

# Washington Tariff & Trade Letter

Vol. 43, No 18

[wttonline.com](http://wttonline.com)

May 1, 2023

## Mission to Cajole Porous Border States

Senior officials from the U.S. Treasury and Commerce Departments have traveled to Kazakhstan to discuss the evasion of sanctions and export controls imposed on Russia for its war against Ukraine.

Assistant Secretary for Terrorist Financing and Financial Crimes Elizabeth Rosenberg and Assistant Secretary for Export Enforcement Matthew Axelrod joined an interagency, multilateral visit to Astana and Almaty from April 23 to 26. They were part of a delegation that included the European Union's International Special Envoy for the Implementation of EU Sanctions, David O'Sullivan, and the United Kingdom's Director of the Sanctions Directorate, David Reed.

The delegations met with government officials and the private sector to share information, outline strategic priorities, and offer assistance to help facilitate compliance while minimizing economic impacts on Kazakhstan.

Russia's efforts to illicitly procure supplies and inputs for its military-industrial complex were discussed, with a focus on dual-use goods. The delegations urged vigilance against an uptick in evasion attempts and warned that Russia has sought to use cut-outs, opaque payments, and third countries to circumvent sanctions and export controls.

Assistant Secretary Axelrod stressed the urgency of preventing Russia from evading coalition export restrictions by transshipping specific semiconductors and other electronic integrated circuits through Kazakhstan to power its missiles and drones.

Assistant Secretary Rosenberg outlined sanctions evasion typologies in the financial sector and shared that the United States enjoys strong partnership and open communication with the Government of Kazakhstan. Both officials expressed the desire to be good partners to government and industry in their efforts to ensure they are not used to support the Russian war effort.

The visit aimed to provide clarity across sanctions and export control regimes and offer technical assistance to Kazakhstan.

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## Senators Slam Big Tech Bias in IPEF

Sen. Elizabeth Warren (D-Mass.) and six of her colleagues have sent a letter to **U.S. Trade Representative (USTR) Katherine Tai** and **Secretary of Commerce Gina Raimondo**, expressing concerns about the impact of including skewed digital trade rules in the *Indo-Pacific Economic Framework for Prosperity (IPEF)*.

The lawmakers argue that these rules could hinder the U.S. government's ability to promote competition, regulate AI, and protect consumer and worker privacy. They are also urging the USTR to prioritize transparency during IPEF negotiations.

The letter, signed by Senators Amy Klobuchar (D-Minn.), Sherrod Brown (D-Ohio), Richard Blumenthal (D-Conn.), and Representatives Jan Schakowsky (D-Ill.), David Cicilline (D-R.I.), and Rosa DeLauro (D-Conn.), highlights concerns about Big Tech companies pushing for digital trade rules that would allow them to attack tech regulations as "illegal trade barriers." **The lawmakers argue that it is not "trade discrimination" for the U.S. or its trading partners to regulate companies like Google, Meta, Apple, Microsoft, and Amazon to protect online competition.**

The letter also raises concerns about the lack of transparency in the negotiating process and the speed at which negotiations are proceeding. The lawmakers emphasize the need to prioritize promoting competition in the economy, protecting digital privacy, and advancing a worker-centered trade policy.

This comes amid criticism of the Biden administration's trade policies, such as the proposed IPEF, for containing measures that resemble the neoliberal free-trade era. **University of Wisconsin Researcher Wendy Li's [paper](#), "Regulatory Capture's Third Face of Power,"** details how tech lobbyists have influenced trade negotiators to prioritize industry interests. **Li's research found that tech lobbyists have redefined digital trade so that policymakers see no difference between industry interests and national interests.**

Despite the IPEF continuing this tradition with a digital trade chapter borrowed from the U.S.-Mexico-Canada Agreement (USMCA), Li asserts that regulatory capture isn't static. The Biden administration has shown some signs of considering alternatives to the tech industry's worldview.

## WTO Snafu Roundup

**Digital Trade Impasse Persists.** Countries seeking the continuation of the World Trade Organization's (WTO) existing moratorium on imposing customs duties on electronic transmissions have not provided sufficient evidence of its benefits for global trade and price reduction, according to sources familiar with ongoing discussions.

During an informal meeting on the e-commerce moratorium, both proponents and opponents remained sharply divided. The current practice of not imposing customs duties on electronic transmissions will be maintained until the 13th Ministerial Conference (MC13), scheduled for December 31, 2023. If MC13 is delayed beyond March 31, 2024, the moratorium will expire unless a decision to extend is made by ministers or the General Council. [[More](#)].

**TRIPS Becoming a Bargaining Chip?** The chair-select for the World Trade Organization's (WTO) TRIPS Council, **Ambassador Pimchanok Pitfield** of Thailand, suggested linking issues in the TRIPS agreement with other areas, such as agriculture, food insecurity, trade, climate change, and WTO reforms, ahead of the 13th ministerial meeting in Abu Dhabi next year, our correspondent reports.

During an informal TRIPS Council meeting, Pitfield reportedly discussed topics beyond her mandate, including those related to the Doha agriculture and trade and environment negotiating bodies, raising concerns among participants.

Pitfield linked issues in the TRIPS Council – such as extending the MC12's TRIPS Agreement to diagnostics and therapeutics and addressing non-violation situation complaints – to resolving agriculture, trade, climate change, and WTO reform issues. After making her statement, she concluded the meeting without further discussion. Members privately expressed consternation over Pitfield's statements and concerns that she is adopting a top-down rather than bottoms-up approach. [\[More\]](#)

**Pushback to US Dispute Settlement Reform.** The United States has proposed significant reforms to the World Trade Organization's (WTO) dispute settlement system, potentially causing uncertainty and allowing political pressure to affect decisions, according to confidential documents obtained by our Geneva correspondent. Critics argue that these proposals may harm smaller WTO members.

The proposals cover the appeal/review mechanism and compliance in WTO's dispute settlement system. While they envision a reformed panel system, they aim to exclude the Appellate Body from any role in trade dispute adjudication. The US has rendered the Appellate Body dysfunctional for the past five years, drawing criticism from the European Union, China, Australia, New Zealand, Brazil, India, and the Africa Group, among others.

In response, New Zealand has reportedly expressed concerns that an ad hoc appeal mechanism would create uncertainty and allow political pressures to affect decisions, hurting smaller members. However, the US maintains that its proposal would improve members' confidence in panel decision-making. [\[More\]](#)

**Dispute Settlement Meeting: Blocked Indonesian Request & US-South Korea Agreement.** Friday, the Dispute Settlement Body (DSB) met under the chairmanship of **Petter Ølberg** (Norway) to discuss several ongoing disputes.

- The European Union blocked Indonesia's request to establish a dispute panel on EU countervailing and anti-dumping duties on stainless steel cold-rolled flat products.
- South Korea and the United States informed the DSB of a mutually agreed solution to terminate subsequent procedures in their dispute over safeguard measures on imports of large residential washers.
- The United States made a statement on the findings of a panel report on Hong Kong, China, and US origin marking requirements.
- Additionally, the United States blocked the proposal to start the selection process for filling vacancies on the Appellate Body for the 65th time.

Indonesia's request for a dispute panel was blocked by the European Union, which stated the measures were fully justified. South Korea and the United States reached a mutually agreed solution to terminate subsequent procedures in their dispute over safeguard measures on imports of large residential washers. The US also made a statement regarding the panel report's findings on the US origin marking requirement applicable to goods produced in Hong Kong, China. The US blocked the proposal to start the selection process for filling vacancies on the Appellate Body for the 65th time, with the initiative now supported by 128 WTO members.

**USTR Fishes for a Win in Geneva.** Deputy Trade Representative **María L. Pagán** attended the World Trade Organization's (WTO) second "Fish Week" from April 25 to April 28, 2023, where she conveyed the U.S. position on the remaining issues in the second phase of negotiations of the Agreement on Fisheries Subsidies. In addition to addressing fisheries subsidies, the United States continues to support enhanced transparency related to forced labor on fishing vessels. Ambassador Pagán urged WTO members to take a stand against this practice. [\[more\]](#)

## Sullivan Defends "Washington Consensus"

**White House National Security Adviser Jake Sullivan** defended new US incentives to encourage domestic manufacturing of semiconductors and clean energy technologies, saying they are needed to counter China. He downplayed criticism of the policies from US trade partners who are calling them discriminatory industrial subsidies, saying that the policy will create stronger manufacturing partnerships and supply chains with allies.

"The idea that a new *Washington Consensus*, as some people have referred to it, is somehow America alone or America and the West to the exclusion of others is just flat wrong," he told an audience at the Brookings Institution. "This strategy will build a fairer, more durable international economic order for the benefit of ourselves and for people everywhere."

**The Administration is working with close allies to mitigate their concerns** about manufacturing incentives in the so-called Chips and Science Act and the Inflation Reduction Act. Most recently, President Biden and South Korean President Yoon announced plans to work together on chips and electric vehicles and batteries manufacturing. At a joint session of Congress yesterday, the Korean President offered a list of Korean investments in US manufacturing.

In his remarks, Mr. Sullivan said that while the Administration wants to beef up US manufacturing, not everything can be made domestically, and that is where allies can benefit. "We will unapologetically pursue our industrial strategy at home – but we are unambiguously committed to not leaving our friends behind," he said. "We want them to join us. In fact, we need them to join us."

He continued that "creating a secure and sustainable economy in the face of the economic and geopolitical realities will require all of our allies and partners to do more – and there's no time to lose. For industries like semiconductors and clean energy, we're nowhere near the global saturation point of investments needed, public or private. "

The ultimate goal is a "strong, resilient, and leading-edge techno-industrial base that the United States and its like-minded partners, established and emerging economies alike, can invest in and rely upon together."

Mr. Sullivan reiterated that US industrial policy is not an attempt to decouple economically from China. “In fact, the United States continues to have a very substantial trade and investment relationship with China. Bilateral trade between the United States and China set a new record last year.”

Washington is not looking for confrontation but to “manage competition responsibly and seeking to work together with China where we can,” he continued.

### \*\*\* Briefs \*\*\*

**USTR Releases Special 301 Report on IP Protection.** The United States Trade Representative (USTR) has released the 2023 Special 301 Report on the adequacy and effectiveness of U.S. trading partners’ intellectual property (IP) rights protection and enforcement. The annual report evaluates over 100 trading partners and highlights key concerns and improvements in IP protection. **Belarus** was added to the Watch List due to its law that legalizes the unlicensed use of copyrighted works from certain foreign states. The country can also keep royalties from unlicensed usage, directly benefiting the Lukashenka regime. Bulgaria was also added to the Watch List for not addressing deficiencies in online piracy investigations and prosecutions. The Special 301 review of **Ukraine remains suspended** due to Russia's invasion of the country. [[10353](#)]

**USMCA / Maquiladora Cleared.** The U.S.-Mexico-Canada Agreement’s (USMCA) Interagency Labor Committee for Monitoring and Enforcement announced a report by the Mexican government detailing actions taken to address workers' rights allegations at Auburn, Michigan firm Unique Fabricating’s facility in Querétaro, Mexico. The Mexican government determined that the alleged denial of rights was resolved during the review period. [[10365](#)]

**FinCEN 2022 Year In Review.** The Financial Crimes Enforcement Network (FinCEN) has issued its [FinCEN Year in Review for FY 2022](#). The report is intended to help stakeholders gain insight into both FinCEN’s efforts to support law enforcement and national security agencies, and how financial information—filed pursuant to the Bank Secrecy Act (BSA)—is used. [[10356](#)]

**Timber Traffic Working Group Announced.** The *Timber Interdiction Membership Board and Enforcement Resource (TIMBER) Working Group*, a new interagency collaboration, was announced at the TIMBER Trafficking Enforcement Roundtable April 19. The TIMBER Working Group's members include the Department of Justice, the Department of Agriculture, the Department of the Interior, and the Department of Homeland Security, as well as the U.S. Council on Transnational Organized Crime’s Strategic Division. Illegal logging is the third most lucrative form of transnational crime worldwide, after counterfeiting and illegal drug trafficking, and is valued at up to \$152 billion USD annually. [[10363](#)]

**China Cloud Service US Prospects Dim.** Chinese cloud computing companies could pose a threat to US national security, Commerce Secretary Gina Raimondo told a Senate panel Wednesday. She

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promised to review a request made by a group of Republican senators to add companies like Huawei Cloud and Alibaba Cloud to Commerce's Entity List, which would subject the firms to US export controls. [\[10393\]](#)

**Section 655 Report on Foreign Defense Sales.** The State Department has released its annual report to Congress on direct commercial sales authorizations for fiscal year 2022. The report provides information on defense articles and services authorized for each foreign country and international organization during the fiscal year, along with data on actual shipments of those licensed transactions. [\[10381\]](#)

**World Military Spending Tops \$2.24 Trillion.** World military spending grew for the eighth consecutive year in 2022, reaching a new high of \$2240 billion, according to data from the *Stockholm International Peace Research Institute (SIPRI)*. The top three spenders, the United States, China, and Russia, accounted for 56% of the global total. [\[10359\]](#)

**ITAR / USML Revision on Technological Progress.** The US Department of State is removing certain high-energy storage capacitors from the United States Munitions List (USML) as they are widely available internationally and do not provide a critical military or intelligence advantage. [\[10367\]](#)

**Export Week.** In celebration of World Trade Month, the U.S. Commercial Service will host a number of export sessions during the week of May 1-5, 2023. The sessions, led by both private and public sector experts, will feature tradecraft programs and industry focused opportunities [\[10384\]](#)

**September Trade Mission to Canada & Mexico.** The Commerce Department's International Trade Administration has announced a trade mission to Canada and Mexico, scheduled from September 17–22, 2023. The mission will include the Business Opportunities in the Americas Conference in Washington, DC on September 17–19, which will focus on regional and industry-specific sessions and gather experts on market entry strategies, logistics, procurement, trade financing and other important topics. This conference will be open to U.S. companies not participating in the trade mission. [\[10370\]](#)

**New AUSTR for Small Business.** Sushan Demirjian is the new **Assistant US Trade Representative for Small Business, Market Access and Industrial Competitiveness**, USTR announced last week. She has served at USTR since 2007, most recently as the acting AUSTR for Small Business, Market Access and Industrial Competitiveness. [\[10390\]](#)

**TTC Talent Task Force Named.** Commerce Secretary Gina Raimondo has announced the seven members of the U.S. Section of the U.S.-EU Trade and Technology Council (TTC) Talent for Growth Task Force. The US Delegation includes two academics, two labor leaders, and the Chairs of Snap and Cisco. Zoë Baird, Senior Counselor for Technology and Economic Growth to Secretary Raimondo will co-chair the Task Force. The members will collaborate with EU counterparts to provide actionable recommendations on expanding innovative, employer-based training in both regions [\[10371\]](#)

**Applications for Export Promotion Grants to \$300K.** The Department of Commerce has announced a funding opportunity through the 2023 Market Development Cooperator Program (MDCP) to

support projects aimed at generating U.S. exports, addressing trade barriers, enhancing industry competitiveness, and creating American jobs. The program will provide up to \$300,000 per project to eligible non-profit industry groups and other entities. [\[10387\]](#)

## \*\*\* Enforcement & Sanctions \*\*\*

**Attorney Guilty of Money Laundering Linked to Sanctioned Properties.** A New York attorney has pleaded guilty to conspiring to commit international money laundering in connection to maintaining properties in the U.S. owned by sanctioned Russian oligarch Viktor Vekselberg. [\[10360\]](#)

**BAT Toasted for Pyongyang Cigarette Scheme** British American Tobacco p.l.c. (BAT), has agreed to pay more than \$600 million to settle civil charges related to its role in exporting tobacco and related products to North Korea and receiving payment for those exports through the US financial system. [\[10351\]](#)

**CBP Lifts Ban on Malaysian Glove Imports.** U.S. Customs and Border Protection (CBP) announced today that it has modified import restrictions against a group of companies, jointly known as Smart Glove, after the companies successfully demonstrated their products are no longer produced with forced labor. [\[10355\]](#)

**Micron Fined for Discriminating Against US Hires.** The Justice Department fined Micron Technologies \$4,144, having determined that Micron violated the Immigration and Nationality Act (INA) by discriminating against a U.S. citizen when it failed to hire him for a position and instead hired a temporary visa worker. [\[10357\]](#)

**Sanctions Reaction to Hostage Taking in Russia & Iran** sanctions on four senior officials of Iran's Islamic Revolutionary Guard Corps Intelligence Organization marks the first time Executive Order (E.O.) 14078 has been employed to penalize individuals involved in the hostage-taking or wrongful detention of U.S. nationals in Iran. In addition to the action against Iran, OFAC has implemented the State Department's designation of Russia's Federal Security Service (FSB) for its involvement in the wrongful detention of U.S. nationals abroad. [\[10364\]](#)

**OFAC Names DPRK Bankers** Treasury's Office of Foreign Assets Control (OFAC) has sanctioned three individuals for providing support to North Korea through illicit financing and malicious cyber activity. [\[10382\]](#)

**Oil Services Firm Settles Over Angolan Bribery** The U.S. Securities and Exchange Commission (SEC) has settled violations of the Foreign Corrupt Practices Act (FCPA) with Frank's International, a global oil services company. Between January 2008 and October 2014, Frank's paid commissions to a sales agent in Angola, "knowing there was a high probability" the agent would use the funds to bribe Angolan government officials on behalf of the company. [\[10354\]](#)

**Second Arrest in Steel Trading Ruse** A second conspirator has been arrested in a scheme to launder funds for the fugitive "Gas King of Ukraine," Sergey Kurchenko through a Florida metals service center. Sergey Karpushkin, a Belarusian citizen from Miami, has been arrested for engaging in a scheme to violate U.S. sanctions against the oligarch and two related companies by purchasing over \$150 million in steelmaking materials. Karpushkin's alleged co-conspirator, John C. Unsalan, was indicted and arrested earlier in April. [\[10368\]](#)

**Understating Export Values in the Mountain State.** A West Virginia man pleaded guilty today to a federal felony offense for committing an export fraud violation, according to court documents and statements made during the hearing. Rana Zeeshan Tanveer, of Beckley, admitted in his plea agreement that he knowingly submitted false export valuations for certain items he shipped to Pakistan. Mr. Tanveer faces a maximum penalty of five years in prison, three years of supervised release, and a \$250,000 fine. [\[10358\]](#)

**Turtle Trafficking Plea** Demonstrating that the more prosaic reaches of export enforcement are alive and well, prosecutors obtained a guilty plea in a federal court in Alexandria to turtle trafficking in violation of the Lacey Act. Stanlee Fazi confessed that between July 31, 2017, and June 29, 2020, he had illegally collected eastern box turtles from the wild and sold them to buyers in at least eight states. He conducted these sales via Facebook Marketplace, earning around \$12,700 in the process. [\[10362\]](#)

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