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## BIS Clarifies, Corrects Firearms Transfer Rule

Cleanup on aisle 123. In the Aug. 19 Federal Register, Bureau of Industry and Security (BIS) made some “corrections and clarifications” to the January 2020 rule transferring items from U.S. Munitions List (USML) categories I (firearms), II (guns and armament) and III (ammunition) to the Commerce Control List (CCL).

The rule takes effect Sept. 20. “These changes are informed by BIS’s experience of licensing, classifying, and enforcing the export control requirements specific to these items. These changes are also informed by BIS’s experience of conducting outreach and answering questions from the public on the changes,” BIS said. The previous final rules were published in the Federal Register in January 2020 (see **WTTL**, Jan. 20, 2020, page 1).

Changes include: removing sentences, technical notes, and cross-references to empty Export Control Classification Numbers (ECCNs), removing ECCNs themselves, adding new notes and technical notes, “as well as other clarifications to the text to make the control parameters easier to understand.

For example, the notice removes ECCN 0A018. “No items are currently in this ECCN 0A018, so this change is limited to removing the heading and the cross reference to 0A505 for ‘parts’ and ‘components’ for ammunition that, immediately prior to March 9, 2020, were classified under 0A018.b,” BIS said.

## Administration Adds Sanctions over Russian Pipeline, Poisoning

It was a quiet Friday afternoon in August when the administration announced new sanctions against Russia for two crimes: the Nord Stream 2 energy pipeline and the poisoning of opposition leader Aleksey Navalny. The new sanctions include import and

export restrictions, and several new additions to Treasury's Specially Designated Nationals (SDN) list. Republican lawmakers will be thrilled. Jessica Lewis, the nominee to be assistant secretary of State for political-military affairs, was on a list of 30 nominees blocked by Senate Republicans a week before the latest sanctions (see **WTTL**, Aug. 16, page 5). Sen. Ted Cruz (R-Texas) cited the lack of Nord Stream sanctions as the reason for the block, just as other GOP lawmakers have blocked other nominees.

Specifically, the new sanctions include: restrictions on the permanent imports of certain Russian firearms, as well as additional Commerce export restrictions on nuclear and missile-related goods and technology. "New and pending permit applications for the permanent importation of firearms and ammunition manufactured or located in Russia will be subject to a policy of denial," a State fact sheet noted.

For their parts, the White House issued an Executive Order (EO), which "responds to certain Russian energy pipeline projects intended to expand Russia's influence over Europe's energy resources that would weaken European energy security -- including that of Ukraine and Eastern flank NATO and EU countries -- and thereby threatens the national security, foreign policy, and economy of the United States," President Biden said in a letter to congressional leadership.

Treasury's Office of Foreign Assets Control (OFAC) updated a previous General License authorizing certain activities involving Federal State Budgetary Institution Marine Rescue Service (MRS) "that are not related to the construction of the Nord Stream 2 pipeline project, the TurkStream pipeline project, or any project that is a successor to either such project." OFAC also designated five entities and 13 vessels involved in the project.

In parallel, the agencies imposed further sanctions on Russia over Navalny's poisoning. OFAC designated nine Russian individuals and two Russian entities involved in Navalny's poisoning or Russia's chemical weapons program.

At the same time, the United Kingdom (UK) imposed its own sanctions. "We call on Russia to comply fully with the Chemical Weapons Convention (CWC), including its obligations to declare and dismantle its chemical weapons programme," the U.S. and UK said in a joint statement. "We regret that the Russian authorities have failed to investigate and credibly explain the use of a chemical weapon against Mr. Navalny on Russia's territory, in light of Russia's obligations as a State Party to the CWC," they added.

## **Mexican Workers' Vote Tests New USMCA Provision**

The novel Rapid Response Labor Mechanism (RRM) in the U.S.-Mexico-Canada Agreement (USMCA) proved successful Aug. 19 when workers at a General Motors (GM) facility in Silao, Mexico, voted to reject their existing collective bargaining agreement. The U.S. and Mexico in July announced a course of remediation in the U.S.' first request under the RRM concerning the facility (see **WTTL**, July 12, page 1).

“Free and fair union votes are a critical component of freedom of association and collective bargaining and the related labor provisions of the USMCA. The United States will continue to work with our Mexican counterparts – including through the use of the rapid response mechanism – to protect the rights of North American workers,” U.S. Trade Representative (USTR) Katherine Tai said in a statement.

House Democrats welcomed the vote “as critical proof that vigorous enforcement of labor standards in our trade agreements can begin to dismantle some of the pervasive obstacles to freedom of association and other workers’ rights,” Reps. Richard Neal (D-Mass.), Earl Blumenauer (D-Ore.), Bill Pascrell, Jr. (D-N.J.) and Dan Kildee (D-Mich.) said in a joint statement.

The International Labour Organization (ILO) formally observed the process for 23 days before the vote. “In communication with all the parties and in a strictly impartial manner, the Organization observed the voting process in its entirety, as well as the conditions under which this process took place. The results of the vote have been published by the Ministry of Labor and Social Welfare (STPS),” the ILO said in a statement.

Tai met virtually with ILO Director General Guy Ryder six days earlier, during which she “acknowledged the critical role of ILO in observing the upcoming vote at the Silao facility in Mexico,” the USTR’s office said in a readout of the meeting.

## **Lawmakers Renew Calls to Block TikTok After Ownership Report**

Citing news reports that China took an ownership stake and a board seat in a key subsidiary of ByteDance, TikTok’s parent company, Sen. Marco Rubio (R-Fla.) repeated his calls for the administration to ban the two companies from U.S. networks.

“The Biden administration can no longer pretend that TikTok is not beholden to the Chinese Communist Party,” Rubio said. “We must also establish a framework of standards that must be met before a high-risk, foreign-based app is allowed to operate on American telecommunications networks and devices,” he added.

The White House in June revoked its predecessor’s potential bans on TikTok and WeChat mobile applications, which are the subject of multiple legal challenges, replacing the orders with “a criteria-based decision framework and rigorous, evidence-based analysis” to identify national security risks (see **WTTL**, June 14, page 1).

Chinese Foreign Ministry Spokesperson Zhao Lijian had no patience for these calls. “We suggest certain ‘elected representatives’ in the U.S. take concrete measures for the benefit of their people instead of being obsessed with political manipulation and suppression of foreign companies,” he told his daily press briefing.

## Chip Shortage Draws Global Industry Outcry

A large swath of businesses, both large and small, are again raising the alarm that the world chip shortage is having a serious impact on products from cars to smartphones. These companies include Toyota, Tesla, Sony, Samsung, Apple and Ford. Most recently, Toyota said Aug. 20 that due to global chip shortages, it would cut global production by 40%. That reduction is expected to affect vehicle production in America and Asia. A day earlier, German car giant Volkswagen, the world's second-largest producer of vehicles, also cautioned cuts, and American auto giants Ford and GM echoed the warning.

The administration will need to walk and chew gum at the same time to address supply chain vulnerabilities, according to a White House report published in June (see **WTTL**, June 14, page 2). Future policy must rebuild the small and medium-sized business manufacturing base, and at the same time, diversify international suppliers and reduce geographic concentration risk, the report said. President Biden requested the review in February to assess four key products, including semiconductor manufacturing and advanced packaging.

But a group of 19 industry leaders, led by the Semiconductor Industry Association, called on Congress to speed up their action. "The CHIPS for America Act was authorized in the 2021 defense bill, and the Senate just last month overwhelmingly passed bipartisan legislation including \$52 billion in emergency supplemental funding to promote U.S. semiconductor manufacturing (including advanced packaging) and research as part of its competitiveness bill (S. 1260)," the group said in July.

"The Biden administration has expressed strong support for this funding and included it in its budget request. We call on Congress to expeditiously approve funding for these programs as set forth in the Senate-passed legislation and enact an investment tax credit as provided in the Facilitating American-Built Semiconductors (FABS) Act," they added.

The U.S. and European Union (EU) in June pledged to overcome the imbalance during meetings of the G7 and NATO. The two partners launched the U.S.-EU Trade and Technology Council (TTC) tasked with writing "the rules of the road for the economy of the 21st century," according to a White house fact sheet (see **WTTL**, June 21, page 5).

The EU at that time promised to increase chip manufacturing from 10% to 20%, pledging \$150 billion to the effort, while the U.S. pledged \$52 billion to its domestic production. But much of that U.S. pledge is in the infrastructure bills stuck in Congress.

The chip shortage is not only affecting vehicle manufacturing. In July Samsung, the world's biggest memory chip and smartphone maker, boasted about its 53% quarterly growth, but in the same breadth its executives were warning of the "serious imbalances" in chip supply and demand worldwide.

In late July, Intel CEO Pat Gelsinger warned that the chip shortage would get worse for the rest of the year and take about a year or two to recover. Intel has already ceded ground to rivals Taiwan Semiconductor Manufacturing Company (TSMC) and Samsung. The only saving grace is that TSMC previously announced plans to build new chip manufacturing plants in Japan and the U.S. (see WTTL, May 18, 2020, page 6).

\* \* \* **Briefs** \* \* \*

**EXPORT ENFORCEMENT:** Dynatex International of Santa Rosa, Calif., agreed Aug. 16 to pay BIS \$469,060 civil penalty to settle charge of exporting semiconductor manufacturing equipment, specifically DTX-150 MDB scribe and break tool and associated consumables and accessories, to blocked Chinese entities Chengdu GaStone Technology Company (CGTC) and China Electronics Technology Group Corporation 55th Research Institute (CETC 55), from December 2015 through January 2020. All but \$50,000 will be suspended for one year then waived if Dynatex is sold or commits no further violations. CGTC President Yi-Chi Shih was sentenced in July in Los Angeles U.S. District Court to 63 months in prison on separate charges (see WTTL, July 26, page 5). CGTC was placed on BIS Entity List in 2014.

**AFGHANISTAN:** DDTC is reviewing all export licenses to Afghanistan, agency announced Aug. 18. “In light of rapidly evolving circumstances in Afghanistan, the Directorate of Defense Trade Controls [DDTC] is reviewing all relevant pending and issued export licenses and other approvals to determine their suitability in furthering world peace, national security, and the foreign policy of the United States. The regulated community can expect to receive additional updates in the near future,” DDTC posted on website.

**STEEL PIPE:** In 5-0 “sunset” vote Aug. 19, ITC said revoking antidumping and countervailing duty orders on seamless carbon and alloy steel standard, line and pressure pipe from China would renew injury to U.S. industry.

**NOMINATION:** President Biden Aug. 18 announced intent to nominate former Justice official Matthew Axelrod to be BIS assistant secretary for export enforcement. During Obama administration, Axelrod served as principal associate deputy attorney general, advising department on criminal and national security enforcement matters, White House said. In July, he was detailed to White House Counsel’s Office, “where he serves as Special Counsel and works on both domestic and national security matters.” Post has been filled by acting leadership since David Mills retired from government in November 2016. Previous White House withdrew nomination of Jeffrey Nadaner in June 2019 after 18 months of waiting (see WTTL, June 17, 2019, page 6).

**PEANUTS:** Reps. David Scott (D-Ga.) and Sanford Bishop (D-Ga.) Aug. 16 urged USTR Katherine Tai to lower EU barriers to peanut trade, citing recent success in airplane dispute. “From what was once a top peanut export market, the U.S. industry estimates approximately \$170 million in lost sales in recent years, because of Europe’s arduous testing imposed upon American peanut imports. Losses at a similar rate will continue unless a resolution is negotiated to alleviate the superfluous testing creating this barrier,” they wrote in letter to Tai.

**EDITOR’S NOTE:** In keeping with our 50-week publishing schedule, there will be no issue of Washington Tariff & Trade Letter on Aug. 30. Our next issue will be Sept. 6.