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Senators Reintroduce Bill to Lift Cuba Embargo

Lawmakers took another step toward chipping away at the Cuba embargo May 19 when a bipartisan group of senators reintroduced the *Freedom to Export to Cuba Act* (S.1694), a bill that would lift the trade embargo on the island. Sens. Amy Klobuchar (D-Minn.), Jerry Moran (R-Kan.) and Patrick Leahy (D-Vt.) co-sponsored the bill, which would eliminate legal barriers to Americans doing business in Cuba.

Sen. Ron Wyden (D-Ore.) and three other Democratic cosponsors introduced the U.S.-Cuba Trade Act of 2021 (S. 249), a bill to lift the Cuba trade embargo in February (see **WTTL**, Feb. 8, page 5). Klobuchar and Leahy previously introduced their bill in February 2019.

The latest bill repeals existing restrictions, including the original 1961 authorization for establishing the trade embargo; subsequent laws that required enforcement of the embargo; and other restrictive statutes that prohibit transactions between U.S.-owned or controlled firms and Cuba, and limitations on direct shipping between U.S. and Cuban ports.

“Instead of looking to the future, U.S.-Cuba policy has been defined for far too long by conflicts of the past,” Klobuchar said in a statement. “As we work to rebuild our economy following the pandemic, lifting the trade embargo will open the door to a large export market and create jobs in the U.S.,” she added.

Wyden Introduces Bill to Renew Trade Programs with Caveats

Sen. Ron Wyden (D-Ore.) may have given with one hand and taken with the other when he introduced legislation May 19 to reauthorize three expired trade programs: the Generalized System of Preferences (GSP), the Miscellaneous Tariff Bill (MTB) and the American Manufacturing Competitiveness Act (AMCA). In the bill, Wyden added new mandatory

eligibility criteria on human rights and the environment and new discretionary criteria on the environment, women's economic empowerment, rule of law, and digital trade. Despite all the best efforts, Congress let GSP and MTB expire Dec. 31 without holding a vote on reauthorization (see **WTTL**, Jan. 4, page 1). Wyden's bill, which became an amendment to a larger bill, would renew GSP until Jan. 1, 2027 and the MTB tariff relief through Dec. 31, 2023. The AMCA would be reauthorized for two more MTB cycles, the first beginning in 2022 and the second beginning in 2025.

Two weeks earlier, Rep. Darin LaHood (R-Ill.) introduced a bill that would add digital trade as a statutory consideration under GSP eligibility criteria (H.R.3052). "The legislation would permit the U.S. Trade Representative (USTR) to prevent countries from receiving [beneficiary] status if, for example, they restrict digital trade to the detriment of U.S. strategic interests through predatory industrial policies that target technology sectors," LaHood's office said in a statement.

The Coalition for GSP welcomed Wyden's bill but said it "continues to assess the potential impacts of the other proposed changes in the bill, including numerous new eligibility criteria." The group said it also "has concerns that this bill contains many new 'sticks' but no new 'carrots' to incentivize GSP countries to meet proposed higher standards," the coalition said in a statement.

DDTC Will Make Remote Work Option Permanent

Despite the pandemic and closed offices, State's Directorate of Defense Trade Controls (DDTC) continued to operate at capacity, due to staff's extreme dedication and resilience," DDTC chief Mike Miller told the Defense Trade Advisory Group (DTAG) May 20. The agency is working on multiple new rules, updating its control lists, approving export licenses, and oh, implementing a new foreign policy direction of a new administration.

Perhaps most immediate, the agency is preparing for publication a rule to make permanent the definition of "regular employee" to allow continued telework operations. In December, DDTC extended temporary and retroactive changes to its compliance procedures to allow continued telework operations until June 30 (see **WTTL**, Dec. 14, page 8). The new rule will not be ready before the end of June, so Miller said he envisions another extension of the temporary rule. The agency first extended the procedures in July through the end of 2020.

Miller also told DTAG that the agency is "very close" to publishing a long-promised rule reorganizing the definitions in part 120 of the International Traffic in Arms Regulations (ITAR). DDTC has been talking about these rules since export control reform wound down. Most recently, the agency released an interim final rule in December 2019 with long-awaited definitions of "activities that are not exports, reexports, retransfers, or temporary imports" (see **WTTL**, Jan. 6, 2020, page 3).

But wait, there's more. Miller also said the agency is in the process of updating U.S. Munitions List (USML) categories 4 (launch vehicles), 15 (spacecraft) and 11 (military

electronics) as part of the ongoing USML list review. In fiscal year (FY) 2020, the DDTC licensing office processed 28,000 license applications, at an average processing time of 48 days. As expected, that number is down from 36,000 the year before, due to a combination of the pandemic and USML firearms moving over to Commerce jurisdiction, Miller said.

And on that part about implementing a new foreign policy, Miller used the word “multilateralism” that aimed to “reinvigorate alliances.” In addition, the department has “committed to a return to normal order,” he said, including much more regular consultation with Congress, which was absent during the previous administration.

U.S., EU Will Tackle Steel, Aluminum Excess Capacity

The announcement that the U.S. and the European Union (EU) will begin to address global steel and aluminum excess capacity, including “appropriate trade measures,” drew quick response from domestic steel producers arguing to keep the existing Section 232 tariffs in the meantime.

During a virtual meeting May 17, USTR Katherine Tai, Commerce Secretary Gina Raimondo, and European Commission Executive VP Valdis Dombrovskis “acknowledged the need for effective solutions that preserve our critical industries and agreed to chart a path that ends the WTO disputes following the U.S. application of tariffs on imports from the EU under section 232,” they said in a joint statement.

“To ensure the most constructive environment for these joint efforts, they agreed to avoid changes on these issues that negatively affect bilateral trade. They committed to engaging in these discussions expeditiously to find solutions before the end of the year,” the joint statement added.

In a letter to President Biden two days later, seven domestic steel industry groups urged the administration to keep the tariffs. “Eliminating the steel tariffs now would undermine the viability of our industry. Global steel overcapacity has only increased during the pandemic, and past economic crises have led to devastating import surges as other nations dumped their excess steel into the U.S. market,” the groups, including United Steelworkers (USW) and Alliance for American Manufacturing (AAM), wrote.

“We have more than 40 unfair trade relief measures in place against EU steel and aluminum products that resulted from their dumping and subsidies targeted at our market. The USW supported addressing global overcapacity through the OECD and in the Global Steel Forum, but the EU did little to advance those talks,” USW International President Tom Conway said in a separate statement May 17.

In March, more than 35 business and agriculture groups relaunched the Tariff Reform Coalition (TRC), an effort to convince the new president’s team to remove existing Section 232 on steel and aluminum imports and reassess Section 301 tariffs on Chinese imports (see **WTTL**, March 29, page 3).

USMCA Partners Commit to Enforce “High Standards”

In the first meeting in nine years, the three North American trading partners smiled and said all the right things May 18 during and after the U.S.-Mexico-Canada Agreement (USMCA) Free Trade Commission (FTC). However, ongoing labor disputes and other cross-border disagreements could have made it a bit less friendly than the last FTC meeting held in 2012.

“The Parties recognize that trade policies should foster broad-based and equitable growth, spur innovation, protect our shared environment, and have a positive impact on people from all walks of life. To accomplish this, the United States, Mexico, and Canada recommit to fully implementing, enforcing, and fulfilling the Agreement’s terms and high standards throughout the life of the USMCA,” USTR Katherine Tai, Canadian Trade Minister Mary Ng, and Mexican Economy Secretary Tatiana Clouthier said in a joint statement.

On labor, the USMCA “seeks to raise standards for workers in North America, including those related to freedom of association and the right to collective bargaining,” the joint statement noted. The U.S. May 12 filed its first request under the USMCA’s novel Rapid Response Labor Mechanism, asking Mexico to review whether workers at a General Motors (GM) facility are being denied the right of free association and collective bargaining (see **WTTL**, May 17, page 1).

On the environment, the parties “commit to increase law enforcement cooperation, in particular in the areas of wildlife trafficking and illegal logging and associated trade,” they said. The three partners also “exchanged views on the possible exploration of areas to cooperate, including on trade-related climate change measures,” the joint statement added.

The parties also agreed to “continue to hold engagement meetings with underserved communities and to hold a Trade Deputies meeting before the end of this year to assess progress on the areas highlighted today and identify ongoing opportunities for future engagement.”

Observers wondered if the meeting was as cordial as presented. “Putting aside the diplomatic niceties, what the first meeting of the USMCA Free Trade Commission revealed is that liberalizing trade is not high on the agenda” for the U.S., Cato Research Fellow Inu Manak wrote in a blot post. “Instead, the U.S. is continuing a zero-sum approach to trade, dressed in feel good rhetoric to make trade more ‘inclusive’ and ‘worker-centric’ without going into any specifics about what any of that means or how that will be achieved,” she added.

* * * **Briefs** * * *

NORD STREAM 2: Biden administration May 19 backed off imposing sanctions on Russian company, its CEO Matthias Warnig and its corporate officers for construction of Nord Stream 2 pipeline, which is 95% completed. Secretary of State Tony Blinken called opposition to pipeline

“unwavering.” U.S. “will continue to oppose the completion of this project, which would weaken European energy security and that of Ukraine and Eastern flank NATO and EU countries,” he added. Lawmakers from both parties praised administration’s recent sanctions on Russia but were disappointed there was no action on pipeline (see **WTTL**, April 19, page 1).

PIGMENT: In 5-0 “sunset” vote May 19, ITC said revoking antidumping and countervailing duty orders on imports of carbazole violet pigment 23 from China and India would renew injury to U.S. industry.

BARIUM CHLORIDE: ITC decided May 19 in 5-0 “sunset” vote that revoking antidumping duty order on imports of barium chloride from China also would renew injury to U.S. industry.

STEEL NAILS: In 5-0 “sunset” vote May 18, ITC said revoking antidumping and countervailing duty orders on imports of steel nails from Korea, Malaysia, Oman, Taiwan and Vietnam would renew injury to U.S. industry.

EXPORT ENFORCEMENT: TeleDynamics LLP, of Austin, Texas, agreed May 17 to pay \$55,000 civil penalty to settle 10 BIS charges of violating export regulations between August and October 2014. Firm forwarded rifle scopes, classified under Export Control Classification Number (ECCN) 0A987 and valued at approximately \$1,047, to Russia and Ukraine without required license.

MORE EXPORT ENFORCEMENT: Dutch firm Kleiss & Co. BV agreed May 3 to pay BIS \$60,000 civil penalty to settle two charges of exporting extruded butyl sealants to Iran without required licenses. Sealants were valued at approximately \$20,951 and designated EAR99. Despite previous warning from freight forwarder in September 2016, Kleiss “provided its U.S. supplier with new invoices for the order of extruded butyl sealants, originally purchased for its customer in Iran, and stopped by the freight forwarder, listing a new company and address in Dubai, United Arab Emirates (UAE),” BIS order noted.

BURMA: Treasury’s Office of Foreign Assets Control (OFAC) May 17 designated State Administrative Council (SAC) and 16 SAC members, military officials and family members, all connected to Burma’s military regime. Agency designated two Burmese state-owned enterprises, Myanma Timber Enterprise (MTE) and Myanmar Pearl Enterprise (MPE), in April (see **WTTL**, April 26, page 5).

FCPA: Deck Won Kang of Englewood Cliffs, N.J., was sentenced May 19 in Newark U.S. District Court to three years’ probation for violating Foreign Corrupt Practices Act (FCPA). He pleaded guilty in December to paying \$100,000 in bribes to South Korean government official to obtain and retain contracts with state-owned Defense Acquisition Program Administration (DAPA) from January 2009 through February 2013 (see **WTTL**, Dec. 21, 2020, page 7). Kang controlled two U.S. companies that provided goods and services, including naval equipment and technology, to DAPA.

STEEL: CAFC affirmed CIT ruling on Commerce’s determination granting Uttam Galva Steels Ltd. duty drawback adjustment on certain corrosion-resistant steel products from India, following two remands. “It does not make a difference whether the imported inputs that qualified for a drawback were actually incorporated into goods sold in the exporter’s domestic market because the Indian government credited the drawback to the quantity of goods that were in fact exported, whatever the source of the inputs used to produce foreign goods,” Circuit Judge Timothy Dyk wrote for three-judge panel in *Uttam Galva Steels Limited v. U.S.* The entire drawback was allowed ‘by reason of the exportation,’” he added.