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## JCPOA Talks Turn to Technical Issues

As negotiating teams return home from Vienna April 16 to continue technical talks on the Joint Comprehensive Plan of Action (JCPOA) amid reports that Iran is increasing its uranium enrichment, Republican lawmakers joined legislation (S. 488) that would require Congress to approve the Biden administration's effort to lift Iran sanctions.

“It's increasingly clear that the Biden administration's promises to ‘lengthen and strengthen’ the Iran nuclear deal are instead an attempt to re-enter the flawed 2015 JCPOA at any cost,” said Sen. Jim Risch (R-Idaho), who joined more than 30 other GOP cosponsors of the bill. The U.S. “currently maintains a position of significant leverage with Iran because our sanctions are working. Given that reality, the administration should keep its promises to address the JCPOA's looming sunsets,” he said.

On the other side of the aisle, 27 Democratic senators told Biden they “strongly support returning to the JCPOA and using a ‘compliance for compliance’ approach as a starting point to reset U.S. relations with Iran. Should Iran be willing to return to compliance with the limitations set by the JCPOA, the United States should be willing to rejoin the deal and provide the sanctions relief required under the agreement,” they wrote.

At the conclusion of the JCPOA Joint Commission meeting in Austria, Iranian officials said “the meetings of two expert groups that had been in progress in parallel since last week for technical consultations about the removal of sanctions and the nuclear issues will continue,” according to an Iranian government website.

## Administration Imposes Sanctions for Russian Interference

In an effort to kill multiple birds with one stone, the Biden administration April 15 imposed additional financial sanctions on Russia in response to at least three aggressive actions: the attempted assassination of opposition leader Aleksey Navalny and his

subsequent imprisonment, the SolarWinds hack and efforts to interfere in U.S. elections. In March, the Bureau of Industry and Security (BIS) imposed additional export restrictions on Russia, including suspending certain license exceptions and imposing a presumption of denial for most license applications, in response to the attempted Navalny assassination (see **WTTL**, March 22, page 1).

Treasury's Office of Foreign Assets Control (OFAC) designated 32 entities and individuals carrying out Russian government-directed attempts to influence the 2020 U.S. presidential election, and other acts of disinformation and interference. For example, OFAC designated multiple individuals and entities directly involved in furthering financier Yevgeniy Prigozhin's operations in Africa and assisting his ability to evade sanctions. Prigozhin is financier of the Internet Research Agency (IRA), the Russian troll farm that OFAC designated in 2018.

President Biden also signed an executive order (EO) authorizing new measures to address specific harmful actions that Russia has taken against U.S. interests. Under the EO, Treasury issued a directive that prohibits U.S. financial institutions from participation in the primary market for ruble or non-ruble denominated bonds issued after June 14 by the Russian Central Bank, the National Wealth Fund or the Finance Ministry; and lending ruble or non-ruble denominated funds to those three entities. In addition, OFAC designated six Russian technology companies that provide support to the Russian Intelligence Services' cyber program.

"We could have gone further, but I chose not to do so, I chose to be proportionate," Biden said in remarks to the nation. The U.S. "is not looking to kick off a cycle of escalation and conflict with Russia. We want a stable, predictable relationship," he added. "If Russia continues to interfere with our democracy, I'm prepared to take further actions to respond," the president warned.

Lawmakers praised the sanctions but wished for action in response to the NordStream 2 pipeline. "The sanctions announced by the White House this morning are a welcome step to hold Moscow accountable for its ongoing aggression. But to fully punish Putin for his malevolent behavior, the U.S. must sanction Nord Stream II and halt the Kremlin's efforts to weaponize the supply of gas in Europe," Sen. Pat Toomey (R-Pa.) said in a statement.

"I welcome today's measures, but there remains plenty of room to escalate sanctions against key Russian financial and energy actors," Sen. Bob Menendez (D-N.J.) said in a statement. "I urge the administration to consider additional measures, to include blocking sanctions on Russian banks. I also look forward to working with the Administration in its efforts to stop the Nordstream 2 pipeline," he added.

"Nord Stream 2 is a complicated issue affecting our allies in Europe. I've been opposed to Nord Stream 2 for a long time, from the beginning, before I left office as Vice President. But that still is an issue that is in play," Biden explained.

Information Technology & Innovation Foundation (ITIF) Vice President Daniel Castro called the announcement “a good start. The question is now whether the United States and its allies can consistently impose significant and proportionate costs on nations that engage in or support cyberattacks that undermine global security.”

## Treasury Upgrades Taiwan in Currency Report

What’s the difference between 1988 and 2015, other than fashion choices? In its semi-annual report April 16, Treasury again named Vietnam and Switzerland as meeting the agency’s criteria for currency manipulation under the Trade Facilitation and Trade Enforcement Act of 2015. The department also added Taiwan to that list, moving it from its “Monitoring List” of countries that merit close attention to their currency practices.

However, Treasury has determined that there is “insufficient evidence to make a finding that Vietnam, Switzerland or Taiwan manipulates its exchange rate for either of the purposes referenced” in the Omnibus Trade and Competitiveness Act of 1988 Act, the department said.

According to its report, Treasury will continue its enhanced engagement with Vietnam and Switzerland and “will commence enhanced engagement with Taiwan.” At the same time, the department placed 11 trading partners on its “Monitoring List”: China, Japan, Korea, Germany, Ireland, Italy, India, Malaysia, Singapore, Thailand and Mexico. All except Ireland and Mexico were included in the December 2020 Report (see **WTTL**, Dec. 21, page 3).

While Treasury did not name China as a currency manipulator under the terms of the previous administration’s phase-one trade deal, the department had harsh words, urging Beijing to “improve transparency regarding its foreign exchange intervention activities, the policy objectives of its exchange rate management regime, the relationship between the central bank and foreign exchange activities of the state-owned banks, and its activities in the offshore RMB market.”

“The expected surge in U.S. private and public sector growth this year will have diluted employment impacts if trading partners misalign or undervalue their currencies. Put simply, other nations shouldn’t be permitted to export their own underconsumption and employment problems to the United States,” Alliance for American Manufacturing President Scott Paul said in a statement.

## Draft Legislation Would Restrict Personal Data Exports

In draft legislation released April 15, Sen. Ron Wyden (D-Ore.) seeks to regulate the export of Americans’ sensitive personal information to potentially hostile foreign nations. The Protecting Americans’ Data from Foreign Surveillance Act would create new safeguards against exporting sensitive personal information to foreign countries if doing so

could harm U.S. national security. “My bill would set up common sense rules for how and where sensitive data can be shared overseas, to make sure that foreign criminals and spies don’t get their hands on it. This legislation is another piece in a slate of bills I’m introducing this Congress to provide comprehensive protection for Americans’ sensitive information,” Wyden argued.

Wyden’s legislation builds on the 2018 Foreign Investment Risk Review Modernization Act (FIRRMA), in which Congress directed the Committee on Foreign Investment in the U.S. (CFIUS) to review and if necessary, stop the purchase of U.S. firms holding large amounts of Americans’ personal data, and an executive order requiring recommendations to restrict the transfer of data to foreign adversaries, the senator noted.

During a Senate Intelligence Committee hearing the day before, National Intelligence Director Avril Haines agreed with Wyden that the transfer of personal information to foreign adversaries represents a security threat. “I agree with you that there’s a concern about foreign adversaries getting commercially acquired information as well and am absolutely committed to trying to do everything we can to reduce that possibility,” Haines testified.

Wyden’s legislation would: direct an interagency process led by the Commerce secretary to identify categories of personal data, if exported by third parties, could harm U.S. national security; apply export control penalties to senior executives who knew or should have known that employees below them were directed to illegally export Americans’ personal data; create a private right of action for individuals who have been physically harmed or arrested or detained in a foreign country as a result of the illegal export of personal data; and require Commerce to publish quarterly reports on personal data exports.

During the previous administration, several Chinese social media companies, including TikTok, were scrutinized for the way the data of Americans would be misused by adversaries. Several GOP senators joined the former president in arguing for a CFIUS review and then banning (see **WTTL**, Nov. 16, 2020, page 5).

A bipartisan group of senators previously wrote to eight IT companies including Amazon, AT&T, Google, Twitter and Verizon, questioning the sale of Americans’ data to foreign-owned companies. The senators argued that hundreds of firms participating in an online ad receive information about the potential recipient including cookies, web browsing and location data, IP addresses, and age and gender of users. “This information would be a goldmine for foreign intelligence services that could exploit it to inform and supercharge hacking, blackmail, and influence campaigns,” the senators said.

## **CEOs Address Semiconductor Supply Chains**

At a virtual CEO summit on the semiconductor shortage that the White House hosted April 12, participants emphasized the importance of improving transparency and demand forecasting, as well as encouraging additional manufacturing capacity in the U.S. Meeting

participants included the CEOs of GlobalFoundries, Intel and Micron Technology, along with senior executives from NXP, Samsung and TSMC. While responses to a recent Bureau of Industry and Security (BIS) request for comments on U.S. supply chains varied widely, many companies cited more “targeted” and “smarter” export controls as solutions to a semiconductor shortage and other business risks (see **WTTL**, April 12, page 3). In its March request, BIS specifically asked for information regarding risks in the semiconductor manufacturing and advanced packaging supply chains.

Summit participants also “discussed how the president’s infrastructure investments in the American Jobs Plan strengthen America’s competitiveness and national security by building the infrastructure of tomorrow and strengthening supply chain resilience — ensuring that the United States remains a global leader in critical technologies and the transition to a clean energy future,” a White House readout said.

In remarks at the meeting, President Biden cited a letter from more than 60 bipartisan lawmakers, including 23 senators and 42 House members, on implementing legislation to support U.S. semiconductor manufacturing that was incorporated into the 2021 National Defense Authorization Act. The letter said the Chinese Communist Party (CCP) “aggressively plans to reorient and dominate the semiconductor supply chain,” he noted.

The U.S. “must also work with our allies and strategic partners to out-scale the CCP in manufacturing capabilities for advanced semiconductors,” the lawmakers wrote. “Further, we risk dependence on a strategic competitor for the advanced semiconductors that power our economy, military, and critical infrastructure,” they added.

## **USTR Outlines Commitment to Environmental Rules**

What a difference an election makes. U.S. Trade Representative (USTR) Katherine Tai April 15 outlined the Biden administration’s priority of protecting the environment and the role of trade in that endeavor. In the speech at the Center for American Progress, Tai committed to enforcing trade rules to not only protect the planet, but also protect workers against unfair competition.

“Comprehensive action is the only way forward, and this challenge must be at the center of U.S. foreign policy, national security, and economic policy. USTR sits at the intersection of all three areas,” Tai told the event. “The goal is to ensure that we and our trading partners are engaged in fair competition that does not suppress environmental protection,” she added.

Tai highlighted the environmental provisions in the U.S.-Mexico-Canada trade agreement (USMCA), including strong rules to address wildlife trafficking, illegal logging and fishing, fisheries subsidies, marine litter, and air and water pollution. “I am all too aware that however laudable the rules, they must actually be enforced,” she acknowledged.

In addition, she cited the resolution of a trade dispute between SK Innovation and LG Energy Solutions, two South Korean companies that make lithium ion batteries and components used in electric vehicles in the U.S. “The settlement, reached last weekend after significant engagement with a range of stakeholders, was a big win for American workers, the environment, and our competitive future,” Tai noted.

The day before her speech, Tai met with environmental leaders, including from Natural Resources Defense Council Sierra Club World Wildlife Fund League of Conservation Voters and Environmental Investigation Agency. At the meeting, Tai “shared her belief that trade policy is an essential and strategic part of meeting the challenge of climate change and protecting the environment,” a USTR readout noted.

A group of congressional Democrats a week earlier introduced a resolution (H.Res. 295) to direct the USTR to resume negotiations toward the World Trade Organization (WTO) Environmental Goods Agreement (EGA) that stalled in December 2016 (see **WTTL**, April 12, page 1). The EGA “would eliminate tariffs on a broad range of environmental goods including wind turbines, water treatment filters, solar water heaters, and bicycles,” the resolution notes.

## **GOP Senators Want Answers on Protecting U.S. Technology**

Specifically citing reports of China's efforts to evade U.S. regulations, a trio of Republican senators April 13 asked the Biden administration for a briefing on technology transfer, intellectual property and the decision-making process of the Committee on Foreign Investment in the U.S. (CFIUS).

“We remain concerned about foreign governments, such as China, potentially taking actions to evade CFIUS reviews in an attempt to undermine U.S. superiority in leading edge technologies, the CFIUS process, the rules of export controls and trade, and, as a result, our country’s national security,” Sens. Chuck Grassley (R-Iowa), Mike Crapo (R-Idaho) and Pat Toomey (R-Pa.) wrote to Treasury Secretary Janet Yellen.

“We ask that the Biden administration explain how it will approach and handle the threat of foreign government efforts evading the CFIUS process and what, if any, steps the administration has already taken to thoroughly vet sensitive transactions in order to ensure the integrity of the CFIUS process and U.S. national security,” the senators added.

## **UK Yearns for U.S. Deal, Better EU Trade Figures**

The April 15 squabble in the United Kingdom (UK) House of Commons between Trade Minister Liz Truss and the International Trade Select Committee Chair Angus MacNeil confirms that the UK still sees a U.S. trade deal as the crown jewel.

MacNeil mocked Truss by asking, “Is not the prospect of a trade deal with the USA pretty dead?” since the Biden administration officials “value their special relationship with big tech more than the one with the UK.” The U.S. Trade Representative’s (USTR) office announced in March it is continuing investigations into digital services taxes (DSTs) adopted by Austria, Spain, the UK, India, Italy and Turkey (see **WTTL**, March 29, page 1).

Truss countered that the best way of resolving the issue is through the OECD, to which both the UK and the U.S. have agreed. She added she has had “positive discussions” with USTR Katherine Tai to end the Airbus-Boeing saga. “We are urging the United States to desist from any more tit-for-tat tariffs disputes, including in respect of a digital services tax,” Truss told the House.

Two days earlier, the UK’s Office of National Statistics (ONS) boasted the UK’s exports to the EU were up 47%, following dismal January figures that were down by 42%. These positive numbers were led by chemicals and machinery companies. However, the economy is still 8% smaller than when Brexit started, the ONS noted.

Meanwhile, Brexit ratification grew closer when two important European Parliamentary Committees – Trade and Foreign Affairs - approved the treaty. Full approval by the entire parliament is expected by April 30.

But this may not move as smoothly as expected, since several European Union (EU) nations are disturbed by UK Prime Minister Boris Johnson’s unilateral “grace period” extensions to facilitate UK-Northern Ireland trade (see **WTTL**, Feb. 15, page 5). Under the EU-UK trade protocol, EU checks were agreed to, but Johnson has delayed their implementation. This has led to a legal tussle between Europe and the UK. It is unclear when and how it will end.

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

**USTR:** President Biden April 16 announced his intent to nominate Sarah Bianchi and Jayme White to be deputy USTRs. Bianchi was then-Vice President Biden’s head of economic and domestic policy from 2011 to 2014. She joined Evercore ISI in 2019. White has served as chief trade advisor for Senate Finance Committee since 2014.

**NOMINATIONS:** Senate April 13 confirmed Wendy Sherman to be deputy secretary of State in 56-42 vote. Secretary Tony Blinken tweeted: “We are all only as good as the team we surround ourselves with, and I’m thrilled to have you on board.”

**TRADE PEOPLE:** G. Nagesh Rao April 12 was named BIS chief information officer. “In the past 10 months while at BIS, Rao oversaw the first wave of technology modernization efforts which included cloud adoption, remote-work capabilities, and software as a service (SaaS) based solutions helping bring the bureau up to speed on a current technology stack standard,” agency said in announcement. Prior to BIS he worked at Small Business Administration (SBA) and served on COVID-19 Leadership Response Team.

**FCPA:** Jose Carlos Grubisich, former CEO of Brazilian petrochemical company Braskem S.A., pleaded guilty April 15 in Brooklyn U.S. District Court to charges of conspiracy to violate Foreign

Corrupt Practices Act (FCPA) and money laundering. Sentencing is set for Aug. 5. Indictment against Grubisich was unsealed in November 2019 (see **WTTL**, Nov. 25, 2019, page 10). Braskem and parent company Odebrecht agreed in December 2016 to pay combined penalty of \$3.5 billion to settle FCPA charges with U.S., Brazilian and Swiss authorities related to schemes to pay hundreds of millions of dollars in bribes to government officials in 12 countries.

**COVID RELIEF:** Ex-Im Bank board April 15 unanimously voted to extend COVID relief measures for U.S. exporters and financial institutions through April 30, 2022. Measures apply to Working Capital Guarantee Program, Supply Chain Financing Guarantee Program, and agency's "support for transportation-related and other large-scale exports through its Bridge/Backstop Financing Program and Pre-Delivery/Pre-Export Financing Program," Ex-Im noted. Temporary relief measures were originally announced in March 2020 (see **WTTL**, March 16, 2020, page 4).

**CYLINDERS:** In 5-0 final vote April 16, ITC found U.S. industry is materially injured by dumped and subsidized imports of non-refillable steel cylinders from China.

**CHASSIS:** In 5-0 final vote April 13, ITC determined U.S. industry is materially injured by subsidized imports of chassis and subassemblies from China.

**ANTIBOYCOTT:** In Federal Register April 8, Treasury removed UAE from list of countries that "require or may require participation in, or cooperation with, an international boycott." Country repealed law mandating boycott of Israel and has taken subsequent actions to implement new policy, notice said. Countries still on list include: Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria and Yemen.

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