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Administration Bans Three Countries from African Trade Program

Ethiopia, Guinea and Mali will no longer be eligible for the African Growth and Opportunity Act (AGOA) trade preference program in the new year, "due to actions taken by their governments," the administration announced Nov. 2. Despite intensive engagement, "these governments have failed to address United States concerns about their non-compliance with the AGOA eligibility criteria," the White House noted.

> Specifically, the White House cited Ethiopia for "gross violations of internationally recognized human rights;" Guinea for "not having established… the protection of the rule of law and of political pluralism;" and Mali "for not having established… the protection of the rule of law, political pluralism, and internationally recognized worker rights, and for not addressing gross violations of internationally recognized human rights."

The administration imposed open-ended sanctions on persons involved with the humanitarian crisis in Ethiopia in September. Most recently, State's Directorate of Defense Trade Controls (DDTC) Nov. 1 published a rule amending codifying the export license policy of denial for Ethiopia and Eritrea (see **WTTL**, Nov. 1, page 6).

The U.S. "urges these governments to take necessary actions to meet the statutory criteria so we can resume our valued trading partnerships. I will provide each country with clear benchmarks for a pathway toward reinstatement and our administration will work with them to achieve that objective," U.S. Trade Representative (USTR) Katherine Tai said in a statement.

EU Tariff Deal Could Open Other Doors

But what have you done for me lately? Now that the U.S. and the European Union (EU) have come to a deal on Section 232 steel and aluminum tariffs, industry eyes turned to Japan and the United Kingdom (UK) looking for similar deals. In addition, the new and

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improved U.S.-EU relationship will be key in competing against China. For the third time, a bipartisan group of senators earlier in October reintroduced a bill (S. 2934) to require congressional approval of Section 232 tariffs on imports, starting with steel and aluminum, but also covering potential new tariffs on the six ongoing national security investigations (see **WTTL**, Oct. 11, page 6).

In a meeting Nov. 4, USTR Katherine Tai and Japanese Trade Minister Hagiuda Koichi "discussed the importance of working together to address issues in the steel and aluminum sectors, including the root causes of non-market excess capacity, before exchanging views on how the U.S. and Japan can cooperate to address market-distorting measures and economic coercion," according to a USTR readout.

The same day, Tai told a meeting of steel industry groups: "The agreement also addresses global overcapacity from China and toughens enforcement mechanism to prevent leakage of Chinese steel and aluminum into the U.S. market."

> The day after the EU deal, Commerce announced that the U.S. "is consulting closely with Japan on bilateral and multilateral issues related to steel and aluminum, with a focus on the impacts of overcapacity on the global steel and aluminum markets, the need for like-minded countries to take collective action to address the root causes of the problem, and the climate impacts of the sectors." The department issued an identical announcement regarding consultations with the UK.

Under the deal, the U.S. agreed to replace its Section 232 tariffs on EU steel and aluminum with tariff-rate quotas (TRQs) for both products. In return, the EU will suspend related retaliatory tariffs, and both partners will drop the ongoing World Trade Organization (WTO) disputes. The TRQs are set at "historically sustainable levels that are consistent with recognizing distortions that have been in place in the market before and taking into account the interests of downstream users as well," a senior administration official told reporters Oct. 30.

The two partners "resolved to negotiate future arrangements for trade in the steel and aluminum sectors that take account of both global non-market excess capacity as well as the carbon intensity of these industries. The U.S. and the EU agreed to form a technical working group to enhance their cooperation and facilitate negotiations on these arrangements and will invite like-minded economies to participate in the arrangements," a Commerce fact sheet noted.

Lawmakers, Industry Respond to Tariff Deal

Lawmakers and industry groups quickly responded to the announcement with optimism and understanding of the work left to do. "I'm encouraged that this announcement takes significant steps to resolve the tariffs on European steel and aluminum and to begin a new phase of substantial cooperation on overcapacity, climate, and other issues facing the steel and aluminum industries. Continuing to strengthen the U.S.-EU relationship is essential to combat China's efforts to take over entire industries and leave American workers in the lurch," Sen. Ron Wyden (D-Ore.) said in a statement. Mark Duffy, CEO of the American Primary Aluminum Association (APAA) agreed: "The just announced TRQ deal will maintain the effectiveness of the Section 232 aluminum program, while allowing us to support continued investment in the U.S. primary aluminum industry and create more American aluminum jobs. Of critical importance, the arrangement supports America's primary aluminum industry by setting the quota portion of the TRQ at very low levels that are well below pre-232 volumes."

American Metals Supply Chain Institute (AMSCI): "By not terminating the tariffs across the board and withdrawing the administration's determination that EU steel imports are a national security threat to the United States, the agreement leaves in place a regime that has raised the cost of steel used in the construction industry, in consumer goods, and in energy production."

Business Roundtable and the European Round Table for Industry (ERT): "We continue to strongly disagree with the use of Section 232 in this case and urge the United States and the EU to continue to work together to fully remove remaining tariffs and restrictions on steel and aluminum trade. As the United States, the EU and others begin discussing cross-border carbon intensity trade policies, and continue work on overcapacity issues, we also urge governments to consult closely with industry through each stage of any negotiations."

G20 Leaders Highlight Trade Disputes, Supply Chains

It helps when your trade and finance ministers meet ahead of time. After a much-anticipated meeting in Rome Oct. 30-31, the G20 leaders issued a joint declaration that hit all the key trade points: support for WTO reform, equitable vaccine exports and reducing trade tensions.

> At their October meeting in Italy, the G20 trade ministers set the stage, looked past the pandemic recovery despite its lingering effects, applauded the removal of trade-restrictive measures, and promised a successful 12th Ministerial Conference (MC12) in November and potential WTO reforms (see **WTTL**, Oct. 18, page 4).

"We affirm the important role of open, fair, equitable, sustainable, non-discriminatory and inclusive rules-based multilateral trade system in restoring growth, job creation and industrial productivity and promoting sustainable development, as well as our commitment to strengthen it with the WTO at its core," the leaders said.

On WTO, reform, the leaders agreed to "working actively and constructively with all WTO Members to undertake the necessary reform of the WTO, improving all its functions, and we highlight the need to implement this commitment in practice through an inclusive and transparent approach including tackling the development issues. We commit to a successful and productive [MC12] as an important opportunity to advance that reform and revitalize the organization."

On vaccines, the G20 heads committed to "refrain from WTO inconsistent export restrictions and to increase transparency and predictability in the delivery of vaccines." In generally, they said, "Reducing trade tensions, tackling distortions in all sectors of trade and investment, addressing supply chain disruptions and fostering mutually beneficial trade and investment relations will be critical as economies respond to and recover from the COVID-19 pandemic."

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in September jumped 17.0% from year ago to $142.7 billion, Commerce reported Nov. 4. Services exports grew 15.6% to $64.85 billion from September 2020. Goods imports increased 18.3% from September 2020 to $240.9 billion, as services imports grew 28.35% to $47.6 billion.

IRAN: Joint Commission of Joint Comprehensive Plan of Action (JCPOA) -- China, France, Germany, Russia, UK and Iran – will meet in Vienna Nov. 29 to "continue the discussions on the prospect of a possible return of the United States to the JCPOA and how to ensure the full and effective implementation of the agreement by all sides," EU announced Nov. 3. President Biden explored return to JCPOA with E3 -- leaders of Germany, France and UK -- on sidelines of main G20 talks Oct. 30 (see **WTTL**, Nov. 1, page 4).

MORE IRAN: OFAC Oct. 29 designated two companies and four individuals that provide critical support to Unmanned Aerial Vehicle (UAV) programs of Iran's Islamic Revolutionary Guard Corps (IRGC) and its expeditionary unit, the IRGC Qods Force (IRGC-QF). Designations include Saeed Aghajani, commander of IRGC Aerospace Force (IRGC ASF) UAV Command; Abdollah Mehrabi, chief of IRGC ASF Research; Kimia Part Sivan Company (KIPAS) and Mohammad Ebrahim Zargar Tehrani; Oje Parvaz Mado Nafar Company (Mado Company) and its managing director Yousef Aboutalebi.

POTASSIUM PERMANGANATE: In 5-0 "sunset" vote Nov. 5, ITC said revoking antidumping duty order on potassium permanganate from China would renew injury to U.S. industry.

CAFC: President Biden Nov. 3 nominated Leonard Stark to be Court of Appeals for Federal Circuit (CAFC) judge, replacing Kathleen O'Malley, who is retiring. Stark has served as judge on Delaware U.S. District Court since 2010.

NOMINATIONS: Senate Banking Committee Nov. 3 approved four nominees for full Senate consideration by voice vote: Reta Jo Lewis to be Export-Import (Ex-Im) Bank president and chair; Judith Del Zoppo Pryor to be Ex-Im Bank first VP; Owen Herrnstadt to be Ex-Im Bank board member; and Matthew Axelrod to be BIS assistant secretary for export enforcement.

ENTITY LIST: Bureau of Industry and Security (BIS) in Federal Register Nov. 4 added four companies in Israel, Russia and Singapore to Entity List. Agency added Israeli firms NSO Group and Candiru that "developed and supplied spyware to foreign governments that used this tool to maliciously target government officials, journalists, businesspeople, activists, academics, and embassy workers," notice said. Positive Technologies in Russia and Computer Security Initiative Consultancy PTE in Singapore "traffic in cyber exploits used to gain access to information systems, threatening the privacy and security of individuals and organizations worldwide," it added. Two weeks before, agency implemented Wassenaar controls on cyber intrusion software and surveillance products (see **WTTL**, Oct. 25, page 2).

FORCED LABOR: Customs and Border Protection (CBP) Nov. 4 issued withhold release order (WRO) on imports of disposable gloves produced in Malaysia by Smart Glove "based on information that reasonably indicates that Smart Glove production facilities utilize forced labor," agency said. Group of companies includes Smart Glove Corporation Sdn Bhd, GX Corporation Sdn Bhd, GX3 Specialty Plant, Sigma Glove Industries, and Platinum Glove Industries Sdn Bhd. CBP issued WRO on disposable gloves produced by Supermax Corporation Bhd. and its subsidiaries in October for same reason (see **WTTL**, Oct. 25, page 8). CBP in September lifted ban on imports of disposable gloves produced in Malaysia by Top Glove.

BICYCLE SEATS: CAFC Nov. 3 affirmed-in-part, vacated-in-part, and remanded CIT ruling on CBP decision on tariff classification of imported bicycle seats. "Because the Trade Court erred in approving Customs' use of bypass entries to show the absence of a treatment previously accorded, we reverse that ruling and remand. Because the Trade Court did not err in finding no de facto EUP [established and uniform practice], we affirm that part of the Trade Court's decision," Circuit Judge Richard Linn wrote for three-judge panel in *Kent International, Inc. v. U.S.*

LNG EXPORTS: Sen Bill Cassidy (R-La.) and four Republican cosponsors Nov. 3 reintroduced *Small Scale LNG Access Act* (S. 3145), which would expedite approval of natural gas exports equal to or less than 51.1 billion cubic feet per year. In July 2018, Energy announced it would expedite approvals for "small-scale" natural gas, including liquefied natural gas (LNG), exports to non-FTA countries that meet two criteria: application proposes to export no more than 51.75 billion cubic feet per year of natural gas, and proposed export qualifies for categorical exclusion under department's National Environmental Policy Act (NEPA) regulations (see **WTTL**, July 30, 2018, page 12).