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BIS Requests Comments on Semiconductor Supply Chain

The Bureau of Industry and Security (BIS) March 15 requests comments on President Biden's recent executive orders on U.S. supply chains, specifically asking for information regarding risks in the semiconductor manufacturing and advanced packaging supply chains.

Lawmakers, manufacturers and union groups applauded in February as Biden ordered a 100-day supply chain review of four key products: semiconductors; critical minerals, including rare earth elements; pharmaceuticals and active ingredients; and high-capacity batteries, including electric-vehicle batteries (see **WTTL**, March 1, page 3).

BIS also cites the 2021 National Defense Authorization Act (NDAA) that "mandates several federal actions in securing the semiconductor-related supply chain," the agency said. "One of these requirements is for the Secretary to assess the capabilities of the U.S. microelectronics industrial base to support the national defense, in light of the global nature and interdependence of the supply chain with respect to manufacture, design, and end use," BIS said Federal Register notice. Comments are due April 5.

BIS requests information including: critical and essential goods and materials underlying the semiconductor manufacturing and advanced packaging supply chain; manufacturing and other capabilities necessary to produce semiconductors; the availability of the key skill sets and personnel; risks or contingencies; resilience and capacity; and policy recommendations or suggested executive, legislative, regulatory changes or actions.

Vaccines Take Center Stage in Trade Dispute

As leaders of the Quad, including Australia, India, Japan and the U.S., hold virtual hands and promise cooperation on equitable Covid-19 vaccine access, World Trade Organization

(WTO) members could not agree to waive certain intellectual property (IP) obligations in response to the global pandemic. The waiver, that was first proposed in October, would expedite vaccine distribution to developing countries, proponents argued.

“Building on the progress our countries have achieved on health security, we will join forces to expand safe, affordable, and effective vaccine production and equitable access, to speed economic recovery and benefit global health. With steadfast commitment to the health and safety of our own people, we also recognize that none of us can be safe as long as the pandemic continues to spread,” Quad leaders said in a joint statement March 12.

At a meeting two days before of the WTO Council on Trade-Related Aspects of IP Rights (TRIPS), members could not reach consensus on a proposal for a temporary waiver of certain IP obligations. “Members continued discussions on the role of intellectual property amid a pandemic and how the WTO and other stakeholders can engage to ensure secure and rapid access to vaccines and other medical products needed to combat COVID-19,” WTO said diplomatically.

The U.S. noted that “it is paramount to collectively increase access to facilitate equitable distribution of COVID-19 vaccines and to support policies that drive the rapid development, production and distribution of new vaccines medicines and other health products,” a Geneva trade official said.

“The U.S. said to be looking forward to engaging in further fact-based discussions on the questions that a number of members have raised about the proposal, with the aim of finding multilateral solutions to amplify the public health and humanitarian responses to the ongoing crisis,” the official added.

Lawmakers and advocacy groups denounced the lack of consensus. “It is outrageous that, amid a global pandemic, major pharmaceutical companies are lobbying to protect billions in profits. I urge the Biden administration to support the proposal to waive vaccine-related IP rights at the WTO to rapidly expand supplies of vaccines,” Sen. Bernie Sanders (I-Vt.) tweeted.

Lori Wallach, director of Public Citizen’s Global Trade Watch, cut to the chase. “A vaccine financing agreement with India is one step forward, but much more needs to be done quickly to end the global pandemic including the Biden administration getting on the right side of history and joining the 100-plus countries that support a temporary, emergency waiver of WTO rules and promoting technology sharing and investing heavily in vaccine production so vaccines, treatments and test can be made in many countries as possible,” she said in a statement.

Economic anthropologist Jason Hickel called the disagreement “devastating news. Global South countries have been fighting for the right to manufacture and import affordable versions of the covid vaccines. A few hours ago, the USA, UK and European Union joined forces to block them at the WTO. The West is indefensible,” Hickel tweeted.

A week before the meeting, the U.S. Chamber of Commerce urged the WTO not to get distracted by the waiver. “Proposals to waive intellectual property rights are misguided and a distraction from the real work of reinforcing supply chains and assisting countries to procure, distribute and administer vaccines to billions of the world’s citizens,” Senior VP Patrick Kilbride said in a statement. “Diminishing intellectual property rights would make it more difficult to quickly develop and distribute vaccines or treatments in the future pandemics the world will face,” he added.

Lawmakers Draw Line in Sand on Cuba Policy

Biden administration and other Democratic efforts to loosen restrictions on Cuba could hit a wall as Republican lawmakers introduce legislation preventing the president or Secretary of State Antony Blinken from removing Cuba from the State Sponsor of Terrorism (SST) List. The previous administration returned Cuba to the SST list in January.

Sens. Marco Rubio (R-Fla.), Ted Cruz (R-Texas) and Rick Scott (R-Fla.) March 10 introduced the *Fighting Oppression until the Reign of Castro Ends (FORCE) Act* (S.689), which would prevent the administration’s move until certain requirements are met. Rep. María Elvira Salazar (R-Fla.) introduced a parallel House bill (H.R.287) in January, a week before Biden’s inauguration.

The three lawmakers also wrote a letter to Senate leadership indicating they would oppose any legislation that would benefit the Cuban regime. “Any efforts to weaken U.S. law would only finance the Cuban military and support their corrupt and oppressive policies. We believe the Cuban people deserve no less than the most rudimentary foundations of a free society and therefore, we object to any motions or unanimous consent requests regarding legislation that amends U.S. law towards Cuba,” they wrote.

On the other side of the aisle, Sen. Ron Wyden (D-Ore.) and three other Democratic cosponsors introduced the U.S.-Cuba Trade Act of 2021 (S. 249), a bill to lift the Cuba trade embargo in February (see **WTTL**, Feb. 8, page 5). The bill would repeal major Cuba statutes, including the Helms-Burton Act and the Cuban Democracy Act, as well as other trade, investment and travel provisions.

Blinken spelled out the administration’s position at a House Foreign Affairs Committee hearing the same day as the senators’ letter. “We’re looking at the entire policy right now and we haven’t come to any conclusions. Knowing that the goals are freedom and democracy for the people of Cuba, we also start with the recognition that obviously no policy in the past of whatever stripe has fully succeeded in achieving that,” Blinken said. “There have been no early policy changes, and certainly we are not going to make any changes without fully consulting with you,” he added.

FinCEN Urges Art Traders Exercise Due Diligence

Sotheby's and Christie's, take note. Financial institutions and those involved in the trade of antiquities and art need to be mindful of recent legislation and new reporting requirements that could impact them, the Financial Crimes Enforcement Network (FinCEN) advised March 9. The agency also provided specific instructions for filing Suspicious Activity Reports (SARs) related to the art trade.

The Anti-Money Laundering (AML) Act of 2020 expanded the definition of "financial institution" under the Bank Secrecy Act (BSA) to include persons "engaged in the trade of antiquities" and directed FinCEN to "promulgate implementing regulations," the agency said. In addition, the act requires Treasury to "perform a study of the facilitation of money laundering and the financing of terrorism through the trade in works of art," it added.

"Financial institutions with existing BSA obligations, including the reporting of suspicious activity, should be aware that illicit activity associated with the trade in antiquities and art may involve their institutions. Crimes relating to antiquities and art may include looting or theft, the illicit excavation of archaeological items, smuggling, and the sale of stolen or counterfeit objects," FinCEN said.

"Crimes relating to antiquities and art also may include money laundering and sanctions violations, and have been linked to transnational criminal networks, international terrorism, and the persecution of individuals or groups on cultural grounds," it added.

In an October advisory, Treasury's Office of Foreign Assets Control (OFAC) said the Berman Amendment to trade laws allowing the import or export of informational materials, which specifically mentions artwork, does not categorically exempt all dealings in artwork from regulation and enforcement (see **WTTL**, Nov. 2, 2020, page 3).

* * * Briefs * * *

RESIN: In 5-0 preliminary vote March 12, ITC found U.S. industry may be injured by allegedly dumped and subsidized imports of granular polytetrafluoroethylene (PTFE) resin from India and Russia.

POLYVINYL ALCOHOL: ITC voted 5-0 in "sunset" review March 12 that revoking antidumping duty orders on polyvinyl alcohol from China and Japan would renew injury to U.S. industry.

FERTILIZERS: In 4-1 final vote March 11, ITC found U.S. industry is materially injured by subsidized imports of phosphate fertilizers from Morocco and Russia. Commissioner David Johanson voted no.

EXPORT ENFORCEMENT: German firm MSI Aircraft Maintenance Services International GmbH agreed March 5 to pay \$51,921 civil penalty to settle BIS charge of exporting U.S.-origin reservoir and valve assemblies to Iran via Germany in 2011 and 2012. Items were valued at approximately \$51,921. After items were exported, correspondence indicated that MSI and another German company were both suppliers for blocked Iranian entity Mahan Airways. "Moreover, the

letter, which was on joint MSI/German Company No. 1 letterhead, pointed out that both companies procured and/or repaired aircraft parts on Mahan's behalf," BIS order said.

VACCINES: EU March 11 extended transparency and authorization requirement for exports of Covid-19 vaccines made within 27-nation bloc until end of June. "The first weeks of the application of this instrument have shown that the trade disruption feared by many did not take place. Since the measure was introduced, shipments were authorized to more than 30 countries," Trade Commissioner Valdis Dombrovskis said in statement. Union imposed requirement in January (see **WTTL**, Feb. 1, page 2).

WASSENAAR: Unpublished rule implementing changes from 2019 Wassenaar plenary that was at Federal Register office on Inauguration Day was returned, per normal practice in administration transition, Hillary Hess, director of BIS regulatory policy division, told agency's RAPAC March 9. She did not predict new publication date. December 2020 Wassenaar plenary and all other 2020 meetings were canceled due to COVID restrictions (see **WTTL**, Jan. 11, page 1).

BURMA: OFAC March 10 designated two adult children of Burmese military commander-in-chief and six construction, restaurant and media production companies in response to military coup and killing of peaceful protestors. Week earlier, BIS imposed new export control restrictions on country and added four Burmese entities to Entity List (see **WTTL**, March 8, page 1).

NOMINATION: Senate Foreign Relations Committee March 11 approved nomination of Wendy Sherman to be deputy secretary of State in 14-8 vote. True to form, Sen. Ted Cruz (R-Texas) tweeted he will place hold on nomination "until the Biden administration stops empowering Putin and takes a firm stance against the Nord Stream 2 pipeline." Cruz similarly delayed full Senate vote on Commerce Secretary Gina Raimondo over keeping Huawei on BIS Entity List (see **WTTL**, March 8, page 7).

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