ISSN 0276-8275

WTTLonline.com

# Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

Publisher: Martin Kalin • Editor: Meredith Gilston

**Vol. 42, No. 11** **March 14, 2022**

## Allies Target Russian Trade Status

As a preteen girl, this editor knew the words Jackson-Vanik the way other girls knew Beyoncé or Madonna. In response to Russia's invasion of Ukraine, the Biden administration March 11 invoked a wave of nostalgia when it announced with its allies that it was revoking Russia's permanent-normal-trade-relations (PNTR), or as other countries refer to it, most favored nation (MFN) status.

> While Ukraine's World Trade Organization (WTO) accession process neared its end in 2008, Russia's path to WTO membership was held up waiting for Moscow to adopt legislation and rules to satisfy U.S. concerns (see **WTTL**, Feb. 4, 2008, page 5). Once Russia joined the WTO in 2012, Congress had to pass legislation permanently graduating it from the restrictions of the Jackson-Vanik Amendment and granting it PNTR status.

While each country manages its MFN status unilaterally, the G7 leaders said they should follow the same path. "We will endeavor, consistent with our national processes, to take action that will deny Russia [MFN] status relating to key products. This will revoke important benefits of Russia's membership of the [WTO] and ensure that the products of Russian companies no longer receive [MFN] treatment in our economies," the G7 leaders said in a joint statement.

"Revoking PNTR for Russia is going to make it harder for Russia to do business with the United States. And doing it in unison with other nations that make up half of the global economy will be another crushing blow to the Russian economy that's already suffering very badly from our sanctions," President Biden said in remarks at the White House.

## Administration Blocks Luxury Exports, Oil Imports

At the same time as it rethinks Russia's PNTR status, the administration March 11 announced it would ban the export of luxury goods to Russia, such as "high end-watches,



WTTL is published weekly 50 times a year except last week in August and December. Subscriptions are $747 a year. Additional users pay only $100 each with full-priced subscription. Site and corporate licenses are also available.
(301) 460-3060 www.wttlonline.com

luxury vehicles, high-end apparel, high-end alcohol, jewelry, and other goods frequently purchased by Russian elites," and block imports from "several signature sectors of Russia's economy – including seafood, spirits/vodka, and non-industrial diamonds," the White House added. The ban on luxury goods exports also includes certain spirits, tobacco products, clothing items and antique goods.

In parallel, Treasury's Office of Foreign Assets Control (OFAC) designated more elites and business executives who are "associates and facilitators of the Russian regime," including three immediate family members of President Putin's spokesperson, Dmitriy Peskov; Russian tycoon and Kremlin insider Viktor Vekselberg; and the management board of the sanctioned VTB Bank. OFAC also designated 12 members of the Russian State Duma.

> Four days earlier, the administration banned the import of Russian oil, liquefied natural gas and coal, as well as new U.S. investment in Russia's energy sector. In addition, "Americans will also be prohibited from financing or enabling foreign companies that are making investment to produce energy in Russia," the White House said.

Treasury simultaneously issued General License (GL) 16, which authorizes certain imports under existing contracts through April 22, "to "aid in the wind-down of deliveries of existing purchases that have already been contracted for," the department said. The department also posted several Frequently Asked Questions (FAQs) on the subject.

## Lawmakers, Trade Groups Respond to Russia Sanctions

Much of the administration's ongoing response to the Russian invasion of Ukraine will be influenced by Congress, where lawmakers on both sides of the aisle seem willing to provide both advice and consent. The day after the Russian oil sanctions, the House of Representatives passed the *Suspending Energy Imports from Russia Act* (H.R. 6968) in a 414-17 vote.

"This legislation to ban the import of Russian energy products and evaluate Russia's access to the WTO will help us hold the Kremlin accountable, but Congress should do more to stand up to Putin and protect the Ukrainian people. Our response to this horrific, unprovoked war cannot end here. When Congress returns to Washington next week, we will act decisively, in a bipartisan manner, to suspend [PNTR] with Russia and Belarus," Rep. Richard Neal (D-Mass.) said after the vote.

On the other side of the Capital, Sens. Mike Crapo (R-Idaho) and Ron Wyden (D-Ore.) March 8 introduced legislation (S. 3786) to ban the import of Russian energy products, and to suspend normal trade relations with both Russia and Belarus. A week earlier, Wyden introduced the No Most Favored Nation Trading with Russia Act (S. 3722), which revokes Russia's PNTR status and provides the president the power to raise tariffs on a host of Russian products (see **WTTL**, March 7, page 1).

The day before the oil ban, United Steelworkers (USW) International President Tom Conway called on "both our government and employers to cut off all Russian imports of crude oil that would be processed in our domestic refineries. We must act now to begin replacing Russian oil in our systems and plan for long-term alternatives for our refineries, including increasing efforts to secure domestic crude oil and importing oil from other global sources," he said.

The Citizens Trade Campaign (CTC) also expressed support to revoke Russia's MFN status. "Unfettered access to U.S. markets is not a right, and must always be predicated on respect for human rights. The Putin regime's unwarranted aggression in Ukraine demonstrates the long-term importance of selecting trading partners that embrace democratic values and of creating supply chains that are not overly reliant on any one producer nation," CTC Executive Director Arthur Stamoulis said in a statement.

## Senate Confirms Deputy USTR as WTO Fight Heats Up

Just in time for the fight over Russia's membership in the WTO, the Senate March 10 confirmed U.S. Trade Representative (USTR) Deputy General Counsel Maria Pagan to be deputy USTR in Geneva in an 80-19 vote. Industry groups immediately made the connection between her presence in Switzerland and potential sanctions against Russia.

> "Maria's experience will be a major asset in Geneva as the world considers how to drive the World Trade Organization and the global trading system to better serve the needs of workers, families and open, competitive economies while also defending the values of the free world," USTR Katherine Tai said in a statement.

"Congress realizes we need an Ambassador to the WTO, day after passing legislation asking the president to shame Russia at the WTO," Inu Manak, fellow for trade policy at the Council on Foreign Relations, tweeted after the Senate vote. President Biden first announced Pagan's nomination in August and she faced the Senate Finance Committee in October, along with fellow USTR nominee Christopher Wilson (see **WTTL**, Nov. 1, page 2). Wilson still awaits confirmation.

"Member States have an important decision ahead as to Russia's role at the [WTO], and we are thrilled that Maria Pagán will be an integral part of those conversations," National Foreign Trade Council (NFTC) President Jake Colvin said in statement. "Pagán will play an important role in U.S. economic diplomacy during a pivotal time for the organization," he added.

## Agencies Request Comments on Indo-Pacific Trade

Following up on diplomatic announcements and international trips, the USTR's office and Commerce requested comments on two pillars of the much-discussed Indo-Pacific Economic Framework (IPEF). USTR will focus on the Fair and Resilient Trade pillar, while Commerce will tackle supply chain resilience; infra-structure, clean energy and decarbonization; and tax and anti-corruption. The Biden administration announced the U.S. participation in the framework in October 2021. The next month, Commerce Secretary Gina Raimondo followed up on the IPEF's creation in meetings with government counterparts from Japan, Singapore, Malaysia, New Zealand and Australia (see **WTTL**, Nov. 22, 2021, page 3). Both USTR Katherine Tai and Raimondo made trips to the region in November 2021.

> Under the Fair and Resilient Trade pillar, the administration "aims to develop high-standard, worker-centered commitments in the following areas: labor; environment and climate; digital economy; agriculture; transparency and good regulatory practices; competition policy; and trade facilitation," the USTR's March 10 Federal Register notice said. Specifically, USTR is seeking public comments on matters "including U.S. interests and priorities, in order to develop U.S. negotiating objectives and positions and identify potential partners," it added.

In addition to the pillars, Commerce also requested comments on digital and emerging technologies. "Launching negotiations on these topics under the IPEF is an important step towards strengthening U.S. economic engagement in the Indo-Pacific region and presents a novel approach to promoting durable, broad-based economic growth," the Commerce notice said the next day. Comments on both notices are due April 11.

## * * * Briefs * * *

<u>TRADE FIGURES</u>: Merchandise exports in January jumped 15.8% from year ago to $155.9 billion, Commerce reported March 8. Services exports grew 14.3% to $68.5 billion from January 2021. Goods imports increased 20.0% from January 2021 to record-high $264.75 billion, as services imports grew 26.2% to $49.3 billion.

<u>EXPORT ENFORCEMENT</u>: Indictment against Joe Sery, former owner and CEO of Tungsten Heavy Powder & Parts (THP), and brother Dror Sery was unsealed March 4 in San Diego U.S. District Court on charges of violating export laws. Sery allegedly exported USML technical drawings to Dror –foreign national and dual citizen of Israel and South Africa – while Dror was located in India and China without State licenses. Joe was arrested and released on $200,000 bond; Dror is believed to be in Israel. In April 2021, THP agreed to pay $5.6 million to resolve charges that it violated False Claims Act by falsely certifying that it sourced product materials in U.S. for items it manufactured under contract with Israeli government that was funded by U.S. Defense Security Cooperation Agency (DSCA).

<u>PET RESIN</u>: In 5-0 "sunset" vote March 10, ITC said revoking countervailing duty (CVD) orders on imports of polyethylene terephthalate (PET) resin from China and India and antidumping duty orders on product from Canada, China, India and Oman would renew injury to U.S. industry.

<u>COTTON</u>: Fashion industry March 10 dropped global boycott of Uzbekistan cotton. "We applaud the findings from the 2021 cotton harvest that Uzbekistan has achieved the elimination of systemic forced labor from cotton production. We encourage brands and retailers to take a fresh look at sourcing opportunities in Uzbekistan and to work with the Cotton Campaign to maintain responsible sourcing and robust due diligence in Uzbekistan," U.S. Fashion Industry Association

said in statement. Cotton Campaign launched Uzbek Cotton Pledge in 2009 to put pressure on government to stop using child and forced labor in their cotton harvest.

OCTG: Court of Appeals for Federal Circuit (CAFC) March 11 affirmed in part, vacated in part, and remanded Court of International Trade (CIT) decision on Commerce's administrative review of antidumping order on oil country tubular goods (OCTG) from South Korea. "We find that three of the five circumstances Commerce relied on to show a particular market situation are not supported by substantial evidence. Thus, with modified reasoning, we affirm the trial court's conclusion that substantial evidence does not support Commerce's finding. But because the [CIT] lacks authority to reverse Commerce, we vacate the trial court's opinion to the extent that it directs Commerce to reach a certain outcome," Circuit Judge Todd Hughes wrote for three-judge panel in *Nexteel Co., Ltd. v. U.S.* Hughes cited July 2021 steel ruling where court "vacated aspects of Commerce's differential pricing analysis over concerns about Commerce's use of statistical methodologies when certain preconditions for their use are not met," he wrote (see **WTTL**, July 10, 2021, page 6).

**EDITOR'S NOTE**: This issue of WTTL is Editor Meredith Gilston's last publishing masterpiece, as she's moving in different professional direction. She will remain editorial consultant and will accept compliments and LinkedIn requests. Meredith joined Washington Tariff & Trade Letter in 2010 after previous career in website development, and she became editor in 2016 with retirement of Sam and Tami Gilston (see **WTTL**, Feb. 1, 2016, page 8). Marty Kalin will continue as publisher of Gilston-Kalin Communications and Cathy Bamji remains circulation manager. Editorial will be led by Frank Ruffing, who brings experience in foreign trade, banking and regulatory compliance. Your contributions and suggestions are welcome. Contact Frank Ruffing at fruffing@gmail.com or (703) 283-5220.