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Census Withdraws Proposal on Puerto Rico Filing Requirement

Census officials weren't kidding when they said they were close to a decision about removing export filing requirements for shipments from U.S. states to Puerto Rico. In the Federal Register Feb. 4, the Bureau withdrew its proposal to remove Electronic Export Information (EEI) filing requirements.

> Census first published its long-promised Advance Notice of Proposed Rulemaking (ANPR) in September 2020, requesting comments on the unique requirements. In December, Census officials said they were close to publishing a response to comments on this issue (see **WTTL**, Dec. 20, page 3). Census received 60 comments on the rule, including a mix of positive and negative responses.

"The Census Bureau will continue to collect the EEI because there is no alternative data source that yields the same high-quality data for Puerto Rico and the U.S. Virgin Islands. The EEI data meets the Census Bureau's statistical objectives and the needs of its data users, including the Bureau of Economic Analysis (BEA), who produces the Gross Domestic Product estimates for Puerto Rico and the U.S. Virgin Islands, which is a Principal Federal Economic Indicator," the most recent notice said.

"Both the Census Bureau and BEA are open to considering proposed alternative data sources which will be evaluated, tested, and verified to determine whether the data meet the statistical objectives of the current EEI," it added.

U.S., Japan Resolve Steel Tariff Fight

Like the Valentine's Day TV commercial, everyone gets some candy. Months after a similar deal with the European Union (EU), the U.S. and Japan Feb. 7 announced a deal to resolve disputes over the application of Section 232 steel tariffs. The agreement leaves aluminum 232 measures in place and sets tariff rate quotas on steel. The Biden admini-

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stration launched similar bilateral discussions with the United Kingdom (UK) in January (see **WTTL**, Jan. 24, page 1). Less than two weeks after sealing the EU deal, the administration in November turned its attention to Japan, announcing consultations with Tokyo. The U.S. and EU announced a deal to suspend steel and aluminum tariffs during the G20 meeting in October.

"The deal is another example of President Biden's focus on strengthening relationships with our vital Allies and partners, and working with them to address unfair practices by countries like China," U.S. Trade Representative (USTR) Katherine Tai and Commerce Secretary Gina Raimondo said in a joint statement.

Trade experts and union groups welcomed the deal. "It is encouraging to hear that the U.S. and Japan have struck a deal on steel imports. Hitting a close U.S. ally like Japan with Section 232 national security tariffs never made sense, and was an unfortunate chapter in U.S. trade history. By putting the steel matter finally behind us, it opens the door for stepped up cooperation on a range of pressing regional and global economic and trade issues," Asia Society VP Wendy Cutler said in a statement.

"President Biden understands that we must move beyond the less-effective, one-size-fits-all approach of the previous administration. Through this deal, the administration was able to negotiate steel import volumes that provide for the continued success of our domestic industries while maintaining opportunities to work together with Japan to address global overcapacity and other areas of mutual concern," United Steelworkers (USW) International President Tom Conway said in a statement.

Dispute Panel Finds Washers Relief Violates WTO Agreements

In a mixed ruling, a World Trade Organization (WTO) dispute panel Feb. 8 determined that Section 201 safeguard relief from imports of large residential washers (LRW) "has nullified or impaired benefits accruing to Korea" under the WTO Safeguards Agreement. At the same time, the panel rejected other Korean claims of inconsistencies.

> The former president extended the relief for two years in January 2021 (see **WTTL**, Jan. 18, 2021, page 8). In a 5-0 vote in November 2020, the International Trade Commission (ITC) determined that extension is necessary to prevent or remedy serious injury to U.S. industry, and that domestic industry is making positive adjustment to import competition. Korea first requested WTO consultations in January 2018.

Specifically, the dispute panel found that the ITC report "does not contain a reasoned and adequate explanation on 'unforeseen developments' and the 'obligations incurred' by the United States," the WTO noted. In addition, the ITC "included LRW parts in the definition of the domestic industry based on (1) its finding of likeness between imported and domestically produced LRW parts; and (2) its application of the product line approach."

The panel also found that the ITC acted inconsistently with WTO commitments "by excluding the profit and loss data of the producer of belt-driven washers from the profit data used to determine the profitability of the domestic industry," it said.

Annual Trade Figures Turn Green Again

What a difference a year makes. Both imports and exports grew in 2021, from a low baseline in 2020, owing to the economic recovery from a global coronavirus pandemic, that shuttered offices and plants and grounded aircraft all over the world. As much of U.S. industry returns to work and travel, these numbers could continue to grow.

Preliminary 2021 vs. 2020 U.S. Merchandise Trade Figures (in billions)

	2021 Exports	2020 Exports	% Change	2021 Imports	2020 Imports	% Change
Total	**$1,762.0**	**$1,434.8**	**23.3%**	**$2,852.6**	**$2,350.6**	**21.3%**
BY COUNTRY/REGION						
Canada	307.6	255.4	20.4	357.2	270.4	32.1
Mexico	276.5	212.7	30.0	384.7	325.4	18.2
European Union (27)	271.6	232.1	17.0	491.3	415.5	18.2
Germany	65.2	57.8	12.8	135.2	115.1	17.5
France	30.0	27.4	9.5	50.3	43.0	17.0
United Kingdom	61.5	59.0	4.2	56.4	50.2	12.3
Japan	75.0	64.1	17.0	135.1	119.5	13.1
China	151.1	124.6	21.2	506.4	435.4	16.3
HK, Singapore, Taiwan, S. Korea	168.4	132.8	26.8	205.7	175.2	17.4
South/Central America	174.6	130.5	33.8	121.0	90.7	33.4
BY SECTOR						
Agriculture	$177.1	$149.7	18.3%	$171.1	$146.7	16.6%
Aircraft, parts, engines	79.5	71.6	10.5	41.3	44.3	**-6.7**
Autos, parts, engines	143.6	127.9	12.3	347.4	310.7	11.9
Clothing	3.3	2.5	31.4	101.2	79.5	27.4
Chemicals- Organic	33.9	26.7	28.7	33.8	26.2	28.7
Chemicals -Inorganic	10.9	9.0	21.7	9.7	7.6	28.0
Petroleum, total categories	196.1	130.7	50.0	204.5	116.8	75.2
Iron & steel	13.8	10.0	38.3	43.2	22.4	93.1
Metalworking machines	4.4	3.7	20.1	10.6	9.3	13.8
Pharmaceuticals	83.3	59.4	40.7	171.2	162.8	4.9
Semiconductors	66.1	55.2	10.95	69.7	58.5	19.0
Telecommunications	32.6	31.0	4.9	66.2	58.8	12.9

Total merchandise exports grew 23.3% to $1.76 trillion in 2021, while goods imports increased 21.35% from last year to $2.85 trillion, Commerce reported Feb. 8. Services exports grew 8.6% to $766.6 billion from 2020, as services imports increased 16.2% to $535.0 billion.

Merchandise exports in December jumped 20.4% from a year ago to $158.3 billion. Services exports grew 17.7% to $69.9 billion from December 2020. Goods imports grew 20.1% from December 2020 to $259.7 billion, as services imports increased 21.7% to $49.2 billion.

Exports to China followed the overall trend, despite a heated trade war, growing 21.2% in 2021. Those numbers could have been even larger: despite the previous administration's boasting of a phase-one trade deal, China's purchases through November accounted for only 62% of its 2021 targets, according to Peterson Institute numbers (see **WTTL**, Jan. 17, page 3).

Imports from China grew 16.3% from the year before, compared to a 3.7% drop the previous year, enlarging the trade deficit with Beijing to $355.3 billion. With the increase in imports, Canada claimed the crown as the U.S. top individual trading partner with bilateral trade totaling $664.8 billion in 2021. [**Editor's note**: statistics for the European Union exclude the United Kingdom beginning with February 2020.]

U.S. Requests Consultations with Mexico over Vaquitas

The USTR's office Feb. 10 took its marching orders and requested the first consultations with Mexico under the environment chapter of the U.S.-Mexico-Canada Agreement (USMCA) relating to the protection of the critically endangered vaquita porpoise, as well as the prevention of illegal fishing, and trafficking of totoaba fish.

> A quartet of environmental groups took a dual approach to save the vaquita porpoise in August, asking the USTR's office and interagency groups to begin a USMCA enforcement action (see **WTTL**, Aug. 16, 2021, page 1). If the U.S. and Mexico are unable to reach an agreement, the U.S. may request a formal dispute panel, which could result in trade sanctions.

During her trip to Mexico City in July, USTR Katherine Tai separately met with Mexican officials where they "discussed the implementation of USMCA's environment chapter – including concerns related to the conservation and protection of the vaquita, illegal fishing in the Gulf of Mexico, and sea turtle bycatch," according to a USTR readout.

Environmental groups that made the original request, including the Natural Resources Defense Council (NRDC) welcomed the USTR decision. "The legal and illegal trade in shrimp and fish from Mexico has been ravaging the vaquita porpoise for decades," said Zak Smith, director of the NRDC's international wildlife conservation program. The move "signals the possibility of a new approach to tackling environmental destruction caused by international trade. It's about time and the U.S. should take strong actions against Mexico for pushing the vaquita to extinction," he added.

Lawmakers also applauded the action. The announcement "demonstrates why Democrats in Congress insisted that the USMCA include enforceable environmental commitments – those provisions allow the USTR to make this kind of request. Thanks to the USMCA, we now have stronger tools at our disposal to protect vulnerable wildlife and to prevent environmentally harmful practices," Rep. Richard Neal (D-Mass.) said in a statement.

Murray Export Bill Would Designate "Country of Concern"

Sen. Patty Murray (D-Wash.) Feb. 2 introduced *Values in Arms Export Act of 2022* (S. 3558), legislation that restore Congressional authority over arms sales and prevent U.S. arms from being used to violate the laws of war and human rights. The bill would create a three-year "country of concern" designation for certain trading partners.

In October, Reps. Gregory Meeks (D-N.Y.), Abigail Spanberger (D-Va.) and Susan Wild (D-Pa.) introduced Safeguarding Human Rights in Arms Exports (SAFEGUARD) Act (H.R. 5629) that would prohibit arms sales to countries committing genocide or war crimes and elevate protection of human rights in export control of defense articles and defense services (see **WTTL**, Oct. 25, 2021, page 8). Sen. Bob Menendez (D-N.J.) and six co-sponsors, including Murray, introduced the parallel Senate bill in April 2021 (S.1473).

During the three-year designation, any country of concern would be required to submit to a program of enhanced monitoring. The bill also makes the first initial designations: Saudi Arabia and the United Arab Emirates (UAE). "Simply put, U.S. weapons should not be being used to commit war crimes, and it's time Congress re-asserted its authority over international arms sales to prevent that," Murray said in a statement. "It's time we strengthen the role of Congress in future arms deals and keep our weapons out of the wrong hands," she added.

Trade Deficit with FTA Partners Hinges on North America

In the 18 months after the hard-fought U.S.-Mexico-Canada Agreement (USMCA) went into effect, statistics released Feb. 8 show that the U.S. racked up a $148.2 billion trade deficit with the 20 countries with which it already has free trade agreements (FTAs). With all the talk of a renegotiated NAFTA agreement that entered into effect in July 2020, the deficit with Mexico alone (-$108.2 billion) accounts for a large percentage of the FTA deficit.

2021 Trade with FTA Countries (in millions)

	U.S. Exports	U.S. Imports	Balance
Australia	$26,433.5	$12,468.6	$13,964.9
Bahrain	936.2	1,157.0	-220.8
Canada	307,610.8	357,159.8	-49,549.0
Chile	17,340.3	15,045.5	2,294.8
Colombia	16,451.4	13,152.0	3,299.4
Costa Rica	7,311.6	6,537.3	774.3
Dominican Republic	10,444.4	6,346.9	4,097.5
El Salvador	4,127.5	2,517.2	1,610.3
Guatemala	7,997.1	4,666.2	3,330.9
Honduras	6,512.3	5,217.3	1,295.0
Israel	12,820.4	18,650.3	-5,829.9
Jordan	1,233.9	2,745.1	-1,511.2
Korea, South	65,771.8	94,954.5	-29,182.7
Mexico	276,458.9	384,705.5	-108,246.6
Morocco	2,759.9	1,270.5	1,489.4
Nicaragua	2,102.9	4,651.3	-2,548.4
Oman	1,399.5	1,855.4	-455.9
Panama	8,273.0	756.3	7,516.7
Peru	10,242.5	6,886.8	3,355.6
Singapore	35,762.6	29,433.9	6,328.8
TOTAL	**$821,990.5**	**$970,177.4**	**-148,186.9**

Barring those two countries, the other 18 FTAs produce a $9.6 billion merchandise trade surplus (see chart this page). Trade numbers undoubtedly were affected by the global coronavirus pandemic, although how each country and each sector fared remains unclear.

Goods exports to the 20 FTA partners grew to $822.0 billion from 2020, while imports jumped to $970.2 billion. The U.S.

imported $75.95 billion in crude oil from Canada in 2021 and $13.1 billion from Mexico. Total U.S. exports of crude oil fell to $49.5 billion last year, a slight decrease from 2020. Along with oil, autos are another large factor in NAFTA that has drawn major complaints from U.S. unions about trade with Mexico. While the U.S. has a surplus with Canada for all trade in cars, trucks and parts, it has a $96.7 billion deficit with Mexico.

The $29.2 billion deficit with South Korea creates another public relations challenge for trade supporters. But as with Mexico, the main reason for that shortfall is almost entirely the auto trade, with the U.S. suffering a $23.2 billion deficit with Seoul. Among other FTA partners, the U.S. is running a surplus with CAFTA-DR nations, as well as with some countries that have agreed to their own Trans-Pacific Partnership (TPP), including Australia, Chile and Peru. With Singapore, another TPP country, the U.S. now runs a $6.3 billion surplus, while in 2020, the trade deficit was $3.7 billion.

Commerce Self-Initiates Circumvention Inquiries on Quartz Imports

In the fourth such announcement, Commerce Feb. 2 self-initiated new inquiries into possible circumvention of the antidumping (AD) and countervailing duty (CVD) orders on quartz surface products from China. The department will examine whether quartz surface products or quartz surface product inputs from China are exported to Malaysia for minor processing and then exported to the U.S.

> In a 5-0 final vote in June 2019, the ITC found U.S. industry is materially injured by dumped and subsidized imports of quartz surface products from China (see **WTTL**, June 17, 2019, page 6). Cambria Company LLC filed the original petitions in April 2018.

"We have been shocked at how quickly exports from Malaysia rushed to fill the gap left by unfairly traded imports from China," Cambria Chief Sales Officer Arik Tendler said in a statement after the most recent Commerce announcement. "We have long believed that this Malaysian merchandise is circumventing the existing AD/CVD orders. We appreciate Commerce Department taking this important step and look forward to working with the agency in these proceedings."

Comparing the 31-month periods before and after the investigations were initiated, U.S. imports of quartz surface products from Malaysia increased from zero to $116.1 million, Commerce noted. During the same timeframe, Malaysian imports of potential quartz surface products inputs from China increased from $13.9 million to $104 million, an increase of 647.4%.

Six days after the Commerce decision, Customs and Border Protection (CBP) preliminarily determined that 13 U.S. importers have evaded the AD/CVD duties on quartz surface products from China, the company announced. "Following this initial determination, Customs has seven months to continue its investigation and determine appropriate penalties," Cambria said.

* * * Briefs * * *

TRADE PEOPLE: Former USTR chief agriculture negotiator Darci Vetter will join Nature Conservancy as global head for policy and government relations starting March 7, organization announced Feb. 7. Following USTR in 2017, Vetter moved to Edelman Global Advisory. In new role, "Vetter will lead a team of policy and science professionals working to achieve transformational outcomes for conservation and climate solutions, aiming for policy changes globally, regionally, nationally, and locally," Nature Conservancy noted.

CIVIL PENALTIES: In Federal Register Feb. 9, OFAC adjusted for inflation maximum civil monetary penalties (CMPs) under relevant regulations. These include: Iran, Sudan, Zimbabwe, Syrian, Darfur, Congo, Belarus, Lebanon, Magnitsky Act and Hizballah sanctions programs.

UNVERIFIED LIST: In Feb. 8 Federal Register, BIS added 33 Chinese entities, including two WuXi Biologics (Cayman) subsidiaries in Shanghai and Wuxi, to its Unverified List (UVL) because agency "was unable to verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control," notice said. "We welcome inspection at any time for the clearance and removal from such list. We are also pursuing interim measures to remove these subsidiaries from the list prior to inspection," Wuxi Biologics said in statement.

STEEL NAILS: In 5-0 preliminary vote Feb. 11, ITC found U.S. industry may be injured by allegedly dumped and subsidized imports of steel nails from India, Oman, Sri Lanka, Thailand and Turkey.

LEMON JUICE: In 5-0 preliminary vote Feb. 11, ITC determined U.S. industry may be injured by allegedly dumped imports of lemon juice from Brazil and South Africa.

NOMINATIONS: Senate Feb. 9 confirmed Leonard Stark to be Court of Appeals for Federal Circuit (CAFC) judge and Reta Jo Lewis to be Export-Import (Ex-Im) Bank president. Stark vote was 61-35; Lewis vote was 56-40. Senate Banking Committee re-approved Lewis nomination in 13-11 vote in January (see **WTTL**, Jan. 24, page 4). Six days earlier, Judiciary Committee advanced Stark nomination in 16-6 vote. Lewis currently serves as senior fellow and director of congressional affairs at German Marshall Fund (GMF). Stark has served as judge on Delaware U.S. District Court since 2010.

BURUNDI: OFAC Feb. 11 formally removed Burundi Sanctions Regulations from Code of Federal Regulations. In November, President Biden signed Executive Order (EO) terminating sanctions on Burundi that have been in place since 2015 (see **WTTL**, Nov. 22, 2021, page 9). "The situation in Burundi had been significantly altered by events of the past year, including the transfer of power following elections in 2020, significantly decreased violence, and President Ndayishimiye's pursuit of reforms across multiple sectors," OFAC Federal Register notice said. President Obama imposed sanctions on government officials of central African country in November 2015.

ETHIOPIA: Give one, take one. OFAC in Federal Register Feb. 9 issued Ethiopia Sanctions Regulations to implement September Executive Order (EO). Agency "intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive guidance and definitions, general licenses, and other regulatory provisions," it said. In addition, OFAC incorporated General Licenses 1, 2 and 3, which authorize official business of certain international organizations and entities; certain transactions in support of nongovernmental organizations' activities; and transactions related to the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates. In November, agency designated four entities and two individuals "in response to the growing humanitarian and human rights crisis and expanding military conflict in Ethiopia," agency said (see **WTTL**, Nov. 15, 2021, page 1).

ENTITY LIST: BIS in Federal Register Feb. 14 adds seven entities in China, Pakistan and UAE to Entity List. Rule also modifies four existing Chinese entries, including three separate Huawei entries, to correct typographical error, to add necessary punctuation and to "mitigate confusion," notice says. Chinese firm Jiangsu Tianyuan Metal Powder Co. "engaged in activities that warranted the imposition of measures" under Iran, North Korea and Syria sanctions.