

Vol. 41, No. 25

June 21, 2021

Canada Requests USMCA Dispute Panel on U.S. Solar Tariffs

Not satisfied with consultations over U.S. Section 201 safeguard tariffs on crystalline silicon photovoltaic cells (CSPV), Canada June 18 formally requested a dispute settlement panel under the U.S.-Mexico-Canada (USMCA) agreement, saying the “tariffs are unwarranted and damaging to the global competitiveness of our long-established, secure, and deeply integrated supply chains.” Ottawa requested consultations in December 2020 (see **WTTL**, Jan. 11, page 4).

The safeguard tariffs continue to apply to imports from Canada, “despite the fact that Chapter 10 of [USMCA] requires that imports from Canada be excluded from an emergency action unless those imports account for both a substantial share of total imports and contribute importantly to serious injury caused by imports,” the request noted. An October 2020 International Trade Commission (ITC) review found that “neither of the two conditions for inclusion was met,” Canada added.

“Canada and the United States share a long-standing mutually beneficial relationship, and our ongoing partnership will contribute to a strong, sustainable recovery, and benefit workers and businesses on both sides of the border,” Trade Minister Mary Ng said in a statement. Under the USMCA, the dispute settlement panel would be expected to issue a report early 2022.

U.S. Lands WTO Aircraft Dispute with EU, UK

It was the longest running dispute at the World Trade Organization (WTO). Children born that year are looking at colleges. A second brood of cicadas have already been here and gone. The U.S. and the European Union (EU) June 15 announced they had settled their dispute over large civil aircraft subsidies and agreed to suspend any punitive tariffs for five years. Two days later, the U.S. made the same deal with the United Kingdom (UK).

The day after the U.S. and the UK announced a similar truce in March, the EU and the U.S. agreed to suspend all retaliatory tariffs imposed in the long-running fight over Airbus and Boeing subsidies for four months, to allow negotiators time to resolve the dispute (see **WTTL**, March 8, page 1).

“After years of bitter litigation and weeks of intense diplomacy, we have reached a deal on a set of high-level principles that resets U.S.-EU engagement in the large civil aircraft industry,” said U.S. Trade Representative (USTR) Katherine Tai, who just happened to be in Brussels to announce the deal. “The agreement includes a commitment for concrete, joint collaboration to confront the threat from China’s non-market practices, and it creates a model we can build on for other challenges,” she added.

Under the deal, the U.S. and EU will: establish a Working Group on Large Civil Aircraft led by each side’s trade minister; provide financing to large civil aircraft producers on market terms; provide R&D funding through an open and transparent process and make the results of fully government funded R&D widely available; not provide R&D funding as well as specific support (such as specific tax breaks) to their own producers that would harm the other side; and collaborate on addressing non-market practices of third parties that may harm their respective large civil aircraft industries.

The dispute started in 2004, when the U.S. filed a case at the WTO against the EU, arguing that the trading bloc was illegally subsidizing the European manufacturer Airbus. The EU filed a complaint against the U.S. in May 2005, for its unlawful support to Boeing. Following WTO decisions, both the U.S. (in October 2019) and the EU (in November 2020) imposed punitive tariffs on each other’s exports, affecting \$11.5 billion of trade. As a result, EU and U.S. businesses have had to pay over \$3.3 billion in duties.

Trade officials were elated. “The two sides have shown that even the most seemingly intractable differences can be resolved. This agreement proves that with hard work and political will WTO members can achieve historic results,” WTO Director-General Ngozi Okonjo-Iweala said in a statement.

U.S. industry groups were not quite satisfied. The National Foreign Trade Council (NFTC) said it supported the aircraft agreement, but said it was “disappointed that the two sides were not more proactive in putting in place a more rapid suspension of all tariffs related to the steel and aluminum dispute. The case for doing so is just as strong as for the aircraft sector,” NFTC President Rufus Yerxa said in a statement.

Former WTO official Peter Ungphakorn urged caution in over-selling any potential deal. “This is good news,” but it’s far from done, he tweeted. “It’s a temporary ceasefire on subsidies and retaliation. Is it a ‘new era’? More like rolling the clock back to the uneasy peace of the 1990s,” Ungphakorn added.

Biden, Putin Tee Up Full Slate of Diplomatic Work

The U.S. and Russian presidents agreed to launch a comprehensive list of discussions framed by shared self-interest, the leaders said after meeting in Geneva June 16. During a summit the two leaders called “straightforward” and “productive,” they teed up a wide range of topics to tackle, including possible controls on new sophisticated weapons systems, cybersecurity, the Arctic, Iran, Afghanistan, Syria, Lebanon and Ukraine.

Citing the need to rebuild European relationships, the U.S. in May backed off imposing sanctions on a Russian company, its CEO Matthias Warnig and its corporate officers for construction of the Nord Stream 2 pipeline, which was 95% completed at the beginning of the Biden administration (see **WTTL**, May 24, page 4).

The nearly two-hour bilateral meeting provided an opportunity to communicate U.S. priorities and values, and to explore mutual self-interest, Biden told reporters. Foreign policy is a logical extension of personal relationships, he said. The relationship must be stable and predictable, and cooperation and disagreement should be clearly understood, Biden noted.

Basic rules-of-the-road are needed, and defining areas of mutual interest for cooperation can boost global security, Biden said. The U.S. president announced “a bilateral strategic stability dialogue” between diplomats and military officials to work on a mechanism to control of emerging “new and dangerous and sophisticated weapons.” Some specific weapon systems were discussed, he revealed.

On cybersecurity, critical infrastructure, “from the energy sector to our water systems,” should be off-limits to attack, Biden said. “Responsible countries need to take action against criminals who conduct ransomware activities on their territory,” he added. The two countries will task experts to develop “understandings” about what is off-limits, and to follow up on specific cases, Biden said. The U.S. president told reporters he gave Putin a list of 16 sectors that would be on the list.

On former Soviet states, Putin didn’t disagree with U.S. concerns about Belarus. The question is what to do about it, Biden said. U.S. support for Ukraine’s sovereignty and territorial integrity remains firm, he explained, adding that diplomacy over the Minsk Agreement will be pursued.

The summit conveyed a change in the relationship of the U.S. and Russian leaders, an experienced former trade official told **WTTL**. Past presidents displayed feigned friendship, while the Biden-Putin summit was professional and the interactions were more objective, he said.

House Democrats Introduce Bill to Extend Trade Programs

Not to be bested by their Senate counterparts, House Ways and Means Democrats June 17 introduced two bills (H.R. 3974 and 3975) to reauthorize and extend several trade

programs, including Trade Adjustment Assistance (TAA), the Generalized System of Preferences (GSP), the Miscellaneous Tariff Bill (MTB), and the American Manufacturing Competitiveness Act of 2016 (AMCA).

In a 68-32 vote, the Senate a week earlier passed a mammoth 852-page piece of legislation called the U.S. Innovation and Competition Act (S. 1260), that rolled several outstanding bills into one, all with the goal of leveling the playing field with China (see **WTTL**, June 14, page 3). The bill included an amendment that included several trade-related provisions: a provision to reauthorize GSP and MTB; language to restore exclusions to the Section 301 tariffs; and a provision to create an inspector general (IG) at the USTR's office.

The first bill reauthorizes the TAA for Workers, TAA for Firms and TAA for Farmers programs for seven years and establishes the TAA for Communities program. The second extends GSP through Dec. 31, 2024, providing retroactive benefits, and the MTB through Dec. 31, 2023, retroactive for four months.

The bills “revamp support provided to U.S. workers impacted by trade and create more equitable economic outcomes while also assuming a more strategic posture towards China,” Ways and Means Committee Chair Richard Neal (D-Mass.) said in a statement. “It’s long past time for Congress to modernize these programs and ensure they are inclusive, reflect our nation’s values, and align with our current trade policies,” he added.

Labor unions also welcomed the bill. “This [TAA] legislation will expand eligibility, increase funding and ensure that workers who are terminated through no fault of their own have additional tools and support as they navigate re-employment. GSP reforms also will help to improve labor standards abroad and support workers organizing in developing nations, including those who face intimidation, harassment or even violence for exercising their rights on the job,” AFL-CIO President Richard Trumka said in a statement.

Republican Senators Demand List of Emerging Technology

In a sign that lawmakers read commission reports, a group of ten Republican lawmakers, including Sens. Tom Cotton (R-Ark.), John Cornyn (R-Texas) and Ben Sasse (R-Neb.), June 15 called on Commerce to immediately identify “emerging and foundational technologies” that could define future export controls, as mandated by the 2018 Export Control Reform Act (ECRA).

Since the passage of that law, the agency has taken a few bites at the apple, but has generally fallen short of the mark, according to a new report by the U.S.-China Economic and Security Review Commission (USCC) published two weeks earlier (see **WTTL**, June 7, page 3).

“So long as these lists remain incomplete and underutilized, the federal government will lack a properly functioning export control system and foreign investment screening process. American companies will continue to export advanced technologies to companies

subject to [Chinese] control, despite the U.S. government wanting to restrict the export of these items,” the senators wrote to Commerce Secretary Gina Raimondo.

In addition, the Committee on Foreign Investment in the U.S. (CFIUS) “may also be constrained in its ability to screen predatory Chinese investment in emerging and foundational technologies. This leaves the United States unacceptably vulnerable to China’s economic predation,” they noted.

“Commerce’s unwillingness to implement these clear, essential mandates after nearly three years calls into question the department’s central role in the U.S. export control system. If Commerce continues to delay its implementation of key national security priorities like the emerging and foundational technologies lists, Congress may be forced to consider entrusting these tasks and other export control authorities to a department that can approach trade and investment controls with the urgency required to safeguard our national security,” the senators continued.

U.S., EU Officials Address Privacy Shield, Digital Trade

While the deal on aircraft subsidies got most of the press, the U.S. and the European Union (EU) also moved other points of contention forward during the meeting of government officials June 15. These included negotiations to replace the U.S.-EU Privacy Shield and the launch of a 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.

On Privacy Shield, Commerce Secretary Gina Raimondo sat down with EU Justice Commissioner for Didier Reynders and planned next steps. “We have a shared commitment to find a comprehensive successor to Privacy Shield that is fully in line [with] the Schrems II requirements [and with] U.S. law. U.S.-EU data transfers are too critical to both citizens & businesses of all sizes,” Raimondo tweeted after the meeting. The two partners announced in March they would “intensify negotiations” to replace the agreement set up to protect consumer’s data but was ruled invalid by European courts (see **WTTL**, March 29, page 4).

“The major goals of the TTC will be to grow the bilateral trade and investment relationship; to avoid new unnecessary technical barriers to trade; to coordinate, seek common ground, and strengthen global cooperation on technology, digital issues, and supply chains; to support collaborative research and exchanges; to cooperate on compatible and international standards development; to facilitate regulatory policy and enforcement cooperation and, where possible, convergence; to promote innovation and leadership by U.S. and European firms; and to strengthen other areas of cooperation,” the joint U.S.-EU Summit Statement noted.

The TTC will include working groups focused on: “technology standards cooperation (including on AI, Internet of Things, among other emerging technologies), climate and

green tech, ICT security and competitiveness, data governance and technology platforms, the misuse of technology threatening security and human rights, export controls, investment screening, promoting SMEs access to, and use of, digital technologies, and global trade challenges,” it added.

“It will also include a working group on reviewing and strengthening our most critical supply chains. Notably, we commit to building a U.S.-EU partnership on the rebalancing of global supply chains in semiconductors with a view to enhancing U.S. and EU respective security of supply as well as capacity to design and produce the most powerful and resource efficient semiconductors,” the joint statement said.

U.S. industry groups welcomed the transatlantic cooperation but warned against giving in to EU demands. “One area of real promise and the first order of business should be negotiating a replacement for the Privacy Shield so that personal data can flow freely and be protected across the Atlantic. If the two sides aren’t able to address this foundational part of the transatlantic digital relationship, then there really isn’t much hope for the broader agenda, as it shows that Europe doesn’t trust the United States,” Information Technology and Innovation Foundation (ITIF) President Robert Atkinson said in a statement.

NATO Allies Set Sights on Russia, China, Cyber

There were no pushing allies out of the way or embarrassing members to pay up their 2% of GDP. Instead, for his first meeting with NATO allies June 14, President Biden worked out a united front to confront the autocracy of both China and Russia, agreed on the topics for his meeting with Russian President Putin, and closed ranks around the issue of cyber-attacks from malevolent state actors.

On Putin, NATO not only recognized how he has recklessly breached international law and therefore is facing Western sanctions, but in its joint communique spelled out further actions. “We reaffirm our commitment to respond in a measured, balanced, coordinated, and timely way to Russia’s growing and evolving array of conventional and nuclear-capable missiles, which is increasing in scale and complexity, and which poses significant risks from all strategic directions to security and stability across the Euro-Atlantic area.”

On cybersecurity, NATO agreed to set benchmarks with Russia for rules of the road but with the threat of a joint response if they continue to face Russian attacks. “We will impose costs on those who harm us. Our response need not be restricted to the cyber domain. We will enhance our situational awareness to support NATO’s decision-making. Resilience and the ability to detect, prevent, mitigate, and respond to vulnerabilities and intrusions is critical, as demonstrated by malicious cyber actors’ exploitation of the COVID-19 pandemic,” the group said.

One of the areas of disagreements was how to deal with China, since many NATO allies are not only pursuing bilateral trade agreements with Beijing, but some are actively

trading with it. China has shown it is not afraid to punish critics who are trading or hoping to become a trading partner. However, NATO closed ranks to put Beijing on notice.

“China’s stated ambitions and assertive behavior present systemic challenges to the rules-based international order and to areas relevant to Alliance security. We are concerned by those coercive policies which stand in contrast to the fundamental values enshrined in the Washington Treaty. China is rapidly expanding its nuclear arsenal with more warheads and a larger number of sophisticated delivery systems to establish a nuclear triad. It is opaque in implementing its military modernization and its publicly declared military-civil fusion strategy,” NATO said.

NATO also put Beijing on notice for its Russian alliance. “It is also cooperating militarily with Russia, including through participation in Russian exercises in the Euro-Atlantic area. We remain concerned with China’s frequent lack of transparency and use of disinformation. We call on China to uphold its international commitments and to act responsibly in the international system, including in the space, cyber, and maritime domains, in keeping with its role as a major power,” NATO reaffirmed.

*** * * Briefs * * ***

EXPORT ENFORCEMENT: Package forwarding company USGoBuy, LLC, of Portland, Ore., agreed June 17 to pay BIS \$20,000 civil penalty to settle two charges of exporting five riflescopes to UAE and China without required licenses in 2015. Items were classified under Export Control Classification Number (ECCN) 0A987 and controlled on crime control grounds; riflescopes were valued at \$1,229 in total. Second export “occurred after the BIS outreach visit to USGoBuy and after USGoBuy notified its customers of destination restrictions,” agency said. Of penalty, \$15,000 will be suspended for three years and then waived, provided firm commits no further violations.

ENTITY LIST: In Federal Register June 16, BIS removed Satori Corporation, entity in France and UAE, from Entity List “on the basis of a removal request,” notice said. BIS added firm in December 2020 (see **WTTL**, Dec. 21, 2020, page 1).

LAWN MOWERS: In 5-0 final vote June 16, ITC determined U.S. industry is materially injured by dumped and subsidized imports of walk-behind lawn mowers from China and threatened with material injury by imports from Vietnam.

POTASSIUM PHOSPHATE: In 5-0 “sunset” vote June 15, ITC said revoking antidumping and countervailing duty orders on imports of potassium phosphate salts from China would renew injury to U.S. industry.

TRADE PEOPLE: Former USTR Robert Lighthizer has joined board of directors of new conservative think tank American Compass, group announced June 17. “In its first year, American Compass established itself as the flagship for conservative economics and a vital contributor to many of the nation’s most important policy debates,” said Oren Cass, organization’s founder and executive director.

OLIVES: Play it again, Sam. CIT June 17 declined to affirm Commerce’s Remand Results in countervailing duties (CVDs) for imports of ripe olives from Spain and remanded for further action. In January 2020, court remanded Commerce’s final determination in case (see **WTTL**, Jan.

27, 2020, page 7). “The court remands both Commerce’s finding of de jure specificity under Section 1677(5A) and its prior stage product analysis under Section 1677-2 for further proceedings consistent with this opinion,” Judge Gary Katzmman wrote in *Asociación de Exportadores e Industriales de Aceitunas de Mesa v. U.S.* WTO Dispute Settlement Body established panel in June 2019 to rule on U.S. antidumping and CVDs on imported ripe olives from Spain. Panel expects to issue its final report by end of August.

SECTION 232: Sens. Pat Toomey (R-Pa.) and Mike Crapo (R-Idaho) June 15 called on Commerce Department Secretary Gina Raimondo to release reports on imposition of Section 232 national security tariffs on various products, including autos, uranium ore, titanium sponges, transformers and their components, and vanadium. BIS in December 2020 requested public comments for Titanium Sponge Working Group, that is “exploring measures to ensure access to titanium sponge in the United States for use for national defense and in critical industries during an emergency,” Federal Register notice said (see **WTTL**, Dec. 14, 2020, page 8). Previous White House ended Section 232 investigation on titanium sponge imports in February 2020 without imposing any tariffs. Commerce initiated most recent investigation into vanadium in June 2020.

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