

Vol. 42, No. 16**April 18 2022**

WTO Revises Down Trade Forecasts

World merchandise trade is expected to grow 3.0 percent this year, down from a prior forecast of 4.7 percent according to the World Trade Organization (WTO). The estimates released April 12 cite disruptions from the war in Ukraine, which are “less certain than usual due to the fluid nature of the conflict.”

World GDP at market exchange rates is expected to increase by 2.8% in 2022 after rising 5.7% in 2021. Output growth should pick up to 3.2% in 2023, assuming persistent geopolitical and economic uncertainty. In the two decades before the global financial crisis, world merchandise trade volume grew around twice as fast as world GDP at market exchange rates, but the ratio between trade growth and GDP growth fell to around 1:1 on average after the crisis.

The volume of merchandise trade rose 9.8% in 2021. The US\$ value of this trade grew 26% to US\$ 22.4 trillion. The value of commercial services trade was also up 15% in 2021 to US\$ 5.7 trillion. Services trade will also be affected by the conflict in Ukraine, including in the transport sector, which covers container shipping and passenger air transport.

The forecast foresees 2022 export volume growth of 3.4% in North America, -0.3% in South America, 2.9% in Europe, 4.9% in the CIS, 1.4% in Africa, 11.0% in the Middle East, and 2.0% for Asia. It also anticipates import growth of 3.9% in North America, 4.8% in South America, 3.7% in Europe, -12.0% in the CIS, 2.5% in Africa, 11.7% in the Middle East and 2.0% in Asia.

EXIM Now to Fund Domestic Projects

The Export-Import Bank of the United States (EXIM) announced a new program to deploy the agency’s existing medium- and long-term loans and loan guarantees in financing mostly domestic production and projects. The Make More in America Initiative is open to all sectors, with financing priority available to “environmentally beneficial projects, small businesses, and transformational export area transactions, including semiconductors, biotech and biomedical products, renewable energy, and energy storage.”

Eligibility for Exim Financing is now determined by the “export nexus” – the percentage of production or shipments tied to exports.

- For small, minority and women-owned business, “transformational” exports, and climate-related transactions, the required nexus is 15 percent.
- For projects in other sectors, 25 percent of output exported or expected to be exported is required.

The amount of EXIM financing made available for individual projects will be scaled based on the number of U.S. jobs supported, both during construction and over the life of EXIM’s financing.

- Each job-year (e.g., one job over five years is five job-years) allows for up to \$189,242 in financing.
- This standard will replace the U.S. content required in traditional EXIM transactions to foreign buyers.

The push may help the Bank meet its mandate for competing with China’s export credit programs. EXIM’s China and Transformational Exports Program (CTEP) last year booked \$140 million in credits and guarantees, versus the stated goal of \$27 billion.

“EXIM is doing exactly what Congress told the Bank to do when we reauthorized its charter in 2019: help American exporters compete with China and other nations. [...] EXIM is helping reshore critical supply chains.” Said Sen. Sherrod Brown, (D-Ohio), Chair of the Senate Committee on Banking, Housing, and Urban Affairs in a statement.

Noting that the program would provide taxpayer subsidies to domestic manufacturing facilities and infrastructure projects—even if the EXIM-financed projects do not export anything, Sen Pat Toomey (R-Pa) stated, *“[T]his unprecedented program subverts Congressional intent by straining the interpretation of EXIM’s charter to such an extent as to make it meaningless. This is worse than mission creep.”*

BIS Runs the Table on CCL for Russia

The Bureau of Industry and Security has expanded license requirements for Russia and Belarus under the Export Administration Regulations (EAR) to all items on the Commerce Control List (CCL). The rule applies the additional restrictions established under previous Russia and Belarus rules to the three categories of unilaterally controlled technology remaining on the Commerce Control List (CCL).

These are Categories 0-2, which include materials and equipment relevant to nuclear, chemical, and materials processing. While most items in Categories 0-2 already required a license for Russia and Belarus (or are subject to the licensing authorities of other agencies), this rule imposes new license requirements for items including certain composite materials, medical products containing certain toxins or genetically modified organisms, hydraulic fluids, pumps, valves, and lower-level machine tools.

WTO & World Economic Forum on Trade Digitalization

TradeTech such as artificial intelligence, blockchain/distributed ledger technology and the “internet of things” all offer the potential to facilitate trade by improving efficiency, reducing costs, and providing greater resilience in supply chains, according to a joint report from the WTO and the World Economic Forum (WEF). To succeed, international policy coordination is required, and explicit rules through trade agreements are needed to provide legal certainty on issues related to the digital field.

“New technologies have always been important in driving trade,” noted WEF President Børge Brende, “Technologies are available when it comes to bringing data across borders, when it comes to e-signatures, and when it comes also to documents, but what we see in this report is that the legal frameworks are not there. [...] We need the trade deals that can let tech play that constructive role.”

The report concludes that one reason the trade policy world is largely unprepared for TradeTech is that technologies give rise to policy issues that span across different ministries and groups of regulatory authorities and stakeholders that do not intersect with trade traditionally (e.g., antitrust, data governance, cybersecurity, privacy, law enforcement, platform liabilities, digital taxation).

The report identifies five key elements for successful adoption of end-to-end digitization:

- Global data transmission and liability framework,
- Global legal recognition of electronic transactions and documents,
- Global digital identity of persons and objects,
- Global interoperability of data models for trade documents and platforms,
- Global trade rules access and computational law.

Despite the promise of digitized trade, the report notes “The different levels of cybermaturity of companies and economies need to be addressed to support the global adoption and scalability of TradeTech.” As well, not all sectors have been able to integrate electronic transactions and documents into their practices. In maritime shipping, e-bills of lading are rarely issued (fewer than 100 per year). In aviation, however, digital processes are now the norm. The full text of the report can be found at:

https://www.wto.org/english/res_e/booksp_e/tradtechpolicyharddigit0422_e.pdf

CBP Report: Record Revenues, De Minimus Growth, Prison Labor

In their annual Trade and Travel Report, Customs and Border Protections (CBP) noted continued volume growth, technical initiatives and accomplishments defending worker’s rights.

CBP processed 36.9 million entries valued at over \$2.8 trillion during FY 2021, collecting approximately \$85.5 billion in duties, a 14.9 percent increase over FY 2020. Overall, CBP collected approximately \$93.8 billion in duties, taxes and other fees.

Much of the increase in duty collection is attributed to the duties on steel, aluminum, washing machines, solar panels and goods from China, pursuant to Sections 201 and 301 of the *Trade Act of 1974* and Section 232 of the *Trade Expansion Act of 1962*.

De minimus shipment volume (shipments valued at \$800 or less) increased across all modes of transportation, with the largest increase in the air environment, where *de minimis* shipments rose by approximately 23 percent with over 660 million shipments in FY2021. 89 percent of intellectual property rights seizures were found in express and international mail shipments.

To address growth in *de minimus* volume, CBP launched the Section 321 Data Pilot in January 2020 with voluntary participants from the trade community. "Section 321" refers to the section of the *Tariff Act of 1930* as amended (19 U.S.C. § 1321), which provides for an administrative exemption that allows merchandise not exceeding \$800 to enter free of duty or taxes. The purpose of the pilot is to improve CBP's ability to identify and target high-risk e-commerce shipments - narcotics, weapons and products posing a danger to the public safety.

CBP also has been conducting the Entry Type 86 test, another voluntary test related to Section 321 *de minimis* entry processing. The Entry Type 86 pilot enables customs brokers and self-filers to electronically submit *de minimis* entries via the Automated Broker Interface, including those subject to data requirements of partner government agencies for clearance.

CBP continued to step up efforts to identify and prevent goods made by forced labor from entering the United States. Results in this area earned CBP's Trade Remedy and Law Enforcement Directorate team the *Samuel J. Heyman Service to America Medals People's Choice Award* for 2021.

Senators Call for Civil Nuclear Cooperation, Subsidies

To address the competitive decline of the US Nuclear Energy Industry, and the attendant reliance on Russian fuel, Senators Jim Risch (R-Idaho), and Joe Manchin (D-W.Va.) have introduced the International Nuclear Energy Act.

The bipartisan legislation establishes an Executive Office for Nuclear Energy Policy to promote engagement with ally and partner nations to develop a civil nuclear export strategy and offset China and Russia's growing influence on international nuclear energy development.

“The bill takes action on these concerns by emphasizing the importance of a cohesive and coordinated ‘whole-of-government’ approach to international civil nuclear cooperation and exports. This is absolutely necessary to counter the strategies of states like Russia and China who are trying to use civilian nuclear exports as a diplomatic weapon,” according to Josh Freed of Third Way, a center-left think tank.

The International Nuclear Energy Act would:

- Establish an office to coordinate civil nuclear exports strategy; establish financing relationships; promote regulatory harmonization; enhance safeguards and security; promote standardization of licensing framework; and create an exports working group.
- Create programs to facilitate international nuclear energy cooperation to develop financing relationships, training, education, market analysis, safety, security, safeguards and nuclear governance required for a civil nuclear program.
- Require two biennial summits, one focused on nuclear safety, security and safeguards, and another for civil nuclear vendors to enhance cooperative relationships between private industry and government.
- Establish a Strategic Infrastructure Fund Working Group to determine how to best structure a Fund to finance projects critical to national security.
- Create fast-track procedures for deemed civil nuclear exports for countries defined by the Secretary of Energy.
- Expand the Export-Import Bank program on Transformational Exports to include civil nuclear facilities and related goods.
- Create the U.S. Nuclear Fuels Security Initiative to reduce and eventually eliminate reliance on Chinese and Russian nuclear fuels.

Beginning with the 1990s “Megatons to Megawatts” agreements for down blending Soviet weapons-grade uranium, the US nuclear industry has relied on Russia for nuclear fuel. Almost all nuclear material (fuel and other isotopes) in the US is imported, and uranium originating in Kazakhstan, Russia, and Uzbekistan accounted for 47% of total fuel purchased by U.S Operators in 2020, according to the U.S. Energy Information Agency. Rosatom, the Russian state-owned nuclear enterprise, is not subject to U.S. Sanctions.

Since 1981

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

Your feedback is solicited: Frank Ruffing 703.283.5220 fruffing@gmail.com

ITAC Call for Members

Volunteers are sought to serve on the USTR-led Industry Trade Advisory Committee (ITAC) system. Commerce and USTR co-administer fifteen ITACs and a Committee of Chairs. Committees make recommendations regarding trade barriers, negotiations of trade agreements and implementation of existing trade agreements that affect industry sectors. More info and ITAC Member Applications are available at www.trade.gov/industry-trade-advisory-center.

Industry Committees include:

ITAC 1 Aerospace Equipment

ITAC 8 Forest Products and Building Materials

ITAC 2 Automotive Equipment and Capital Goods

ITAC 9 Small, Minority, and Woman-led Business

ITAC 3 Chemicals, Pharmaceuticals, Health/Science Products and Services

ITAC 10 Services

ITAC 4 Consumer Goods

ITAC 11 Steel

ITAC 5 Critical Minerals and Nonferrous Metals

ITAC 12 Textiles and Clothing

ITAC 6 Digital Economy

ITAC 13 Customs Matters and Trade Facilitation

ITAC 7 Energy and Energy Services

ITAC 14 Intellectual Property Rights

ITAC 15 Standards and Technical Trade Barriers

Briefs

Welded Stainless Pressure Pipe from India. The U.S. International Trade Commission (USITC) Issued an affirmative sunset determination that the existing orders on imports of this product from India will remain in place.

The latest RWI/ISL container throughput index showed seasonally-adjusted throughput declining 3.6 points to 117.1 in February. The index incorporates container data on container handling at 94 international ports, accounting for 64 percent of the global total. Chinese ports saw the biggest decline in March, but European ports also registered a substantial decline. The data could be influenced by seasonal adjustments, but it could also reflect the early stages of the conflict in Ukraine. The fact that the shipping rates have been steady or declining at the same time suggest that the dip in throughput represents falling demand for shipping services rather than reduced supply.

The Russian Maritime Law Association (RUMLA) issued a statement calling for an end to the conflict in Ukraine and a return to “reason and legal mechanisms to resolve” disputes. As reported by The Lodestar, RUMLA’s principal motivation was humanitarian, though the effective embargo by major container lines has greatly impacted Russian logistics. The

Russian Federal Bar Association and The Association of Lawyers of Russia have yet to comment on the war.

Monotype Imaging, owner of the popular font Times New Roman has blocked access to its catalogue by Russian users, according to RFE/RL's Russian Service. Times New Roman is the standard font for official documentation in Russia. While the move will have a modest effect on most internet users in Russia, publishing houses and software developers will be impacted. Russian law permits forced licensing "due to the necessity to protect the interests of the state and society."

Customs Fraud. Six Southern California companies today were ordered to pay \$1.83 billion in restitution for participating in a conspiracy to defraud the United States through a scheme in which huge amounts of aluminum – disguised as “pallets” to avoid \$1.8 billion in customs duties – were exported to the United States and were “sold” to fraudulently inflate a China-based company’s revenues and deceive investors worldwide. In August 2021, a federal jury found all six corporate entities guilty of one count of conspiracy, nine counts of wire fraud and seven counts of passing false and fraudulent papers through a customhouse. The remaining four defendants charged in a 2019 federal grand jury indictment in this case have yet to appear in court in the United States to face the criminal charges in this matter

A Texas man and woman were arrested April 12 on criminal charges related to the husband’s involvement in alleged export violations and both of their alleged involvement in **a scheme to defraud the Southwest Research Institute in San Antonio.** Xiaojian Tao is charged with one count of illegal export of defense articles; one count of unlawful export of commerce-controlled goods; and one count of making a false statement with regards to the Export Control Reform Act (ECRA). Tao allegedly exported items to China without having obtained a required export license. Tao faces a maximum of 20 years in prison on each of the export counts and the false ECRA statement.

A former University of Kansas (KU) professor was today convicted by a federal jury on three counts of wire fraud and one count of false statements after he deliberately concealed that **he was also employed by a government-affiliated university in the People’s Republic of China (PRC), while working on U.S. government funded research at KU.** , Feng Tao conducted research under contracts between the KU and two U.S. government agencies, the Department of Energy (DOE) and the National Science Foundation (NSF). Tao caused KU to submit to DOE and NSF hundreds of thousands of dollars in reimbursement requests for expenditures associated with the grants. Tao faces up to 20 years in federal prison and a fine up to \$250,000 for wire fraud, and up to 10 years and a fine up to \$250,000 on each of the program fraud counts