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Treasury Begins Review of Sanctions Policy

As promised from the first days of the administration, Deputy Treasury Secretary Wally Adeyemo April 1 began a “top to bottom” review of U.S. economic and financial sanctions, holding a meeting with former lawmakers, government officials, and academics, including former Rep. Howard Berman and former acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin.

At her confirmation hearing in January, Treasury Secretary Janet Yellen told the Senate Finance Committee: “Sanctions are critically important tools to address cybersecurity and other threats. I will be focused on making sure that they are used strategically and appropriately. I intend to ask my deputy, if he is confirmed, to quickly begin a review of our sanctions policy to make sure we are doing this in a strategic way and the most effective way we can” (see **WTTL**, Jan. 25, page 1).

During the meeting, Adeyemo said that “sanctions remain a potent and valuable tool for policymakers and as programs are evaluated, it is critical to keep an eye toward ensuring they remain a strong, viable option in years to come,” the department said in announcing the meeting.

“Participants confirmed the role of U.S. sanctions as a key instrument of U.S. national security and foreign policy, and the importance of a well-considered approach to their imposition, recognizing the technical expertise within Office of Foreign Assets Control and Treasury writ large,” Treasury said. “Finally, there was broad recognition from all participants of the value of coordination with allies and partners. Further consideration of the thoughtful and effective use of sanctions will be given throughout the sanctions review process,” it added.

U.S. Takes First Steps Back to Iran Deal

Whispers of progress that the U.S. would take further steps to rejoin the Joint Comprehensive Plan of Action (JCPOA), or the Iran nuclear deal, including a meeting in Vienna

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with partners, drew a welcome reaction April 2. The Biden administration had signaled its receptiveness to a meeting for months. Soon after the Biden administration in February announced it would accept an invitation from the European Union (EU) to attend a meeting “to discuss a diplomatic way forward on Iran’s nuclear program,” Republican leaders began rumbling about bipartisanship and the failure of the previous deal (see **WTTL**, March 8, page 5).

“Talks next week with European, Russian, and Chinese partners to discuss what Iran and the U.S. need to do to resume compliance with the [JCPOA]. This is a first step. Difficult discussions ahead but on the right path,” Special Envoy for Iran Robert Malley tweeted April 2.

After a meeting of the JCPOA Joint Commission in Brussels the same day, representatives of China, France, Germany, Russia, the United Kingdom (UK) and Iran “recognized the prospect of a full return of the U.S. to the JCPOA and underlined their readiness to positively address this in a joint effort. Participants also emphasized their commitment to preserve the JCPOA and discussed modalities to ensure the return to its full and effective implementation,” the Joint Commission chair said in a statement.

“Participants agreed to resume this session of the Joint Commission in Vienna next week, in order to clearly identify sanctions lifting and nuclear implementation measures, including through convening meetings of the relevant expert groups. In this context, the coordinator will also intensify separate contacts in Vienna with all JCPOA participants and the United States,” the chair noted.

“This is an important, though preliminary step. Tough and smart diplomacy in close coordination with our European allies and regional partners is the best way to prevent Iran from developing a nuclear weapon and restore full compliance with the JCPOA,” the House Foreign Affairs Committee tweeted.

USTR Suspends Burma Trade Deal Over Coup

In the first step toward removing Burma from trade preference programs, U.S. Trade Representative (USTR) Katherine Tai March 29 suspended all U.S. engagement with the country under the 2013 Trade and Investment Framework Agreement (TIFA). This is just the latest in the administration’s sanctioning of Burma over the military coup. “This suspension will remain in effect until the return of a democratically elected government,” the USTR’s office said.

The signing of the bilateral TIFA in 2013 created “a platform for ongoing dialogue and cooperation on trade and investment issues between the two governments,” noted a statement from the USTR’s office at the time (see **WTTL**, May 27, 2013, page 5).

“In addition to suspending future TIFA engagements with the military regime, USTR will consider the situation in Burma with respect to the internationally recognized worker rights eligibility criterion as Congress considers reauthorization of the Generalized System of Preferences (GSP) program,” the office said in the most recent announcement.

Treasury’s Office of Foreign Assets Control (OFAC) March 25 designated two military holding companies, Myanma Economic Holdings Public Company Limited (MEHL) and Myanmar Economic Corporation Limited (MEC), companies that “dominate certain sectors of the economy, including trading, natural resources, alcohol, cigarettes, and consumer goods,” the agency said (see **WTTL**, March 29, page 7).

Lawmakers and union groups welcomed the USTR’s move. “After the latest horrific bloody attack on civilians by Burma’s military junta, USTR is right to send the message that America won’t go ahead with business as usual. I applaud this and other Biden administration actions to impose consequences on this brutal, anti-democratic regime,” Sen. Ron Wyden (D-Ore.) said in a statement.

AFL-CIO President Richard Trumka called the move a “great signal” by USTR, “making clear that the U.S. will increase pressure on the military junta that is killing citizens & workers who are demanding their democracy back. Myanmar must also be excluded from any trade preference until the return of the elected civilian [government],” he tweeted.

In a separate statement, Lori Wallach, director of Public Citizen’s Global Trade Watch, said the organization supports the decision and “calls on the U.S. to withdraw all trade preferences to maximize economic pressure on the murderous military coup leaders until democracy is restored.”

G7 Trade Ministers Tackle Ambitious Agenda

In a first that should have happened years ago, the G7 trade ministers held their inaugural meeting March 31, under a new G7 Trade Track. The attendees, including World Trade Organization (WTO) Director General Ngozi Okonjo-Iweala, planned future discussions on digital trade, women’s economic empowerment and climate change, as well as policies to end the global pandemic and contribute to the subsequent recovery.

Also attending the meeting were ministers from Canada, France, Germany, Italy, Japan and the UK. USTR Katherine Tai “emphasized the Biden-Harris Administration’s objective to ensure that trade policy focuses on benefitting workers, in addition to businesses and consumers,” the USTR’s office said in a meeting readout.

“The G7 Trade Track has a bold purpose - to make the case globally for free and fair trade. G7 Trade Ministers are convinced that when the world’s leading democratic trading nations unite behind a shared agenda to make the global trading system fairer, more sustainable, and responsive to the needs of our citizens, this is an agenda that partners

across the world will be ready to share in and help shape,” UK Trade Secretary Liz Truss, chair of the G7 Trade Track, said in a statement. The ministers “underlined the importance of advancing women’s economic empowerment through trade, particularly to support the Covid-19 recovery. They shared the view that greater representation of women in trade as leaders, business owners, and fairly compensated workers will ultimately deliver more and better jobs and more growth in our economies,” Truss added.

The group also addressed digital trade. “As a group of market-based economies governed by the rule of law, they believe that digital markets should be competitive, transparent, and accessible to international trade and investment. They agree on the importance of data free flow with trust, safeguards for consumers and businesses, and digital trading systems that allow goods and services to move seamlessly across borders,” the chair noted.

Blinken Points U.S. Policy at Human Rights Abuses

In its 45th annual country report of human rights practices in individual nations released March 31, the U.S. found the trend lines moving in the wrong direction. Whether in Russia, China, Venezuela, Uganda, Hong Kong, Burma or Saudi Arabia, the situation is dire, State found. But Secretary of State Anthony Blinken said that the administration plans to use at least two measures to affect the trend.

“One way to do that is by working with ...Congress, which has passed laws providing new authorities to sanction human rights violators, things like the Global Magnitsky Act, the Hong Kong Human Rights and Democracy Act, other pieces of important legislation, and continues to demonstrate a bipartisan commitment to promoting human rights,” Blinken said during a press briefing on the report.

“Another way is by imposing consequences through economic sanctions and visa restrictions, as the United States did recently in unity with Canada, the European Union, and the United Kingdom on individuals engaged in atrocities being committed against the Uyghurs in Xinjiang,” he continued (see **WTTL**, March 29, page 2).

In the past, countries such as Venezuela, Burma, Russia and China have contended that America is biased and discriminatory in its assessment. Other times it is perceived as bullying. Asked to respond to those criticisms, Secretary Blinken said, “Whether it’s China, Russia, or anyone else, we’re not standing against any of those countries. We’re not trying to, for example, contain China or keep it down. What we are about is standing up for basic principles, basic rights, and a rules-based international order that has served us and countries around the world very, very well.”

On the question of Burma, the secretary addressed whether there is a limit to what sanctions can achieve, since with every escalating sanction on the Burmese junta the carnage increases weekly. “Some companies in various parts of the world have significant investments in enterprises that support the Burmese military. They should be looking at those investments and reconsidering them as a means of denying the military the

financial support it needs to sustain itself against the will of the people,” Blinken said. The U.S. and its allies are not giving in any time soon, he explained. “I think you can expect us to continue to speak out strongly and to work with close allies and partners, including the ASEAN countries, in strong opposition to the actions that the coup regime is taking in Burma,” Blinken maintained.

USTR Trade Estimate Report Treads Familiar Ground

After 36 years of issuing its annual National Trade Estimate (NTE) of foreign trade barriers, the USTR’s office still is unwilling or unable to put a dollar price tag on what all those restrictions are costing U.S. business. In the 36th annual report issued March 31, the office said it would not release figures involving disputes that are under negotiation.

“Without detailed information on price differences between countries and on relevant supply and demand conditions, it is difficult to derive the estimated effects of these measures on U.S. exports,” the report said in boilerplate it has repeated for years. “Similarly, it is difficult to quantify the impact on U.S. exports (or commerce) of other foreign practices, such as government procurement policies, nontransparent standards, or inadequate intellectual property rights protection,” it added.

The 574-page report covers 61 countries, plus the EU, Taiwan, Hong Kong and the Arab League, and addresses everything from tariffs, nontariff barriers, phytosanitary and sanitary restrictions, to government procurement, standards, import and customs procedures, quotas and intellectual property protection.

The USTR’s office specifically highlighted a few examples: Argentina’s imposition of quota limits on imported books in September 2020; India’s 38.8% average tariff on agricultural goods; the anomalous technical standards Saudi Arabia applies to shoes and electronic equipment; Ecuador’s mandatory and cumbersome process for allocating import licenses for agriculture products such as meats and dairy products; Indonesian local content requirements; and Russian bans on imported food.

As in previous years, the report took aim at China’s industrial policies “that seek to limit market access for imported goods, foreign manufacturers, and foreign services suppliers, while offering substantial government guidance, resources, and regulatory support to Chinese industries. The beneficiaries of these constantly evolving policies are not only state-owned enterprises (SOEs) but also other domestic companies attempting to move up the economic value chain,” it noted.

Chinese officials defended their economic policies. “The accusations and slanders made by the U.S. against China’s industrial policies are groundless,” Chinese Foreign Ministry Spokesperson Hua Chunying told reporters. “Our goals and measures are open and transparent. Relevant policies and measures are applicable to all companies operating in China, with foreign and domestic companies treated as equals,” she added.

Alliance for Trade Enforcement (AFTE) Executive Director Brian Pomper praised the report for highlighting issues the AFTE has previously raised in comments. “These barriers include discriminatory drug and medical device pricing policies in India, Japan, and Korea; weak copyright protections in Canada and South Africa; high and discriminatory tariffs in Brazil and India; and local screen quotas in Indonesia and Brazil -- all of which harm U.S. workers and businesses,” Pomper said.

Other groups took the report to task for labeling other countries’ legitimate policies on public health, the environment, food and privacy as trade barriers. “Going forward, this review should be limited to actual trade policies, such as tariffs, quotas, or import licensing schemes, and refrain from demonizing environmental, public health, and other legitimate public interest policies as ‘significant trade barriers,’ especially those that treat domestic and foreign goods, firms and services alike,” Public Citizen wrote.

*** * * Briefs * * ***

LADY JUSTICE: President Biden March 30 announced intent to nominate Tiffany Cunningham to be first Black judge on U.S. Court of Appeals for Federal Circuit (CAFC). She has been partner at Perkins Coie LLP in Chicago since 2014 and is registered patent attorney before U.S. Patent and Trademark Office. Cunningham was law clerk to CAFC Judge Timothy Dyk from 2001 to 2002.

TRADE PEOPLE: Long-time trade lawyer Alan Wolff, who just finished term as WTO deputy director-general, will join Peterson Institute for International Economics (PIIE) as distinguished visiting fellow on April 15, PIIE announced April 1. Wolff was named to WTO post in June 2017 (see **WTTL**, July 3, 2017, page 8). He previously served as National Foreign Trade Council chairman and deputy USTR. “Alan Wolff is one of the world’s greatest practitioners of international trade law, applying his expertise and broad vision in private and public service to building the case for a strong, open rules-based multilateral trading system,” PIIE President Adam Posen said in statement.

EXPORT ENFORCEMENT: Oleg Vladislavovich Nikitin and his Russian company KS Engineering (KSE) pleaded guilty March 30 in Savannah, Ga., U.S. District Court to conspiracy in scheme to procure Vectra 40G power turbine from U.S. manufacturer and ship Vectra to blocked Russian company that intended to use turbine on Arctic deepwater drilling platform. Italian national Gabriele Villone, owner of GVA International Oil and Gas Services (GVA), was sentenced in June 2020 to 28 months in prison on related charges (see **WTTL**, June 22, 2020, page 8). He pleaded guilty in February. In addition to Villone, GVA, Nikitin and KSE, the other charged parties were KSE employee Anton Cheremukhin; GVA employee Bruno Caparini; Dali Bagrou and Bagrou’s U.S.-based company World Mining and Oil Supply (WMO). Bagrou remains in custody.

SOYBEAN MEAL: Organic Soybean Processors of America filed countervailing (CVD) and antidumping duty (AD) petitions March 31 with ITA and ITC against imports of organic soybean meal from India.

SNOW THROWERS: MTD Products filed CVD and AD petitions March 30 with ITA and ITC against imports of certain walk-behind snow throwers from China.

STEEL PIPE: In 5-0 final vote April 1, ITC determined U.S. industry is materially injured by dumped imports of seamless carbon and alloy steel standard, line, and pressure pipe from Czechia.

ALUMINUM SHEET: In 5-0 final votes March 31, ITC found U.S. industry is materially injured by dumped imports of common alloy aluminum sheet from Bahrain, Brazil, Croatia, Egypt, Germany, India, Indonesia, Italy, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and Turkey and subsidized imports from Bahrain, India and Turkey. Commission also made negative finding on critical circumstances on subsidized imports from Turkey and dumped imports from Indonesia.

FORCED LABOR: CBP March 29 determined disposable gloves produced in Malaysia by Top Glove using forced labor are being, or are likely to be, imported into U.S. “Merchandise covered by the forced labor finding is subject to seizure upon arrival at a U.S. port of entry,” agency said. CBP issued withhold release order (WRO) on disposable gloves in July 2020 (see **WTTL**, July 20, 2020, page 8).

REBAR: CAFC March 30 affirmed CIT decision sustaining Commerce’s determination imposing 14.01% countervailing duty on imports of certain steel concrete reinforcement bar (rebar) from Turkey. CIT “rejected Habas’s argument finding that it was Habas’s failure to timely disclose the duty drawback program from which it benefitted that led Commerce to apply facts otherwise available,” Circuit Judge Jimmie Reyna wrote for three-judge panel in *Habas Sinai Ve Tibbi Gazlar v. U.S.* “Once a party withholds information requested by Commerce, it invites Commerce to rely on information that is not limited to the information obtained in the course of the investigation,” he added.

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