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USTR Sketches Taiwan Initiative

Following on US Trade Representative Katherine Tai's visit last month, Deputy USTR Sarah Bianchi met June 1 with Taipei officials to formalize a "US- Taiwan Initiative on 21st Century Trade," a bilateral initiative to accommodate the exclusion of the ROC from the Indo-Pacific Economic Framework (IPEF).

The Initiative covers a wide range of areas, including digital trade enhancement, trade facilitation, sound regulatory practices, SMEs, environmental protection, standards, and addressing non-market policies. Last week's meeting produced an agreement "to develop an ambitious roadmap for negotiations for reaching agreements with high-standard commitments and economically meaningful outcomes," according to ROC Ministry of Foreign Affairs.

Beijing's reaction was swift and negative. "The United States should prudently handle trade and economic ties with Taiwan to avoid sending a wrong message to Taiwan separatists," Chinese Commerce Ministry spokesman Gao Feng told *Reuters*.

The first meeting of the U.S.-Taiwan Initiative on 21st-Century Trade is expected to be held later this month in Washington.

USTR Tunes Japan Beef Tariffs

USTR Tai signed an agreement in Tokyo to reduce the likelihood of duties being imposed by America's second largest beef importer. In March 2021, Japan and the U.S. entered negotiations after record-setting beef exports triggered the safeguard provision of the U.S.-Japan Trade Agreement. The agreement includes a new three-trigger mechanism controlling temporary, higher tariffs on U.S. beef.

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Volumes now must exceed the original beef safeguard trigger level under the U.S.-Japan Trade Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership beef safeguard levels, and Imports from the United States must exceed the totals of the previous year.

Graves Lauds Industrial Policy

Continuing the Administration's promotion of policy support for industry's challenges, Deputy Secretary of Commerce Don Graves toured the Low Countries to rally allies.

"The U.S. government doesn't dictate supply chains to the private sector or direct their economic activities, but COVID and Russia are hopefully wake-up calls that we need to think differently, particularly given the vulnerabilities weak supply chains pose for national security," he said in a Rotterdam speech. "Our competitors are moving ahead to support their own semiconductor industries...It is both an economic and national security imperative for the United States and its allies and partners to solve this crisis. Every day we wait is a day we fall further behind."

Graves also visited Dutch Semiconductor Equipment Manufacturer ASML's Veldhoven headquarters to announce ASML's \$200 million expansion of their Wilton, Connecticut facility.

Brussels Touts Bilateral Approach

As ministers prepare for a potentially lackluster MC12 WTO Summit this month, European Commission Executive Vice President and Commissioner for Trade Valdis Dombrovskis acknowledged the WTO's muted efficacy and the need for independent initiative. In remarks June 3 after a meeting of the Foreign Affairs Council, Dombrovskis spelled out the Commission's priorities:

"We will notably be the strongest proponents for the WTO reform at the upcoming MC12 ministerial in Geneva. It is no secret that there is still a lot of work to do to achieve good outcomes at MC12, and other countries would need to match the EU's level of ambition and commitment to ensure successful outcomes.

"It is also true that, in parallel to this multilateral work, **we intend to make maximum use of our bilateral trade deals to pursue our economic and geopolitical goals** – because the new reality requires that we build closer and deeper relationships with our trusted partners. Accordingly, we must seek a new consensus on how to advance our bilateral partnerships: clearly, business as usual is not an option... Geopolitically, the privileged partnerships created by our trade deals provide a way to deepen relations and draw partners closer to us on other issues."

EU Sixth Sanctions - Chem-Bio Element

In addition to the widely reported restriction on the oil trade, the recent EU sanctions package includes a list of around 80 chemicals representing €663 million of EU exports to Russia.

The list derives from a decision of the Australia Group – the Multilateral Export Control Regime in charge of preventing the proliferation of sensitive dual-use chemicals – in response to the use of chemical weapons in Syria in 2013 and has been called the "Syria Watch List". Further, export

restrictions are extended to additional chemicals and chemical/biological equipment that might be diverted to a chemical or biological weapons program.

The export of these items to Russia would remain possible under the existing exemptions with derogations provided for non-military users and non-military uses, which cover, for example, humanitarian purposes and health emergencies as well as for medical and pharmaceutical purposes.

BIS - Charging Letters to be Public

BIS announced a new transparency policy, amending the EAR to make future charging letters in administrative export control enforcement cases publicly available prior to the final disposition of such cases. **While precharging letters will retain their current nonpublic status, charging letters will now be public once filed with the Administrative Law Judge, making such information available to the public at an earlier stage of the proceedings.** This will allow BIS to more timely inform interested parties of ongoing enforcement efforts and to educate the exporting community on its controls

“When we bring administrative charges for violations of the export rules, we want everyone to know it,” said Assistant Secretary of Commerce for Export Enforcement Matthew S. Axelrod. “By making enforcement actions public when charged, we aim both to educate the exporting community about the consequences that can result from misconduct and to incentivize investment in compliance and deterrence.”

BIS – More Russian Firms Added to Entity List

June 2 Commerce announced additions to the Entity List related to the Russian invasion of Ukraine. Sixty-six will receive a footnote 3 designation because the End-User Review Committee (ERC) has determined they are Russian or Belarusian ‘military end users’ in accordance with § 744.21. A footnote 3 designation subjects these entities to the Russia/Belarus foreign “direct product” (FDP) rule, detailed in § 734.9(g). The other five entities are being added solely based on § 744.11(b). [87 FR 34154]

BIS - Notification Required for Semiautomatic Firearms Exports

BIS Moved June 1 to add a new section to the EAR to adopt a congressional notification requirement for certain license applications of semiautomatic firearms meeting certain value and destination requirements [87 FR 32983]. Notification is required for license applications having semiautomatic firearms that are (i) classified under Export Control Classification Number (ECCN) 0A501.a and (ii) valued at \$4 million or more (with exceptions).

BIS does not anticipate any change in the number of license applications received because license applicants are required to follow the same process they were previously in determining how to structure a license application for semiautomatic firearms controlled under ECCN 0A501.a.

CBP - AD/CVD Offset Distributions FY 2022.

U.S. Customs and Border Protection's (CBP) published a notice of intent [87 FR 32512] to distribute assessed antidumping or countervailing duties (known as the continued dumping and subsidy offset) for Fiscal Year 2022 in connection with countervailing duty orders, antidumping duty orders, or findings under the Antidumping Act of 1921.

The document provides the instructions for affected domestic producers, or anyone alleging eligibility to receive a distribution, to file certifications to claim a distribution in relation to the listed orders or findings. Certifications to obtain a continued dumping and subsidy offset under a particular order or finding must be received by August 1, 2022

CBP - FDA Supplemental Guide for ACE

Customs has published revised [Version 2.5.6] supplementary instructions to the CBP Customs and Trade Automated Interface Requirements (CATAIR) and PGA Message Set chapter (also referred to as an implementation guide). The FDA PGA Message Set provides specific instructions for filing FDA-regulated commodities, and, except for Standalone Prior Notice (Section 8), must be submitted with an ACE Cargo Release or ACE Entry Summary certified for cargo release transaction.

OFAC - Chattel Chase Persists

Under the ambitious headline "Treasury Severs More Networks Providing Support for Putin and Russia's Elites," OFAC announced the sanctioning of more persons, vessels and aircraft associated with the Putin Regime.

In addition to Maria Zakharova, the spokesperson of the Russian Ministry of Foreign Affairs; and Alexey Mordashov, the leader of Severgroup, the steel and mining concern, the announcement named the president of United Aircraft, the Russian Minister of Transport, Minister of Economic Development, Minister of Construction, Housing and Utilities, and Dmitry Grigorenko, the Deputy Prime Minister and Chief of the Government Staff of Russia.

Along with the individuals, OFAC blocked the motor yachts Graceful, Olympia, Shellest, Naga, Madame Gu, Flying Fox and Sea Rhapsody. Aircraft named include an Airbus A319-115(CJ), a Bombardier Global 6000, and an Airbus AS365 Dauphin helicopter. Most of the yachts and aircraft have deactivated their AIS transponders and have sought refuge in Russia or uncooperative havens like Turkey.

Aviation and Marine service and supply operators can expect increased scrutiny and temptation as the roster of blocked high-value, high-maintenance vessels and aircraft swells to a measurable share of the MRO market.

More FCPA For Seamless Tube Giant Tenaris

So much for promising not to do it again. In 2011, Argentine seamless tube maker Tenaris entered into a Non-Prosecution Agreement with the Department of Justice, and the first ever Deferred Prosecution

Agreement with the SEC, because of bribery in Uzbekistan. Under the terms of that DPA, the firm paid \$5.4 million in disgorgement and prejudgment interest and agreed to pay a \$3.5 million criminal penalty in a Non-Prosecution Agreement with the Justice Department

June 2, the SEC announced that **Tenaris will pay more than \$78 million to resolve charges that it again violated the Foreign Corrupt Practices Act (FCPA)** in connection with a bribery scheme involving its Brazilian subsidiary. Justice closed a related inquiry without taking action.

The order finds that between 2008 and 2013, approximately \$10.4 million in bribes was paid to a Brazilian government official in connection with the bidding process at Petrobras. The bribes were funded on behalf of Tenaris' Brazilian subsidiary by companies affiliated with Tenaris' controlling shareholder, Techint Group. During this period Petrobras purchased over \$1 billion in goods and services from Tenaris and affiliates.

"Tenaris failed for many years to implement sufficient internal accounting controls throughout its business operations despite known corruptions risks," said Charles Cain, Chief of the SEC Enforcement Division's FCPA Unit. "This failure created the environment in which bribes were facilitated through a constellation of companies associated with its controlling shareholder."

Tenaris consented to the SEC's order without admitting or denying the findings that it violated the anti-bribery, books and records, and internal accounting controls provisions of the Securities Exchange Act of 1934 and agreed to pay more than \$78 million in combined disgorgement, prejudgment interest, and civil penalties. The company also agreed to "comply with undertakings for a two-year period related to its ongoing remedial efforts."

*** Briefs ***

ITC - Carbon and Alloy Steel Cut-to- Length Plate. ITC preliminarily determines that sales by Korean maker POSCO were made at prices below normal value (NV). Interested parties are invited to comment on these preliminary results. [*Docket A-580-887*]

ITC- Steel Concrete Reinforcing Bar. ITC reviews to determine whether revocation of the countervailing duty order rebar from Turkey and revocation of the antidumping duty orders on rebar from Japan, Taiwan, and Turkey would be likely to lead to continuation or recurrence of material injury. [*Investigation Nos. 701-TA-564 and 731-TA-1338-1340 (Review)*]

ITC- Portland Cement & Clinker Review to determine whether revocation of the antidumping duty order on gray portland cement and cement clinker from Japan would be likely to lead to continuation or recurrence of material injury. [*Investigation No. 731-TA-461 (Fifth Review)*]

RUSSIA- Noble Gases. Russia has limited exports of noble gases until the end of 2022 to strengthen its market position, its trade ministry said on June 2, according to *Reuters*. Noble gases, such as neon, krypton and xenon, are vital to semiconductor production. Prior to the Russian invasion, Ukraine was a principal producer and refiner of the elements. The Russian announcement may also be designed to mask its loss of refining capacity in Odesa.

FinCEN - ANPRM for No-Action Letter Process. To solicit public comment on questions relating to the implementation of a no-action letter process at FinCEN. The addition of a no-action letter process at FinCEN could affect other forms of regulatory guidance and relief that FinCEN already offers, including administrative rulings and exceptive or exemptive relief. [87 FR 34224]

*** Appointments & Calendar ***

DDTC - DECCS Licensing 2.0 Webinar June 9 DDTC's IT Modernization Team hosts an overview of the updated Licensing application coming this summer to DECCS. The application is being updated to work on a new software platform, providing greater flexibility, security, and administration of the application to the support team. The session will focus on: Goals for the update, Demonstration, Impacts on Existing and in-progress license submissions, Future submissions, and Timeline of release. *Registration at <https://www.pmdtc.state.gov/>*

EXIM Bank Advisory Committee June 13, 2:30 p.m. – 4:30 p.m. Hybrid. Discussion of EXIM policies and programs to provide competitive financing to expand United States exports and comments for inclusion in EXIM's Report to the U.S. Congress on Global Export Credit Competition. For further information, contact India Walker, External Engagement Specialist, at 202-480-0062 or at india.walker@exim.gov

BIS - Regulations and Procedures Technical Advisory Committee (RPTAC) will meet June 14, at 10:00 a.m., EDT, via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed. To join the conference, submit inquiries to Yvette Springer at Yvette.Springer@bis.doc.gov no later than June 7, 2022

BIS - Emerging Technology Technical Advisory Committee (ETTAC) will meet on June 16, at 11:00 a.m., EDT via teleconference. 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 To join the conference, submit inquiries to Yvette Springer at Yvette.Springer@bis.doc.gov

CFIUS Conference June 16, 8:00am-4:00pm. Deputy Treasury Secretary Wally Adeyemo will headline the conference, to be held at in the Cash Room at Treasury and online. Info: CFIUSConference@treasury.gov

BIS Update 2022 June 29 - July 1 The Bureau of Industry and Security (BIS) will offer a hybrid Update Conference on Export Controls and Policy from Wednesday, June 29-Friday, July 1, 2022. This 35th annual conference will be offered in-person at the Marriott Marquis in Washington, D.C., and virtually for the first two days. Use this link to register: <https://events.epl.com/bis2022>

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