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CELEBRATING 40 YEARS

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U.S., EU, Japan Tackle Industrial Subsidies

Continuing the trilateral effort to contain China, but without naming names, the U.S., European Union (EU) and Japanese trade and economy ministers Jan. 14 agreed to strengthen existing World Trade Organization (WTO) rules on industrial subsidies and condemned forced technology transfer practices.

> After a meeting in Washington, U.S. Trade Representative (USTR) Robert Lighthizer, new Japanese Economy Minister Hiroshi Kajiyama, and new EU Trade Commissioner Phil Hogan agreed that the current list of subsidies under WTO rules "is insufficient to tackle market and trade distorting subsidization existing in certain jurisdictions, they said in a joint statement. "Therefore, new types of unconditionally prohibited subsidies need to be added" to the WTO Agreement on Subsidies and Countervailing Measures (ASCM).

In a prior meeting in January 2019, representatives of the three partners focused on writing new rules and sharing anxiety over "non-market policies and practices, market-oriented conditions, industrial subsidies and state-owned enterprises, forced technology transfer policies and practices, WTO reform and digital trade and e-commerce," according to a previous joint statement (see **WTTL**, Jan. 14, 2019, page 5).

On technology transfers, the trio agreed that "unfair practices are inconsistent with an international trading system based on market principles and undermines growth and development," they said. The ministers discussed "their commitment to effective means to stop harmful forced technology transfer policies and practices, including through export controls, investment review for national security purposes, their respective enforcement tools, and the development of new rules," they said.

Final Firearms Rules Get 45-Day Transition

As previously reported, final rules transferring items from U.S. Munitions List (USML) categories I (firearms), II (guns and armament) and III (ammunition) to the Commerce

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Control List (CCL) will be published in the Federal Register Jan. 23 (see **WTTL**, Jan. 13, page 1). Like in the May 2018 proposed rules, the final regulations will include a 45-day delayed effective date.

Sen. Bob Menendez (D-N.J.) renewed his unofficial "hold" on the final rules in December, 30 days after export control agencies sent the final rules to Congress. Specifically, the Bureau of Industry and Security (BIS) revised the final rules to address the publication of technology for 3D printing firearms, while State made no changes from the previous proposed rules.

> For its part, BIS specified items that remain subject to its Export Administration Regulations (EAR), including "'software' or 'technology' for the production of a firearm, or firearm frame or receiver, controlled under ECCN [Export Control Classification Number] 0A501, that is made available by posting on the internet in an electronic format, such as AMF or G-code, and is ready for insertion into a computer numerically controlled machine tool, additive manufacturing equipment, or any other equipment that makes use of the 'software' or "technology' to produce the firearm frame or receiver or complete firearm," the BIS rule noted.

To refresh the collective memory, the BIS rule creates 17 new ECCNs to control items proposed for removal from the USML, and revises and removes other ECCNs. Very few items are likely to move from Category II; mostly historical items, such as vintage Howitzers from 1890-1919 and flamethrowers with very short range, would move to the CCL 600 series. Items from the other two categories would be controlled in the 500 series, like commercial spacecraft that moved over in 2014. "These items are not appropriate for 600 series control because, for the most part, they have civil, recreational, law enforcement, or other nonmilitary applications," the BIS rule noted.

What will stay on the USML includes: fully automatic firearms to caliber .50 (12.7mm) inclusive, firearms for caseless ammunition, silencers, mufflers, sound suppressors, and specially designed parts and components; high-capacity (greater than 50 rounds) magazines and parts and components to convert a semi-automatic firearm into a fully automatic firearm. Flash suppressors will move to CCL, and riflescopes and other firearms sighting devices already moved to USML Category XII if they have night-vision or infrared capabilities.

"For the ECCNs on the CCL prior to the effective date of this final rule that are being renumbered and placed in closer proximity to the firearms-related items that are being removed from the USML and added to the CCL, these existing firearms-related items will continue to be eligible for the same EAR license exceptions as they were prior to the effective date of this final rule," the BIS rule said.

Menendez denounced the administration's disregard of his hold. "Once again, we find ourselves shocked and saddened, and yet somehow unsurprised that the Administration is choosing a path that puts the gun industry's profits ahead of the safety of families. This reckless decision not only makes it easier to export deadly firearms to human rights

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abusers; it removes these exports from Congressional oversight and disapproval," he said in a statement. Gun industry representatives and gun control advocates also responded quickly. "This is a tremendous achievement for the firearms and ammunition industry. We salute the Trump administration for modernizing our nation's outdated Cold War era export controls and putting American manufacturers on an even playing field with their foreign competitors," said Lawrence Keane, National Shooting Sports Foundation (NSSF) senior VP and general counsel, in a statement.

Jeff Abramson, senior fellow at Arms Control Association, called the move "dangerous and misguided" in a statement. "It is in the U.S. national security interest to maintain tighter control over military-style weapons that are too often misused to commit human rights abuses and perpetuate violent conflicts," he added.

Leaders Sign "Phase One" China Deal – What's Next?

President Donald Trump silenced skeptics and critics alike by ceremoniously delivering a phase-one trade deal with China Jan. 15. Now comes the hard part: implementing, monitoring and enforcing China's commitments under the deal. By this editor's count, the phrase "China shall" appears 105 times in the 96-page agreement. In contrast, "the United States shall" only features five times.

> The deal removes no tariffs. Prior to its signing, the USTR's office posted its future Federal Register notice adjusting the 15% additional tariffs on $300 billion of Chinese goods down to 7.5%, but the notice is yet to be published. The change will go into effect Feb. 14 (Happy Valentine's Day). Lawmakers and industry groups resoundingly questioned the future of tariffs (see related story, page 8).

In advance of the signing, the administration announced that it no longer considers China a currency manipulator. Treasury "has helped secure a significant Phase One agreement with China that will lead to greater economic growth and opportunity for American workers and businesses," explained Treasury Secretary Steven Mnuchin. "China has made enforceable commitments to refrain from competitive devaluation, while promoting transparency and accountability," he added.

"For decades, American workers, farmers, ranchers, manufacturers, and innovators have been hurt by the unfair trade with China. Forced technology transfer and intellectual property theft have been huge problems," President Trump said after name-checking almost all of corporate America and Republican lawmakers in attendance. With that, Trump proceeded to sign the agreement, not with President Xi, as it was once billed, but with China's Vice Premier Liu He.

But the president may have missed Liu's caution. "As the two sides have agreed based on the market demand in China, in line with market terms, Chinese businesses will purchase 40 billion U.S. dollars of agricultural products from the United States annually. If the

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demand is strong, the companies may buy more. To make it happen, the two governments need to foster a sound marketing environment for businesses to expand trade activities," Liu warned.

According to several USTR fact sheets, the agreement is broad and wide, but "requires structural reforms" to China's economic and trade regime in intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange. In 2018, the trade deficit with China in U.S. goods and services stood at $380 billion. Trump's purported goal is to make them equal.

Observers Finally See Specifics of China Deal

After so many months, trade lawyers and observers were hungry to see the specific commitments under the phase-one China deal, and they got their wish. Over the next two years, China "will import no less than $200 billion of U.S. goods and services on top of the amounts that it imported in 2017" in four areas: manufactured goods; agricultural products; liquefied natural gas, crude oil and metallurgical coal; and financial services.

> First, China pledges to import U.S. manufactured goods, such as industrial machinery, electrical equipment, pharmaceutical products, aircraft, vehicles, optical and medical instruments, iron and steel, solar-grade polysilicon, hardwood lumber, and chemical products for a "total at least $120 billion in 2020 and at least $131.9 billion in 2021." Second, Beijing will buy U.S. agricultural products, such as soybeans, cotton, grains, meats, ethanol, seafood totaling at least $80 billion over the next two years; and purchase an additional $5 billion of agricultural products annually.

China's also plans to import American liquefied natural gas, crude oil, and metallurgical coal: at least $30.1 billion in 2020, and at least $45.5 billion in 2021. Lastly, it will purchase U.S. financial services, insurance services, cloud services, and travel services, totaling at least $99.9 billion in 2020, and at least $112.2 billion in 2021.

Of the seven substantive chapters of the deal, those that appear most promising are financial services, intellectual property (IP) and technology transfer. The IP chapter speaks to longstanding concerns of the U.S. in trade secrets, pharmaceutical-related intellectual property, geographical indications, trademarks, and enforcement against pirated and counterfeit goods.

The technology transfer chapter addresses several unfair Chinese practices that USTR identified in its Section 301 investigations. "China has agreed to end its long-standing practice of forcing or pressuring foreign companies to transfer their technology to Chinese companies as a condition for obtaining market access," the fact sheet noted.

The agriculture chapter details an expansion of U.S. agriculture and seafood exports. "A multitude of non-tariff barriers to U.S. agriculture and seafood products are addressed, including meat, poultry, seafood, rice, dairy, infant formula, horticultural products, animal

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feed and feed additives, pet food, and products of agriculture biotechnology," USTR said. The financial services chapter addresses a wide range of services, including banking, insurance, securities, and credit rating services. Barriers include foreign equity limitations and discriminatory regulatory requirements. U.S. officials expect the removal of these barriers should allow U.S. financial service a more level playing field.

> The currency chapter speaks to "unfair currency practices by requiring high-standard commitments to refrain from competitive devaluations and targeting of exchange rates, while significantly increasing transparency and providing mechanisms for accountability and enforcement," another USTR fact sheet noted. If implemented, the U.S. would ensure that China cannot use currency practices to unfairly compete against U.S. exporters.

The biggest problem may be enforcing dispute resolution, itself in a separate chapter. "This arrangement creates regular bilateral consultations at both the principal level and the working level. It also establishes strong procedures for addressing disputes related to the agreement and allows each party to take proportionate responsive actions that it deems appropriate," the USTR fact sheet noted. But how would both nations do this effectively, and who would be the umpire when they can't agree?

Senate Moves USMCA Through Legislative Graveyard

So the Senate can move legislation lickety-split when it wants. After several committees approved the implementing legislation (H.R. 5430) for the U.S-Mexico-Canada agreement (USCMA) during hastily rescheduled markups, the Senate majority leader made quick work to hold a full Senate vote Jan. 16, minutes before the impeachment process began in earnest. The final tally was 89-10.

The Senate Finance Committee approved the bill in a 25-3 vote Jan. 7, but four other Senate committees -- Foreign Relations; Commerce, Science, and Transportation; Budget; and Labor -- subsequently scheduled executive sessions to consider the legislation (see **WTTL**, Jan. 13, page 3). Committee chairs expressed concern that the bill would have to wait until after the impeachment trial, but there's an old saying about a will and a way.

The ten "no" votes included predictable progressives who cited environmental reasons for their votes and Sen. Pat Toomey (R-Pa.), who referred to its "many protectionist provisions." The other "no" votes were Sens. Chuck Schumer (D-N.Y.), Kirsten Gillibrand (D-N.Y.), Cory Booker (D-N.J.), Kamala Harris (D-Calif.), Ed Markey (D-Mass.), Jack Reed (D-R.I.), Sheldon Whitehouse, (D-R.I.), Brian Schatz, (D-Hawaii) and Bernie Sanders (I-Vt.).

"Despite the fact that it includes very good labor provisions, I am voting against USMCA because it does not address climate change, the greatest threat facing the planet," Schumer said in a statement. "The Trump administration also included handouts for the oil and gas industry, such as lifting tariffs on tar sands, and refused to include any mention of the climate crisis in the agreement," he added.

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"For the first time in American history, we're enacting a trade agreement that restricts free trade and reduces economic growth. Unlike its predecessor NAFTA, USMCA contains many protectionist provisions that are designed to reduce the exchange of goods between the United States and Mexico," Toomey said in a statement. "Outside of a few necessary modernizations and modest market access improvements for Pennsylvania's dairy farmers, USMCA is a step backwards," he added.

> In a statement of administration policy (SAP), the White House said the president would sign the bill, citing rules of origin for automotive goods, increased Canadian market access for U.S. dairy, and the dedicated chapters on small and medium-sized enterprises (SMEs) and currency. The new USMCA is "a 21st century, high-standard agreement that rebalances trade in North America and modernizes these important trading relationships. This historic and modern agreement will be the template for all future United States trade agreements," the SAP said.

Trade policy wonks questioned the quick vote. "This rush to vote on USMCA was misguided. Not only has Congress failed to debate the merits of a deal with our closest trading partners, the entire process by which USMCA came to a vote raises serious questions about how U.S. trade policy will be handled in the future," Inu Manak of the Cato Institute wrote in a blog post.

Environmental groups denounced the bill and applauded its dissenters. "The opposition from congressional leaders such as Sen. Schumer demonstrates that a new standard has now been set: Any new trade agreement must address the preeminent issue of the 21st century, climate change," Jake Schmidt, managing director of the International Program at the Natural Resources Defense Council (NRDC). "The USMCA was a missed opportunity to strengthen international climate commitments. Now we know it won't be a model for future trade deals. The next trade pact must ensure that international commerce progresses alongside climate protection."

Treasury Finalizes Expanded CFIUS Reviews

Just in the nick of time, Treasury Jan. 17 published final regulations to expand the scope and jurisdiction of the Committee on Foreign Investment in the U.S. (CFIUS) reviews as authorized by the 2018 Foreign Investment Risk Review Modernization Act (FIRRMA). Changes from the proposed rules include a new definition of "principal place of business" and updated treatment of a 2018 pilot program.

Treasury published the final regulations in two parts: provisions pertaining to certain investments in the U.S. by foreign persons and those pertaining to certain transactions by foreign persons involving real estate in the U.S. Both rules go into effect Feb. 13, as required by law. Treasury proposed the revised regulations in September (see **WTTL**, Sept. 23, page 1).

The first rule will "implement the changes that FIRRMA made to CFIUS's jurisdiction and process with respect to transactions that could result in foreign control of any U.S.

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business, as well as certain non-controlling 'covered investments' that afford a foreign person certain access, rights, or involvement in certain types of U.S. businesses," Treasury explained in a Frequently Asked Question (FAQ).

Treasury is seeking public comments on the new definition for a party's "principal place of business." The term is defined as "the primary location where an entity's management directs, controls, or coordinates the entity's activities, or, in the case of an investment fund, where the fund's activities and investments are primarily directed, controlled, or coordinated by or on behalf of the general partner, managing member, or equivalent," the rule noted. Comments are due Feb. 13.

Former BIS Under Secretary Mario Mancuso, now a partner at Kirkland & Ellis law firm, noted that "U.S. private equity investors will likely benefit from the new proposed definition, which provides important clarity on when investments by U.S.-controlled funds through non-U.S. fund vehicles may be subject to CFIUS' legal jurisdiction."

In general, "the new regulations require heightened disclosure about both buyers and sellers, making it even more important to begin the process of collecting transaction parties' information as early as possible," Mancuso noted.

> The proposed rules did not affect an ongoing pilot program launched in October 2018 to review certain transactions involving foreign persons and critical technologies, but the final rules put an end to it. "This rule modifies the applicability of the pilot program so that it applies only to transactions for which specified actions were taken prior to the effective date of this rule," it said.

Other changes from the proposed rules include: modifying certain criteria to qualify as an "excepted investor;" clarifying the application of the "incremental acquisition rule;" adjusting the treatment of genetic data within the definition of "sensitive personal data;" refining the application to investment funds, including by amending the definition of "substantial interest;" modifying the exceptions for certain real estate transactions in airports and maritime ports; and refining the geographic coverage relating to certain military installations, Treasury noted in a FAQ.

Retailers Plead for Exceptions to Possible Tariffs on French Goods

On the list of the trade disputes between the U.S. and the European Union (EU), France's recently implemented 3% digital services tax (DST) ranks highly, both in practical effect and in the fallout to potential retaliation. The issue comes up quickly in diplomatic conversations, and industry responds loudly to requests for public comment.

In December, the USTR's office found that the DST is "unreasonable or discriminatory and burdens or restricts U.S. commerce" (see **WTTL**, Dec. 9, page 1). Under the rules, USTR said it could impose up to 100% duties on certain French products, or fees or restrictions on French services.

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EU Trade Commissioner Phil Hogan addressed the subject during remarks in Washington Jan. 16. "Citizens in both America and Europe want digital companies to contribute their fair share of tax on both sides of the pond. We need to find a sustainable answer to this problem if we want to prevent every country coming up with an individual solution," he said. The EU "fully supports the discussions on a global digital services tax. But we have been equally clear that we have no option but to regulate on our own if the U.S. blocks a global agreement," Hogan added.

> During a visit with Hogan, House Ways and Means Committee Chairman Richard Neal (D-Ma.) raised his "support of a multilateral process on our digital services tax disagreement. In particular, regarding digital taxes, I reiterated how critical it is for American workers, businesses, and wine producers that the issue not persist and spark the imposition of severe tariffs," Neal said in a statement.

As an example of industry reaction to the potential tariffs, the U.S. Fashion Industry Association (USFIA) cited the inclusion of key fashion imports – handbags and tableware – on the USTR retaliation list. "These products are unrelated to the underlying issue under investigation and their inclusion on a retaliation list would harm American fashion brands and retailers as well as our customers," the group wrote in its public comment. "We encourage the Administration to resolve this dispute through dialogue with France and especially through the international organizations that oversee tax policy. We believe this would be a more successful strategy rather than using tariffs," USFIA noted.

Wine merchants and restaurateurs were particularly vocal. "By U.S. law, once these wine products enter the country they are controlled by U.S. companies, most of them small family-owned businesses. Those U.S. importers must pay the tariffs immediately which creates a ripple effect to wholesalers, retailers, restaurants, tourism, and hospitality. Tariffed wine makes up approximately 20% of a fine dining restaurant's revenue at an even higher profit margin. Wine retailers are even more dependent on wine sales and legally, have very few other products they can sell," wrote Woman-Owned Wineries.

Wolfgang Puck asked the USTR to remove fine porcelain dinnerware from the retaliatory list. His company "relies on this dinnerware as a critical element in creating the exquisite visual effects needed in a fine restaurant. We have used French porcelain for decades in our restaurants, and it is a signature of our fine dining. We have not found a plateware manufacturer that matches the artistry and beauty of this plateware," he wrote.

Industry, Lawmakers Come to Praise, Not to Bury China Deal

While some officials are calling the phase-one trade deal with China the greatest thing since sliced bread, lawmakers and industry groups are approaching the deal signed Jan. 15 with a bit more caution (see related story, page 3). Groups representing labor unions, solar energy, soybeans and textiles were particularly circumspect about the deal.

"Despite today's elaborate ceremony, the jury is still out on how 'historic' this deal is. In calling it a 'Phase One' deal, the Administration admits that there are other important

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commitments they have not yet been able to secure, especially disciplines on China's use of unfair subsidies," House Ways and Means Committee Chair Richard Neal (D-Ma.) said.

Sen. Chuck Grassley (R-Iowa) hoped the deal "proves to be a turning point in our economic relationship with China, but I've seen enough history to be clear-eyed. Not only must China follow through with its commitments in this Phase One deal, but also work toward a comprehensive agreement that ends forced technology transfers, intellectual property theft and unfair restrictions on U.S. goods, including agriculture."

Senate Finance Committee Ranking Member Ron Wyden (D-Ore.) said, "While I want this deal to resolve our fundamental concerns with China, I fear that its limited scope, the lack of transparency in its development and the weak enforcement mechanism mean it will amount to little more than words on paper."

> Former Deputy USTR Robert Holleyman, now Crowell & Moring international president, said: "By maintaining extra tariffs of up to 25% on nearly two-thirds of U.S. annual imports from China, the U.S. is effectively acknowledging that we have gotten only a minority of the issues resolved. We have made some progress…but the toughest issues remain. Those are the ones where China has resisted making changes because they perceive it is not in their self-interest."

The National Council of Textile Organizations (NCTO) questioned the "last-in, first-out approach to the tariff reductions," NCTO President and CEO Kim Glas said in a statement. "This means that the penalty 301 tariffs on finished apparel and sewn products–the areas where tariffs have the most potential to effect reforms in China while bolstering the Western Hemisphere supply chain– are cut in half while U.S. manufacturers continue to face full tariffs on certain inputs and equipment not available domestically," she said.

Software & Information Industry Association (SIIA) cited the trilateral effort on subsidies as a more effective tool for further progress (see related story, page 1). "It will be crucial to monitor Chinese compliance with those provisions. Additional work on structural issues is critical to achieve a Phase 2 agreement. Besides effective rules on intellectual property and forced technology transfer, it is important to achieve reciprocal market access, cross-border data flows, and withdrawal of market-distorting subsidies," SIIA SVP for Global Public Policy Carl Schonander said in a statement.

AFL-CIO President Richard Trumka, who recently supported the updated USMCA, cited the lack of labor rights, subsides and currency misalignment as missing elements in the deal. "It seems some progress has been made, but the devil is in the details—and it's important to remember that China has made and failed to honor similar commitments in the past," Trumka said.

"While this trade deal won't do anything to relax the solar tariffs, it is a positive development for the U.S. solar industry," John Smirnow, Solar Energy Industries Association (SEIA) VP market strategy, said. "We hope this deal will start a much-needed discussion

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with the administration about how we can scale back the tariffs on solar products more broadly, while continuing to build American solar manufacturing," he added.

The American Soybean Association (ASA) applauded the deal, but hoped the agreement would lead to "a negotiated solution in the next phase that removes tariffs on American soybeans shipped to China." The signing is "a positive for the U.S., including reduction of non-tariff barriers to trade that are important to soybean growers and other agriculture groups." said ASA President Bill Gordon.

> Business Roundtable looked past phase-one and urged the administration to move "phase two negotiations forward expeditiously to achieve additional structural reforms in China and remove remaining tariffs and other barriers to trade," the group said. "The CEO members of Business Roundtable will monitor closely the implementation of this Phase One agreement and assist with future phases of negotiations to address further unfair trade and investment practices," it added.

Cato's Simon Lester threw some reality at the applause. "As to the pledges by China to buy $200 billion of additional U.S. products over two years, this is not a typical component of a trade deal and does not constitute trade liberalization. It remains to be seen whether China can buy this much, whether the U.S. has it to sell, and how other countries react if it means their sales to China decrease," he said. "Given how long the phase one talks took, a phase two deal is unlikely to be signed anytime soon," Lester added.

* * * Briefs * * *

ENGINES: Coalition of American Vertical Engine Producers, on behalf of Kohler and Briggs & Stratton, filed countervailing and antidumping duty petitions Jan. 15 with ITA and ITC against imports of vertical shaft engines between 225cc and 999cc and parts thereof from China. Petitioners allege dumping margins of 320.41 to 633.64%.

WOOD MOULDINGS: Coalition of American Millwork Producers filed countervailing and antidumping duty petitions Jan. 8 with ITA and ITC against imports of wood mouldings and millwork products from Brazil and China. Examples include interior and exterior door frames, casing, base mouldings, handrails, crown moulding, and panel moulding.

EXPORT ENFORCEMENT: Indictment against five men associated with Pakistani front company was unsealed Jan. 15 in Concord, N.H. U.S. District Court on charges of conspiracy to cause exports of electronic equipment and aircraft parts to Advanced Engineering Research Organization (AERO) and Pakistan Atomic Energy Commission (PAEC) without required licenses between September 2014 and October 2019. Both AERO and PAEC are on BIS Entity List. Indictment identified 38 separate exports, involving 29 different U.S. companies, including three from New Hampshire. Defendants, who live in Pakistan, Canada, Hong Kong and UK, are at large.

CIVIL PENALTIES: In Federal Register Jan. 14, State adjusted for inflation civil monetary penalties (CMP) for Chemical Weapons Convention Implementation Act and certain penalty provisions of Arms Export Control Act (AECA). Under new rule, for each violation of AECA section 38(e), new maximum adjusted penalty level will be $1,183,736 (previously $1,134,602); section 39A(c), $860,683 (previously $824,959); and section 40(k), $1,024,457 (previously $981,935).

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<u>CHERRIES</u>: In 5-0 negative final vote Jan. 14, ITC found U.S. industry is not materially injured by dumped and subsidized imports of dried tart cherries from Turkey.

<u>DEBARRED NO MORE</u>: In Federal Register Jan. 16, State rescinded statutory debarments of five individuals and companies: Jami Siraj Choudhury, David Michael Janowski II, N.H. technology sourcing company Netria Corporation, Jonathan Robert Reynolds and State Metal Industries. "The department has conducted a thorough review of the circumstances surrounding each of the Parties' convictions and has determined that the Parties have individually taken appropriate steps to address the causes of the violations." In January 2015, Netria was sentenced in Concord, N.H., U.S. District Court to one year's probation for shipping two Lockheed Martin fuel quantity indicators for C-130 aircraft without required State licenses (see **WTTL**, Jan. 19, 2015, page 8).

<u>IRAN</u>: Without issuing specific General License, Treasury Jan. 16 clarified 90-day wind-down period for transactions in Iranian construction, mining, manufacturing and textiles sectors to avoid sanctions under Executive Order (EO) 13902 president issued week prior (see **WTTL**, Jan. 13, page 2). "Such persons should take the necessary steps to wind down transactions by the end of the 90-day wind-down period to avoid exposure to sanctions, and be aware that entering into new business that would be sanctionable under the E.O. on or after January 10, 2020 will not be considered wind-down activity and could be sanctioned even during the wind-down period," Treasury said in FAQ. Wind-down period ends April 9.

<u>WASHERS</u>: CAFC Jan. 13 affirmed CIT ruling on Commerce's regulatory authority in anti-dumping duty (ADD) order on helical spring lock washers, as well as ADD order's scope. "We hold that Commerce exceeded its regulatory authority …by retroactively suspending liquidation to the issuance date of the ADD Order. We also find that substantial evidence supports Commerce's final scope ruling that US&F's washers are within the scope of the ADD Order," Circuit Judge Jimmie Reyna wrote for three-judge panel in *United Steel and Fasteners v. U.S.*

<u>WTO</u>: In joint communication Jan. 14, India and U.S. said "parties continue to engage in good faith discussions to seek a positive solution" to WTO dispute on countervailing measures on imported hot-rolled carbon steel flat products from India. U.S. appealed panel ruling in December, but Appellate Body (AB) does not have quorum to hear appeals (see **WTTL**, Dec. 23, page 3). U.S. "will submit a notice of appeal and an appellant submission once a Division can be established and that India may file its own appeal on alleged errors in issues of law covered in the panel report and legal interpretations developed by the panel at that point of time," countries added.

<u>FCPA</u>: Donville Inniss, former Barbadian industry minister, was convicted Jan. 16 in Brooklyn U.S. District Court for his role in scheme to launder $36,000 in bribes that Insurance Corporation of Barbados Limited (ICBL) paid in exchange for insurance contracts between August 2015 and April 2016. Jury found Inniss guilty of money laundering and conspiracy to commit money laundering after one-week trial. In August 2018, Justice declined to prosecute ICBL under its Foreign Corrupt Practices Act (FCPA) Corporate Enforcement Policy (see **WTTL**, Sept. 3, 2018, page 7).

<u>NORTH KOREA</u>: OFAC Jan. 14 designated North Korean Namgang Trading Corporation (NTC) and China-based North Korean lodging facility Beijing Sukbakso "that facilitate North Korea's practice of sending laborers abroad." OFAC designated Namgang Construction in December 2016 for evading UN Security Council resolutions (see **WTTL**, Dec. 5, 2016, page 5).

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