ISSN 0276-8275

WTTLonline.com

Washington Tariff & Trade Letter®

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

Publisher: Martin Kalin • Editor: Meredith Gilston

Vol. 41, No. 28 **July 12, 2021**

BIS Adds More Xinjiang Firms to Entity List

Citing illegal exports and support of military programs, the Bureau of Industry and Security (BIS) in the Federal Register July 12 will add 34 entities in Canada, China, Iran, Lebanon, Netherlands, Pakistan, Russia, Singapore, South Korea, Taiwan, Turkey, United Arab Emirates (UAE) and the United Kingdom (UK) to its Entity List.

Of the list, 14 Chinese entities "have enabled Beijing's campaign of repression, mass detention, and high-technology surveillance" in Xinjiang, and five were added for "directly supporting PRC's military modernization programs related to lasers and C4ISR programs," Commerce said in a press release. In June, BIS added five other Xinjiang-based companies to its Entity List (see **WTTL**, June 28, page 1).

At the same time, the agency revises one Chinese entity to remove an alias and removes German firm Maintenance Services International (MSI) GmbH from the list. MSI agreed in March to pay BIS a $51,921 civil penalty to settle one charge of exporting U.S.-origin reservoir and valve assemblies to Iran via Germany in 2011 and 2012 (see **WTTL**, March 15, page 5). The company was added to the Entity List in December 2020.

The agency adds JSC Kazan Helicopter Plant Repair Service to its Military End-User (MEU) List under Russia. BIS removes TEM International FZC in UAE from its Unverified List, "as a conforming change to this same entity being added to the Entity List," the notice says. The entity is "involved in proliferation to unsafeguarded nuclear activities" that are contrary to U.S. national security and/or foreign policy interests.

U.S., Mexico Agree to Remediation in Labor Dispute

While the three North American trade ministers were still in high-level discussions in Mexico City, the U.S. and Mexico July 8 announced a course of remediation in the U.S.'s first request under the novel Rapid Response Labor Mechanism in the U.S.-Mexico-

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Canada Agreement (USMCA). The remediation comes just a week after the first anniversary of the USMCA (see related story, page 4). The U.S. filed the request in May, asking Mexico to review whether workers at a General Motors (GM) facility in Silao are being denied the right of free association and collective bargaining (see **WTTL**, May 17, page 1). Mexico had 10 days to agree to conduct a review and 45 days to remediate.

Under the remediation, Mexico will: ensure that a new legitimization vote is held at the facility by August 20; have federal inspectors from the Secretariat of Labor and Social Welfare (STPS) present at the facility; permit a robust presence of impartial international observers from the International Labor Organization, as well as domestic observers; and investigate and, as appropriate, sanction anyone responsible for the conduct that led to the suspension of the April vote.

> "Reaching an agreement with Mexico on a remediation plan shows the USMCA's potential to protect workers' rights and the benefits of a worker-centered trade policy. Fully implementing and enforcing the USMCA not only helps workers there, it also helps American workers by preventing trade from becoming a race to the bottom," U.S. Trade Representative (USTR) Katherine Tai said in a statement.

Rep. Richard Neal (D-Mass.), a key legislator in the USMCA's passage, commended the enforcement efforts. "We fought hard during USMCA negotiations to include proactive, aggressive enforcement tools. Ambassador Tai knows these tools and how important enforcing the USMCA is to its overall success, and the success of our three nations," he said in a statement.

AFL-CIO President Richard Trumka called the agreement "a major step forward" in a statement. "Now, the Mexican government must deliver on its promise to punish the corrupt, sham 'protection union' agents who tried to steal the election last April, and ensure a free and fair vote this August. USTR must hold Mexico accountable for fulfilling the terms of the settlement agreement or impose swift and severe penalties," he added.

GOP Lawmakers Denounce Global Tax Plan

Republican lawmakers who are key to approving and writing U.S. tax policy are raising major objections to the global tax plan approved by the Organization of Economic Cooperation and Development (OECD) and before that by the G7 nations, including the U.S. At press time the G20 nations are discussing and potentially voting on the plan July 8-11 in Italy.

The June agreement on a 15% global minimum tax that was signed by the G7 heads of state at their first post-pandemic gathering in two years, would resolve years of wrangling and disagreement. The "new" approach could put fights over digital service taxes (DSTs) in the rearview mirror (see **WTTL**, June 14, page 4).

The USTR's office three days earlier found DSTs adopted by six countries, including the G7 host United Kingdom (UK), are worthy of imposing additional tariffs, but then suspended those tariffs with the pending tax agreement and as multilateral negotiations continue at the OECD and other venues. In a July 8 letter to Treasury Secretary Janet Yellen ahead of the G20 meeting, Senate Finance Committee Chair Mike Crapo (R-Idaho) and House Ways and Means Ranking Member Kevin Brady (R-Texas) argued that the American worker and businesses are unfairly and disproportionately targeted by foreign governments and that must stop immediately.

"The global minimum tax must be fair to American workers and companies – any special rates or exemptions offered to foreign competition must be available to Americans…. Congress will not accept a deal that makes it better to be a foreign worker or company than an American one," the lawmakers wrote.

Their Senate and House counterparts disagreed. In a joint statement July 1, House Ways and Means Committee Chairman Richard Neal (D-Mass.) and Senate Finance Committee Chairman Ron Wyden (D-Ore) said that the news that more than 100 countries agreed to support a global minimum tax rate of at least 15% percent was a laudable achievement, which was well won by the administration.

"Ensuring that multinational companies pay their fair share and compete on a level playing field is critical to our ability to build back better, and this agreement lays a foundation to move forward on these issues and put an end to discriminatory digital services taxes. We look forward to reviewing the entire OECD agreement and its impact on U.S. workers, business, and taxpayers," the Democrats said.

Crapo and Brady were unmoved by those arguments and appeared incensed by the EU's plank for a digital tax carve out. "Not only has France continued collecting its discriminatory digital services tax from U.S. companies, even while the United States has suspended retaliatory tariffs against France, the French finance minister stated this week that France will continue to collect those taxes until the OECD agreement is implemented, which the OECD term sheet indicates will be no earlier than 2023,' the GOP leaders contended.

"No nation has won this race. Lower tax rates have not only failed to attract new businesses, they have also deprived countries of funding for important investments like infrastructure, education, and efforts to combat the pandemic. In the United States, this agreement will ensure that corporations shoulder a fair share of that burden," Yellen said July 1 when the OECD announced its agreement.

"Today's agreement by 130 countries representing more than 90% of global GDP is a clear sign: the race to the bottom is one step closer to coming to an end. In its place, America will enter a competition that we can win; one judged on the skill of our workers and the strength of our infrastructure. We have a chance now to build a global and domestic tax system that lets American workers and businesses compete and win in the world economy," she added.

NAFTA Ministers Address Lingering Trade Disputes

The "three amigas" – the three trade ministers of the North American countries -- met in person in Mexico City July 7-8 to celebrate the first anniversary of the U.S.-Mexico-Canada Agreement (USMCA). While the three trade ministers were still visiting, the U.S. and Mexico July 8 announced a course of remediation in the U.S.'s first request under the USCMA's novel Rapid Response Labor Mechanism in (see related story, page xx).

"The modernizations we made in the new NAFTA can help us promote growth in traditional sectors, such as manufacturing, agriculture, and natural resources, and can help us become market leaders in emerging sectors, such as clean technology and sustainable infrastructure, through trilateral collaboration," Canadian Trade Minister Mary Ng told reporters after the meeting during a joint press conference with USTR Katherine Tai and Mexican Economy Secretary Tatiana Clouthier.

> While the three ministers were all smiles, several sectors, including energy, dairy and softwood lumber, are still subject to trade disputes between the partners. For example, in response to a question about the softwood lumber dispute, Ng said: "We continue to be committed to working together" on this issue.

Commerce released the results of its first administrative review of antidumping duty (AD) and countervailing duty (CVD) orders on certain softwood lumber products from Canada in November (see **WTTL**, Nov. 30, 2020, page 1). The U.S. in September appealed a World Trade Organization (WTO) dispute panel ruling that largely agreed with Canada that U.S. CVDs on softwood lumber imports were inconsistent with WTO commitments.

During the Mexico City trip, Tai separately met with Clouthier and Mexican Agriculture Secretary Victor Villalobos 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.

In April 2020, Court of International Trade (CIT) Judge Gary Katzmann lifted a preliminary injunction and granted a motion for voluntary dismissal of the legal battle Natural Resources Defense Council (NRDC) filed to save endangered vaquita porpoises (see **WTTL**, April 27, 2020, page 8) A month earlier, the National Marine Fisheries Service (NMFS) announced it would ban imports from Mexico of almost all fish caught in the northern Gulf of California.

* * * Briefs * * *

<u>BLUE LANTERN</u>: DDTC's annual report on Blue Lantern end-use monitoring visits released July 6 shows increase in number of visits initiated in fiscal year 2020, which ended Sept. 30, 2020, to 272 from 187 year earlier. Of 180 cases closed in fiscal 2020, agency determined 24% to have "unfavorable" results, which dropped from FY2019. "FY 2020 unfavorable findings were lower than the average rate of unfavorable outcomes for the past five fiscal years (31%) though in line with historic norms when FY 2019 data are excluded," DDTC noted. Agency explained unfavorable

results: "Because the selection process is risk-based, transactions targeted for closer scrutiny are more likely to result in unfavorable findings than a random sampling of license applications."

WIND TOWERS: In 5-0 final vote July 8, ITC determined U.S. industry is materially injured by subsidized imports of utility scale wind towers from Malaysia.

ITC: Rekha "Rashmi" Bartlett was named ITC inspector general, Commission announced July 6. Most recently, she served as acting assistant inspector general for special review and evaluation at Environmental Protection Agency (EPA). Prior to that, Bartlett served in CBP trade office; Labor's Job Corps office; and as audit manager in Treasury's inspector general office. She began her career as CIA intelligence officer.

TRADE PEOPLE: Former U.S. Ambassador to India Kenneth Juster, who previously served as BIS under secretary, joined Freshfields law firm as senior counselor, firm announced July 7. "I look forward to contributing to the firm's success by assisting clients in the United States, India, and throughout the world in navigating cross-border, regulatory, and other challenges," Juster said in statement. President Biden July 9 announced intent to nominate Los Angeles Mayor Eric Garcetti to replace Juster as ambassador in New Delhi.