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US - EU Data Framework In Place

The U.S. Department of Justice (DOJ) and the Office of the U.S. National Intelligence Director (ODNI) have declared the fulfillment of their commitments under President Joe Biden's Executive Order (EO) 14086 regarding the EU-U.S. Data Privacy Framework.

Since 2020, when the European Court of Justice nullified the EU-U.S. Privacy Shield agreement due to concerns about U.S. government surveillance activities, the U.S. and the EU have been on a quest to establish a new data flow mechanism. This decision unsettled transatlantic data transfers and necessitated a resolution that would ensure enhanced privacy and data protection for EU data subjects.

Secretary of Commerce Gina Raimondo elucidated in a press statement that the DOJ's designation of EU member states, as well as Iceland, Liechtenstein, and Norway, as "qualifying states." These designations allow citizens of these nations to seek redress through the proposed Data Protection Review Court, offering enhanced U.S. privacy protections in the process.

"These designations represent our shared commitment with our European partners to safeguarding individual rights and personal data protection. They also highlight our dedicated effort to build trusted, secure digital connections that foster economic growth while upholding privacy," Secretary Raimondo stated.

These designations will come into effect upon the European Commission's final approval of the adequacy decision with the U.S, marking a critical milestone in the implementation of the EU-U.S. Data Privacy Framework.

Concurrently, the ODNI released the policies and procedures to be followed by the U.S. intelligence community, reinforcing the U.S. government's commitment to maintain privacy standards and bolster protections for international data transfers.

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Editor: Frank Ruffing +1.703.283.5220. fruffing@traderegs.com

This new framework addresses two primary concerns expressed by the European Court of Justice related to U.S. surveillance laws: the scope and proportionality of permissible U.S. national security surveillance activities and the availability of redress mechanisms for Europeans whose personal data is improperly collected and used by U.S. intelligence agencies.

Executive Order 14086 introduced added safeguards for U.S. signals intelligence activities, requiring these to take into account the privacy and civil liberties of all persons, regardless of nationality or place of residence, and to be conducted only when necessary and proportionate to a validated intelligence priority.

WTO - US Steps Up with DSB Proposal

The United States outlined its ambitions last week for a "revamped dispute resolution system" within the World Trade Organization (WTO). One of the key tenets includes prohibiting discussions on national security matters during the arbitration process.

The US proposal, however, left out any reference to maintaining the current two-tiered system for dispute resolution that includes an Appellate Body as the final arbiter in the WTO's enforcement operations.

Washington's reform suggestions have recently met with considerable pushback, as several WTO members rejected its notions about appellate review and sunset provisions among other topics, during an ongoing facilitator-led informal conversation.

Despite these challenges, the United States confirmed its intent to take a leading role in all areas of potential contribution, including dispute settlement reform. It emphasized, however, that profound reform could only be achieved through a collective process driven by WTO members.

In lieu of placing emphasis on the pivotal role the two-tiered dispute resolution system plays in the WTO's enforcement role, the US proposed that the resolution system should leave room within WTO rules for members to manage their crucial societal interests.

Reform of the Dispute Settlement System was mandated by trade ministers during the WTO's 12th ministerial conference in June 2022. However, some have characterized the reform discussion as increasingly a one-on-one contest between Washington and the rest of the WTO membership, according to several negotiators privy to the informal talks.

Although facing significant opposition to its reform proposals during informal discussions, the US continues to support the facilitator's work and emphasizes that no single member can dictate reform terms.

The United States has listed several positive contributions that a reformed dispute resolution system could bring about, including facilitating dispute resolution, preserving existing commitments and rules, maintaining fairness in the trading system, and respecting members' security interests, among others.

Washington's aims for a revamped dispute resolution system appear to dodge the need for a proper two-tiered system where issues are decided based on their legal and compliance merits rather than national security interests, as observed by several negotiators.

Washington's suggestion for Appellate Review was met with resistance from multiple countries including China, the European Union, Canada, Australia, India, Pakistan, and South Africa in recent informal discussions.

The United States, since December 2019, has been frequently blocking the selection process for the appointment of members to the highest adjudicating body at the WTO, effectively stagnating the two-tier dispute settlement system. Its recent proposal on Appellate Review suggests a weakened authority, according to negotiators familiar with the discussions.

Cancun Conclave Yields Little for USTR

As tensions simmer over issues ranging from Mexico's biotech corn and energy policies to Canadian dairy access, US Trade Representative Katherine Tai joined North American trade partners for a summit in Cancun this week. However, the thorny issues were not directly addressed, according to readouts from the meetings.

The US-Mexico-Canada Agreement (USMCA) Free Trade Commission's annual meeting is mandated under the trade pact rules, necessitating discussions related to the agreement. In attendance were Tai, Mexican Economy Secretary Raquel Buenrostro, and Canadian Minister of International Trade Mary Ng.

The USMCA, which replaced the North American Free Trade Agreement in 2020, is due for a significant review and potential updates in 2026. A key point of discussion in this year's meeting will be the ongoing implementation of USMCA, a USTR official told Reuters.

The senior official clarified that the disputes concerning the use of genetically modified corn, Canadian dairy import quotas, and Mexican energy policies, which could ultimately lead to punitive US import duties, are being addressed through separate channels. These issue-specific consultations were initiated under the USMCA dispute settlement rules.

"Those are obviously very important issues that remain important on all levels, so they're on the top list of priorities," the official stated, emphasizing that such issues are best addressed in the actual consultations.

Moreover, this week's Cancun summit will address the "rapid response mechanism" for labor rights violations at specific factories. The United States has cited 11 cases under the mechanism since the launch of the USMCA, including investigations at a Goodyear Tire & Rubber plant and a Levi Strauss & Co denim plant, both in Mexico.

However, as the countries grapple with labor and energy disputes, an additional conflict has emerged over Mexico's plan to limit the use of genetically modified (GM) corn. Tai, before the Cancun meeting, revealed that trade dispute settlement consultations over GM corn had begun last week. If a resolution isn't reached within 75 days, the US can request a dispute panel.

Mexico's plan aims to ban GM corn for human consumption, particularly in tortillas, and substitute GM yellow corn used for livestock feed. Mexico argues that biotech corn harms native varieties and may have potential

adverse health effects. The US, however, asserts the safety of its agricultural products, vowing to continue pursuing its rights and interests.

The tension between trade and regulations was further highlighted by Tai's emphasis on Mexico's monitoring of steel and aluminum exports to the U.S., echoing a 2019 agreement between the countries to avoid unfair dumping. Mexico's economy ministry responded later on Thursday, calling for the good faith implementation of the measures to solve labor disputes under the agreement and insisting that any alleged violation should be well reasoned.

EU Secondary Sanctions More Bark than Bite

The European Union has established an anti-circumvention framework, akin to the United States' "secondary sanctions" system, which potentially empowers the EU to sanction third countries that assist trade with nations under sanctions, including Russia. However, EU officials suggest that this framework may be a diplomatic deterrent more than an immediate plan of action, as the bloc seeks to avoid driving these third-party nations towards Russia and China.

The EU's latest sanctions package against Russia, approved by all member states on June 23, featured this new framework. The current arrangement now gives the EU the legal tools to create a list of products manufactured within the bloc, suspected of reaching Russia through third-party nations, and another list naming these third countries, thereby preventing their import of goods from the EU.

There's no denying that this mechanism could prove useful in the future. A significant increase in exports of potential dual-use goods was noted last year from EU member states to countries like Kazakhstan, Kyrgyzstan, and Uzbekistan.

David O'Sullivan, the EU's sanctions implementation envoy, has been active in areas like Central Asia, Armenia, and Georgia, advocating against the use of EU-sourced items in Russian military equipment and weapons. An anonymous senior EU official told Radio Free Europe, "We are seeing circumvention...There is evidence that something is happening."

Despite this, the consensus is that the EU may hesitate to utilize this instrument, preferring diplomacy as the primary strategy. The new tool could inadvertently push third countries closer to Russia and China, a situation the EU is eager to avoid. Serbia and Georgia serve as examples, neither aligning with EU sanctions on Moscow nor facing any repercussions from the EU for doing so.

The necessity for unanimous agreement among all 27 EU member states presents another hurdle for this new framework. Germany, backed notably by Italy, had expressed significant resistance against the proposal, working to extend and complicate the sanctions text on this issue. Berlin was particularly against listing specific third countries, although most other EU member states resisted this stance.

Despite the initial hopes for quick agreement when the proposal was first presented by the European Commission in early May, it took nearly two months to reach a consensus, mainly due to Berlin's persistent requests for clarification on anti-circumvention language. The difficulty of implementing this anti-

circumvention instrument is apparent, with the EU likely to exhaust all diplomatic resources before considering any restrictive measures.

Further measures must be taken before targeting a third country. It involves briefing the member states by the EU's foreign policy chief and the European Commission, including trade data and efforts made by the EU to address the issue with the third country in question. Only after a final outreach to that third country has been concluded, a unanimous decision could be taken, highlighting the complexity of this new framework.

WTO – Council for Trade in Goods Meeting

Several global trade concerns were raised in the Council for Trade in Goods meeting held on the 6th and 7th of July. While no new trade concerns were presented in the meeting, numerous issues were discussed in the context of the 37 previously raised trade concerns.

China's New Export Control Law Faces International Scrutiny

Seven WTO members - the European Union, Japan, Canada, Korea, Australia, the UK, and Switzerland - voiced concerns over China's new export controls, effective from 1 August. These regulations apply to products containing gallium and germanium, essential components in computer chips and other goods.

Switzerland expressed concerns about potential disruption in global supply chains and the overall multilateral trading system. However, China defended its measures, stressing they were not a ban but export controls in line with common international practices.

US, Japan, and Netherlands Face Questions Over Export Controls

China sought explanations from the US, Japan, and the Netherlands for their synchronized introduction of new export control measures on the same sector within a brief time frame. China argued that these measures deviated from international norms concerning the peaceful use of science and technology and that they eroded the authority and effectiveness of WTO rules.

The US countered that the Goods Council was not the appropriate forum for discussing national security issues, a sentiment echoed by the EU and Japan, who claimed the measures were in line with WTO rules.

Critics Question EU Trade Measures Aimed at Environmental Conservation

Nine WTO members, including Indonesia, Russia, and Brazil, expressed concerns about the EU's new Deforestation Free Commodities Regulation. India criticized the policy for harming economic interests of developing countries, particularly in the agriculture sector which provides employment and economic well-being for large populations. The EU offered explanations and held informational sessions on the new regulation, promising continued engagement with the WTO.

Similarly, twelve members, among them China, Russia, and Brazil, reiterated their concerns over the EU's Carbon Border Adjustment Mechanism (CBAM). They claimed the EU didn't allow adequate time for member states to comment on the measure before it's enacted in October. The EU reassured that they maintained transparency during the design stage of CBAM and would continue to engage with members during the transitional phase.

Proposals and Notifications

Members discussed the document G/C/W/752, which aims to provide treatment similar to certain developing countries for graduated Least Developed Countries (LDCs) with a Gross National Product (GNP) below USD 1,000. Some developed members argued that the proposal still lacked necessary information to be technically workable.

Other issues noted by the Council included El Salvador's suspension of its free trade agreement with Chinese Taipei, the free trade agreement between Colombia and Israel, and modifications to an existing free trade agreement between Iceland, Liechtenstein, Norway, and the United Kingdom.

The Council also acknowledged the extended deadline given by the European Union and the United Kingdom to conclude negotiations of trading relationships with members following the UK's withdrawal from the EU.

The next Council for Trade in Goods meeting is scheduled for 30 November – 1 December 2023.

China Limits Chip Metal Exports

China has imposed export controls on gallium and germanium, two minerals critical to the production of semiconductors, missile systems, and solar cells. This strategic move, aimed at safeguarding national security and interests, comes just ahead of significant economic talks between China and the U.S., heightening the tech rivalry between the two global superpowers.

These export restrictions could just be the beginning of escalated retaliatory measures in the tech space, warned **Wei Jianguo**, a former Vice Commerce Minister told *Reuters*. He characterized the restrictions as a "well-thought-out heavy punch," hinting that they were "just a start."

"If restrictions targeting China's high-technology sector continue then countermeasures will escalate," added Wei.

The restrictions are set to take effect from August 1, impacting industries that rely on these metals, including high-speed computer chips, military technology, night-vision devices, satellite imagery sensors, radar and radio communication devices, satellites, LEDs, electric vehicles (EVs), and fiber optic cables.

Both gallium and germanium are listed among 50 minerals deemed "critical" by the U.S. Geological Survey, signifying their importance to the economic or national security of the U.S and their vulnerability to supply chain disruption.

The timing of China's announcement, just before U.S. Independence Day and the arrival of U.S. **Treasury Secretary Janet Yellen** in Beijing, is perceived as a pointed message to the Biden administration. The U.S. government has been pressuring China's chip sector and persuading allies such as Japan and the Netherlands to do the same.

"While Beijing is likely to press Yellen to unwind tariffs and lift export controls as a demonstration of good faith, she will not be in a position to do so," **Wendy Cutler**, former USTR senior trade negotiator told *Politico*.

This move by China echoes its previous export-quota system for rare earths, a group of metals majorly produced in China with prized properties for high-tech manufacturers.

Bloomberg reports that the EU wants to make sure that export restrictions on the two metals are based on clear security implications and comply with World Trade Organization rules.

This new wave of controls, demonstrates China's aim to "remind the U.S. how strong they are and to remind us how much control they have over our supply chains," said **Nazak Nikakhtar**, a former national security and commodity supply chains officer at the Commerce Department in an interview with the *Wall Street Journal*.

Japan, Germany and the Netherlands are the world's largest importers of Chinese gallium by volume, while Japan, France, Germany and the U.S. lead in germanium imports.

*** Briefs ***

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[EU Launches Nickel Consultation on Indonesia Controls](#)

Friday July 7th, the European Commission launched a public consultation on the possible use of the Enforcement Regulation in its dispute settlement case on Indonesian nickel export restrictions.

This step was taken after Indonesia appealed the World Trade Organization (WTO) Panel Report on the matter – which was favourable to the EU – to a non-functional Appellate Body, thus effectively blocking the final and binding resolution of the dispute through the WTO.

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[EU Biofuels Mandate Report](#)

The USDA Foreign Agriculture Service, Berlin Post has published a survey of EU Biofuels Mandates by Member State for 2023.

This report provides an overview of the biofuel use mandates in EU-27 member states, including temporary changes

in response to the COVID-19 pandemic and Russia's invasion in Ukraine. It supplements the EU Biofuels Annual Report for 2023. [READ MORE](#)

[Training Mandated for Unlicensed Export to S. Korea](#)

A Washington State man received suspended punishment for export violations committed five years ago. Jaeyoun Jung, of Puyallup faces a two-year denial of his export privileges, suspended for a two-year probationary period, then waived, provided that Jung has not committed another violation, and has completed an export controls compliance training. [READ MORE](#)

[Trade Compliance Salary Survey](#)

Gateway Recruiting released the results of its 2023 Trade Compliance Salary survey. The survey shows that the demand for trade compliance professionals remains strong and the pool of qualified candidates remains limited.

This year, the data interestingly shows a rise in compensation within the U.S, while witnessing a drop across most of the rest of the globe. [READ MORE](#)

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OFAC will retire the PIP, DEL, and SDALL.ZIP sanctions list file formats on or about August 15, 2023. OFAC will continue to offer for public download, the XML, CSV, and FF file formats, the ZIP files SDN_XML and SDN_Advanced, and PDF versions for OFAC's sanctions list(s). [READ MORE](#)

[OFAC / Blocked Property Reporting](#)

31 C.F.R. § 501.603 of the Reporting, Procedures and Penalties Regulations (RPPR) requires holders of blocked property to provide the Office of Foreign Assets Control (OFAC) with a comprehensive list of all blocked property held as of June 30 of the current year by September 30. [READ MORE](#)

[State Releases Fiscal Transparency Report](#)

On June 27, 2023, the U.S. Department of State published its 2023 Fiscal Transparency Report, revealing that out of 141 global posts surveyed, only 72 governments met the basic criteria for fiscal ... [READ MORE](#)