sciences, Inc.** (San Francisco International Airport; and San Jose International Airport);
- **Magical Cruise Company Ltd. dba Disney Cruise Line** (San Diego, CA)

Successful partnership applicants must agree to reimburse CBP for all costs associated with the services provided, including agent overtime, a 15 percent administrative fee and the cost of transporting agents to and from the requested site.

WTO DG Proposes Invest in Trade Initiative

Geneva [*via Washington Trade Daily*] – World Trade Organization Director-General Ngozi Okonjo-Iweala is proposing transforming the Aid for Trade initiative into what she calls “Invest for Trade” in which private sector investments would play a major role, but several least-developed countries feel somewhat skeptical about the new initiative, saying that gains from AfT remain few and far between, WTD has learned.

The DG told a General Council meeting last week that AfT “has played a very important part in helping build trade-related infrastructure and supply side capacity, but it's also time to update and modernize the initiative.” The need for an update to the AfT approach “has emerged strongly from the 8th Global Review of Aid for Trade which was held in late July,” she said. Ms Okonjo-Iweala argued “there is a clear desire that is already translating into action to move global initiatives towards sustainable development models of growth and trade.”

The DG suggested it is time to consider “models that are inclusive, sustainable and that capture the economic diversification possibilities offered by both green and digital technologies.”

“I feel we have an opportunity to capture these new insights in a new Aid-for-Trade Work Program,” she continued, adding that “more than that I think we also have an opportunity to recast and reinvigorate the great work undertaken through this Initiative.” Therefore, according to the DG, “it's time to move to an Invest for Trade approach” ostensibly “for the least developed countries – a fact recognized in the MC12 Outcome Document.”

The DG argued that “official development assistance needs to work in tandem with and mobilize other sources of finance,” emphasizing that “one part of the solution is international investment flows.” According to Ms. Okonjo-Iweala, while public funds “are coming on stream in the form of climate finance and financial sector initiatives such as the Glasgow Financial Alliance for Net Zero,” “there is also a growing stock of private financing chasing environmental, social and governance returns.”

“If we put these elements together it is clear to me that a repositioning of the Initiative is needed,” she stated. “A realignment that ensures that we capture the opportunities for sustainable trade and export diversification.” She further elaborated that “moving to an ‘invest for trade’ approach recognizes that developing countries are of course the authors of their own development. Ownership of the development process by developing countries is of course an essential starting point.”

As part of the new work program, this change “in the narrative is empowering and inclusive, both themes that should of course appear in the new Work Programme.” And ranking highly either as a donor, south-south partner or recipient of invest for trade flows seems more meaningful as a measure than a purely aid-based calculus,” she argued.

She added that these are her “reflections”, saying that “you the Members are in the driving seat to set the new course for the next biennium of Aid-for-Trade activities.”

Several major industrialized countries, including the United States and the European Union, said that private investment flows will enable climate finance at the Glasgow meeting. But several LDCs reckoned that DG’s approach could constitute a major systemic change in the AfT, which was first conceived in the WTO’s sixth ministerial meeting in Hong Kong in December 2005.

One member who asked not to be quoted said that the DG’s emphasis on the need to “go on the journey to sustainable development” without adequate infrastructure in the LDCs or the policy space for climbing the ladder of development may end up increasing their dependency.

AfT was never seen as a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. Yet, the Doha Development Agenda is being erased, said an LDC member, without delivering on the AfT.

More importantly, expanding AfT to include private sector flows or private finance seems somewhat inconsistent with the original mandate, WTD was told. It raises several questions as WTO is a Member-driven organization where Members agree on rules between governments. The problem with the private sector is that it is not bound by principles like the Paris Principles for Aid Effectiveness.

**** Briefs ****

UK FTA Call by House Republicans. House Ways and Means Republicans are urging United Kingdom Trade Secretary Kemi Badenoch to continue laying the groundwork for an eventual bilateral free trade agreement by addressing some outstanding issues. “While an FTA may not presently be on the table, we have an opportunity to continue laying the groundwork in our respective countries and stand ready to work with you toward that goal,” they [wrote in a letter](#) to Badenoch released last week. There are concerns among Congress that the UK will not honor the Northern Ireland Protocol, the lawmakers said.

EU Free Trade Agreement Exports surpass €1 trillion EU exports to preferential partners for the first time surpassed €1 trillion in 2021, according to the Commission’s 2nd Annual Report on the Implementation and Enforcement of EU Trade Agreements. [\[Release\]](#) [\[Report\]](#)

Chinese Corn Imports from Brazil may commence as early as December, part of a drive by the world’s top buyer to reduce dependence on the US and replace supplies from Ukraine cut off by the Russian invasion [Bloomberg](#) reports. While Brazil is the second-biggest global corn exporter, China almost never bought from the agricultural powerhouse in the past nine years due to phytosanitary concerns. At a meeting this year in Brasilia, the two nations finally agreed on sanitary guidelines after years of talks, paving the way for purchases. The US share of Chinese purchases accounted for about 70% in the 2020-2021 season.

Russian Aluminum Import Restrictions are under consideration by the Biden administration as it charts possible responses to Moscow's military escalation in Ukraine, a person briefed on the conversations told [Reuters](#). The administration's choices include an outright ban, raising tariffs to levels so punitive they would constitute an effective ban, or sanctioning United Co Rusal International PJSC, the Russian metal producer, according to [Bloomberg](#), which first reported the conversations about an aluminum ban. The news comes as the London Metals Exchange has begun a formal discussion on a ban on deliveries of new Russian metals into the LME warehouse network to forestall a flood of diverted supply, which could have repercussions on the aluminum, copper and nickel markets.

More TP Trouble A ban on Russian birch exports will add costs and complications to supply chains for toilet paper, according to [Bloomberg](#). Russia prohibited the export of birch wood in March in retaliation to sanctions imposed by the US and the EU following Putin’s incursion into Ukraine.

USDA / Japan FAIRS Export Certificate & Country Report. The [first report](#) lists major export certificates required by the Japanese government to export food and agricultural products from the United States to Japan. [The second report](#) is an overview and update of Japan's food and agricultural import regulations and standards (FAIRS).

BIS / China Chips UVL & Controls Rules published. The Friday October 7th rules adding 31 persons (entities) to the Unverified List [\[87 FR 61971\]](#) and New Export Controls on Advanced Computing and Semiconductor Manufacturing Items [\[87 FR 62186\]](#) were published October 13th in the Federal Register.

BIS / Allied Chip firms get one year exemption from BIS export ban. Intel, SK Hynix, Samsung and TSMC are among the firms receiving a one-year exemption from the export controls announced October 7th, according to company statements and [news reports](#). The “presumption of denial” of the controls is being mitigated by liberal exceptions by BIS, for now.

ASML Holding NV, the most advanced maker of equipment for producing semiconductors, has told its employees in the US to refrain from servicing customers in China following new regulations from the Biden administration, according to an internal email sent to staff, according to *Bloomberg*.

EXIM guaranteed a \$304 million loan from JPMorgan to Atlas Air Worldwide Holdings to finance the last-ever deliveries of the Boeing 747 model aircraft to Atlas Air, Inc. The Purchase, NY company boasts World’s largest fleet of 747 freighters.

European Sanctions FAQ Updates were [issued](#) October 12 addressing [assets freezes](#), [ports access](#), [Dual-use and Advanced Technologies Restrictions](#), and [Deposit Limits](#)

FMC D&D Billing. Federal Maritime Commission is seeking public comment on a proposed rule that requires common carriers and marine terminal operators to include specific minimum information on demurrage and detention invoices and outlines certain billing practices relevant to appropriate timeframes for issuing invoices, disputing charges with the billing party, and resolving such disputes. The proposed rule addresses considerations identified in the Ocean Shipping Reform Act of 2022. [[87 FR 62341](#)]

State Bureau of International Security and Nonproliferation imposition of measures pursuant to section 3 of the Iran, North Korea, and Syria Nonproliferation Act: Beijing J&A Industry & Trade Co. Ltd. (People’s Republic of China); Linda Zhai (PRC individual); Synnat Pharma Pvt Ltd (India); OTOBOT Project Group (Turkey). [[87 FR 62484](#)]

*** Appointments ***

Justice Money-Laundering and Asset Recovery Section has filled the vacancy created by Deborah Conner’s departure in August. **Brent Wible is Chief**, with **Molly Moeser principal deputy**. Wible had been in the Criminal Division’s Fraud Section, while Moeser had been Chief of the MLARS Bank Integrity Unit. *Bloomberg Law* [notes](#) the section has been criticized for an ineffectual prosecutorial culture, despite successes in policy, training and forfeiture management.

OMB Made in America Chief. President Biden has chosen **Livia Shmavonian** as the new head of the Office of Management and Budget's Made in America office. She replaces Celeste Drake, who was tapped as Biden’s top labor advisor last July. Shmavonian most recently served at the Commerce Department’s International Trade Administration as Director of Legislative and Intergovernmental Affairs. Prior to that, she was staff director for the Senate Finance subcommittee on international trade.

Ottawa - New Deputy Trade Minister Canadian Prime Minister **Justin Trudeau** announced that **Rob Stewart**, currently Deputy Minister of Public Safety, will become Deputy Minister of International Trade, replacing David Morrison, who has been tapped to be the next Deputy Minister of Foreign Affairs. Both changes are effective October 17.

*** Calendar ***

Forced Labor - New CTPAT Requirements. October 25, 1PM. CBP's expanding focus on Uyghur Forced Labor Prevention Act monitoring and enforcement, which includes new guidance and compliance requirements for members of the Customs Trade Partnership Against Terrorism (CTPAT) program. Presented by Kharon and Miller & Chevalier. No cost. [[Registration](#)]

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. The Directorate of Defense Trade Controls (DDTC) asked the DTAG to complete the following taskings, which will be discussed and presented:

- (1) identify current industry practices for reporting information required under the Arms Export Control Act (AECA) section 36(b)(1) to the Departments of State and/or Defense, and provide recommendations to ensure these Departments would receive this same information if DDTC were to move to an annual part 130 reporting requirement,
- (2) review the interaction between section 120.43(a) and (b)(1), and section 121.1 "developmental" entries and recommend clarifications, if necessary, to better illustrate the two phases and when a transition from one stage to the other occurs, and
- (3) identify factors that parent companies take into consideration to ensure joint ventures comply with various International Traffic in Arms Regulations (ITAR) requirements, and that DTAG also provide the industry perspective on any related challenges.

Requests for access to include: Name and contact information, including an email address and phone number to DTAG@state.gov by **COB Monday, November 7, 2022**

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.

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 2022 Export Control Forum will be opened by representatives of the Commission, the Presidency of the Council and the European Parliament, and will convene selected panels of experts, to be followed by dialogue with the stakeholders. [[Registration](#)]