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. 10 March 7, 2022

EU Takes SWIFT Action, OFAC Designates Central Bank

In the latest round of actions in response to the Russian invasion of Ukraine, the European Union (EU) March 2 agreed to exclude key Russian banks from the SWIFT system, the world's dominant financial messaging system. "This measure will stop these banks from conducting their financial transactions worldwide in a fast and efficient manner," the EU said in a press release. The decision has been closely coordinated with the EU's international partners, such as the U.S. and the United Kingdom (UK).

> "At the speed of light, the European Union has adopted three waves of heavy sanctions against Russia's financial system, its high-tech industries and its corrupt elite. This is the largest sanctions package in our Union's history. Today's decision to disconnect key Russian banks from the SWIFT network will send yet another very clear signal to Putin and the Kremlin," EU President Ursula von der Leyen said in a statement.

The move is expected to take effect March 12. "This will give SWIFT and other operators a brief transition period to implement the measure, thereby mitigating any possible negative impacts for EU businesses and financial markets," the EU said. Specific banks include: Bank Otkritie, Novikombank, Promsvyazbank, Bank Rossiya, Sovcombank, VNESHECONOMBANK (VEB) and VTB BANK.

Four days earlier, Treasury's Office of Foreign Assets Control (OFAC) designated the Russian Central Bank, the National Wealth Fund and the Finance Ministry. At the same time, the agency issued General License (GL) 8A to authorize certain energy-related transactions with the Central Bank through June 24.

Pressure Mounts to Revoke Russia Trade Status, WTO Membership

Export controls and sanctions are not the only story in the latest Russian sanctions. Lawmakers on both sides of the Capitol have introduced at least a dozen bills that prohibit

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

everything from revoking Russia's trade status to blocking Russian oil imports, sometimes multiple bills on the same subject. At the same time, other trading partners, including World Trade Organization (WTO) members, are taking their own actions against Russian trade, citing the national security exception the WTO allows.

For one, Sen. Ron Wyden (D-Ore.) March 2 introduced the *No Most Favored Nation Trading with Russia Act* (S. 3722), which revokes Russia's permanent normal trade relations (PNTR) status and provides the president the power to raise tariffs on a host of Russian products. A week earlier, Reps. Lloyd Doggett and Earl Blumenauer introduced similar House legislation (H.R. 6835) that would also initiate a process to formally deny Russia access to the WTO.

> Wyden previously outlined several key areas Congress needs to address and should support. In addition to PNTR status, these include adding resources to the IRS Criminal Investigations Unit, closing the loophole that exempts private equity and hedge funds from implementing basic anti-money laundering requirements, ensuring Treasury has sufficient funding for FinCen, and requiring financial institutions to rigorously monitor and eliminate correspondent banking services for Russian oligarchs and sanctioned entities.

On the day after the Russian invasion, Rep. Richard Neal (D-Mass.) said more sanctions could come from Congress. "No tool in the Ways and Means Committee's jurisdiction is off the table as we explore our options to further confront Russia's aggression," he said (see **WTTL**, Feb. 28, page 2).

The day after Wyden introduced his bill, Canada announced that it would revoke most favored nation (MFN) status to Russia and Belarus. Imports from those countries will face duties up to 35% once implemented. "Where MFN rates are higher, the higher rates will continue to apply," the Canadian Foreign Ministry said in a statement. The tariff rate will apply for 180 days, unless extended by both Houses of Parliament.

"At the WTO, we have watched this tragedy in Ukraine unfold with disbelief and the hope that it would have been peacefully resolved," WTO Director-General Ngozi Okonjo-Iweala said March 2. "We pray that there will be a peaceful and quick resolution. We are also concerned about the trade implications of the conflict, especially trade in agriculture and food products and the rise in energy prices and their effects on the impacted populations," she added.

USTR Sings New Song in Trade Policy Agenda

Sometimes it seems like government agencies just reuse the same reports year after year, simply changing the copyright date. Not this year. In a very different tone from the last few years, the Biden administration March 1 outlined a trade policy agenda that holds workers' rights and environmental practices as the highest priorities. The U.S. Trade Representative's (USTR) office highlighted "several notable accomplishments" in its first year, including "work to promote sustainable environmental practices in trade policy, enforce existing agreements, improve the resilience of global supply chains, and combat the COVID-19 pandemic," the agency said. The latest report makes no mention of a trade agreement with Kenya, or a phase-two agreement with China, both of which were front and center in previous reports.

The only mention of the Chinese deal is this: "The administration is engaged in the process of enforcing the Agreement, which involves constant monitoring and, when appropriate, raising compliance issues with the Government of China." China's purchases through November accounted for only 62% of its 2021 targets, according to Peterson Institute numbers (see (see **WTTL**, Jan. 17, page 3).

> Rather than pursuing a free trade agreement with Japan, the administration launched the U.S.-Japan Partnership on Trade in 2021. "This initiative reaffirms the shared commitment to strengthen the U.S.-Japan alliance through regular engagement to advance an agenda of cooperation as well as to address bilateral trade issues of concern to either side," the report said.

"The initial areas of focus for cooperation include issues such as third country concerns, cooperation in regional and multilateral trade-related fora, addressing labor and environment-related priorities, a supportive digital ecosystem for all, and trade facilitation, among others," it added.

With regard to the United Kingdom (UK) trade deal, another set of negotiations that were launched in the previous administration, the USTR minced no words, saying it "reviewed the status and objectives of the U.S.-UK trade agreement negotiations, launched in May 2020, for consistency with the Administration's trade policy priorities," it said.

BIS Adds More Export Controls on Russian Oil Sector, Belarus

While the U.S. and its allies pull out almost all the stops in isolating Russia from the world financial and technological markets, U.S. companies and the attorneys advising them would be pardoned if they couldn't keep up with the ever-changing export controls and sanctions. In the latest round of prohibitions, the U.S. added more sanctions on the Russian defense and oil industry and expanding export controls on Belarus.

The list of actions taken by the U.S., the European Union (EU) and other trading partners against Russia since its invasion of Ukraine is long and unwieldy, including sanctions on Russian banks, members of its leadership and elite circles, novel export controls and many other restrictions on trade and investment.

Most recently, the Bureau of Industry and Security (BIS) March 4 announced new export controls on the Russian oil refinery sector, to "further limit revenue that could support the military capabilities of Russia," the March 9 Federal Register notice says. "Limiting the export, reexport and transfer (in-country) of critical oil refining equipment will consequently reduce Russia's ability to generate revenue that the country needs to support its military capabilities," it added. Prior controls on this sector were implemented in 2014 after Russia's occupation of Crimea. At that time, BIS added five Russian energy companies for exports used directly or indirectly in exploration for, or production from, deepwater, Arctic offshore, or shale projects in Russia -- Gazprom, OAO; Gazpromneft; Lukoil, OAO; Rosneft; and Surgutneftegas (see **WTTL**, Sept. 15, 2014, page 9).

In parallel with the oil sector controls, BIS added 91 entities in Belize, Estonia, Kazakhstan, Latvia, Malta, Russia, Singapore, Slovakia, Spain and the United Kingdom (UK) to its Entity List. The entities "have been involved in, contributed to, or otherwise supported the Russian security services, military and defense sectors, and military and/or defense research and development efforts," the agency noted.

Two days earlier, BIS employed the foreign-direct product (FDP) rule, along with other restrictions, on Belarus for supporting the Russian invasion. These controls will be published in Federal Register March 8. BIS had imposed the FDP rule on Russia in response to the original invasion of Ukraine, setting up the framework to add Belarus to its controls (see **WTTL**, Feb. 28, page 1).

* * * Briefs * * *

<u>EXPORT ENFORCEMENT</u>: Thomas Harris Jr., of Croydon, Pa. was sentenced March 1 in Philadelphia U.S. District Court to 46 months in prison followed by three years of supervised release for exporting firearms to buyer in St. Lucia without required State licenses. He was indicted in September 2020 and pleaded guilty in in November 2021 (see **WTTL**, Sept. 28, 2020, page 8). In one intercepted package intercepted, concealed in diapers, cat litter and laundry detergent, federal agents "found seven Glock semiautomatic pistols, one Ruger semiautomatic pistol, two AK-47 pattern pistols, two AK-47 pattern rifles, two AR-15 lower receivers, two AR-15 upper receivers, ten high-capacity Glock ammunition magazines, seven additional assorted ammunition magazines, and 815 rounds of ammunition," Justice said.

<u>TURKMENISTAN</u>: WTO members agreed Feb. 23 to initiate accession negotiations with Turkmenistan, last of former Soviet republics to apply for membership. "The General Council has now completed the WTO accession map in Central Asia," Director-General Ngozi Okonjo-Iweala said in statement. Country obtained observer status in July 2020.

<u>PIPE AND TUBE</u>: In 5-0 "sunset" vote March 4, ITC said countervailing duty (CVD) order on imports of heavy walled rectangular welded carbon steel pipes and tubes (HWRP) from Turkey and antidumping duty orders on imports from Korea, Mexico and Turkey would renew injury to U.S. industry. In January 2019, U.S. appealed WTO panel report on Turkey's complaints against U.S. CVD measures on HWRP and other products (see **WTTL**, Feb. 4, 2019, page 7). Panel upheld several of Turkey's complaints in previous December.

<u>SANCTIONS</u>: Latest Russia sanctions are not only game in town. Indictment against cable TV producer Jack Hanick was unsealed March 3 in Manhattan U.S. District Court on charges of violating Ukraine-related sanctions. Between 2013 and 2017, Hanick worked in support of efforts of Konstantin Malofeyev, blocked Russian national, "to establish and develop media outlets in Russia, Greece, Bulgaria and elsewhere," indictment said. OFAC designated Malofeyev, "one of the main sources of financing for Russians promoting separatism in Crimea," in December 2014.