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Nilsson Mentioned as Likely to Head DDTC

Brian Nilsson, a key architect of the Obama administration's export control reform initiative, is being mentioned as likely to become the next head of State's Directorate of Defense Trade Controls (DDTC), several sources report. Nilsson would succeed Ken Handelman, who returned to the Defense Department in July, as deputy assistant secretary of State for defense trade controls (see **WTTL**, July 13, page 7). DDTC licensing chief Tony Dearth has held the post on an acting basis since then.

Nilsson has spent the last eight years on "temporary" detail to White House National Security Council (NSC), where he has served as director for national security and export controls. In that role, he has chaired the Export Control Reform Task Force and coordinated the administration's review of export controls, drafting of ECR implementing regulations and transition of thousands of products from U.S. Munitions List (USML) to the Commerce Control List (CCL). His portfolio has also included conventional arms transfers, firearms imports and unmanned aerial systems.

Before being detailed to NSC, his permanent post was at the Bureau of Industry and Security (BIS) where he chaired the interagency Operating Committee and held several posts related to strategic trade and foreign policy controls. He started at BIS in 1989 and before then was with Commerce's International Trade Administration (ITA). He earned his B.A. from Clemson University and a M.A. in business administration from Thunderbird Graduate School in Arizona.

Oil Prices, Strong Dollar Lead to Drop in Exports, Imports

Exports, which often are the engine of U.S. economic growth, stalled in the first six months of 2015, while imports, the engine for the rest of the world, did no better. Merchandise exports from January to June fell 5.3% from a year ago to \$767.4 billion, Commerce reported Aug. 5. Goods imports dipped 3.6% from 2014 to \$1.39 trillion.

The only good news was in services, with U.S. services exports gaining 2.8% to \$364.2 billion from 2014, as services imports rose 4.4% to \$246.5 billion. The services figures are also reflected in other reports showing an increase in service sector jobs. For the last

several months, the biggest factors behind the numbers have been the drop in oil prices and the rise in the value of the dollar. The decline in imports was driven by a \$62.7

billion (-48.2%) drop in the value of crude oil imports from the first half of 2014.

Imports from OPEC, the organization of petroleum exporters, fell by over half (-51.7%) due to lower oil prices (see tables).

The picture isn't likely to improve for oil exporters, with many analysts predicting prices will stay low or lower for a while and the dollar will remain strong.

Increased sales of civilian aircraft in the first half of 2015

(+\$3.6 billion or 12.8%) failed to offset a large decrease in farm exports, which declined 11% from first half of 2014, with soybeans down \$3.75 billion (-30.6%) and corn off \$1.5 billion (-22%).

Industrial supplies and materials also were down, sliding 12% from first half of year ago, with metallurgical coals sliding almost 22% from year ago.

U.S. exports have been hurt by the recession in Europe and slower growth in many emerging markets, including Brazil. In absolute terms, exports to Europe were basically flat (-.39%) in non-seasonally adjusted numbers, and exports to Japan were down over 3%. Shipments to Brazil were down over 18% to \$17.3 billion.

The closely watched numbers with Korea won't help the argument for new trade deals, with imports rising 9.7% and exports down 1.76% from last year.

The total deficit in goods and services for first half of 2015 edged up just 0.6% from year ago. "Today's export numbers reflect weak economic growth among our trading partners and show there is work to be done to promote the world-class goods and services offered by U.S. businesses," said Commerce Under Secretary Stefan M. Selig in a statement. "Increasing U.S. exports is a top priority for the Obama administration," he said. Projected out, a total of \$1.5

**Preliminary U.S. Goods Exports--Imports
Selected Markets -- 6 Months 2015 v. 2014
(In billions; Not seasonally adjusted)**

	Exports 2015	Exports 2014	% Change	Imports 2015	Imports 2014	% Change
Total	\$767.4	\$810.6	-5.33%	\$1,141	\$1,183	-3.57
Canada	143.8	154.7	-7.0	150.4	172.9	-13.0
EU	138.7	139.2	-0.39	210.3	206.7	1.73
China	55.9	58.5	-4.5	226.7	214.1	5.9
OPEC	35.9	38.9	-7.6	34.7	71.9	-51.7
Japan	32.1	33.2	-3.2	66.9	66.6	0.46
Brazil	17.3	21.3	-18.7	13.7	14.1	-3.4
S. Korea	22.2	22.6	-1.76	36.9	33.6	9.7

**Exports for Selected Sectors
First 6 Months 2015 v. 2014
(In billions; Seasonally adjusted)**

	2015	2014	% Change
Autos	\$74.8	\$77.8	-3.85%
Fuel Oil	20.1	30.9	-34.9
Civilian Aircraft	31.6	28.0	12.8
Soybeans	8.5	12.3	-30.6
Jewelry	6.1	6.34	-4.3
Metallurgical Coal	2.5	3.2	-22.0
Corn	5.2	6.7	-22.2

**Imports for Selected Sectors
First 6 Months 2015 v. 2014
(In billions; Seasonally adjusted)**

	2015	2014	% Change
Autos	\$171.5	\$160.7	6.7%
Crude Oil	67.4	130.1	-48.2
Pharmaceuticals	53.9	45.4	18.9
Computers	30.4	30.8	-1.2
Iron-Steel Products	11.3	11.9	-4.4
Chemical Fertilizers	7.4	7.2	3.1
Feeds and Grains	3.2	3.4	-7.7

trillion in exports in 2015 would mean President Obama's National Export Initiative announced in 2010 would fall about 50% short of its goal. No matter, Commerce is putting a positive spin on the numbers, citing record-high exports in 2014. "Through NEI/NEXT we are building on the success of the National Export Initiative announced by President Obama in 2010," the department noted.

The monthly numbers for June 2015 continued the trend of the past year. Merchandise exports in June fell 6.4% from a year ago to \$127.6 billion. Services exports gained 2.9% to \$61.0 billion from June 2014. Goods imports dipped 3.5% from June 2014 to \$189.2 billion, as services imports gained 3.47% to \$41.4 billion.

Unsolved Issues Remain Unsolved at Maui TPP Talks

In addition to the disappointment that trade ministers from the 12 countries negotiating a Trans-Pacific Partnership (TPP) couldn't reach a deal in Maui, Hawaii, July 31, there was also surprise that the same issues that stymied talks for two years were still the ones that blocked a final agreement. While the ministers were reluctant to identify which specific issues prevented a deal, it was widely acknowledged that they included trade in dairy, sugar, autos, other agriculture goods and patent protection for biological products.

In contrast to the failure of the Maui talks, the European Union (EU) announced Aug. 4 that it has reached "in principle" a free trade agreement with Vietnam. Under that accord, Hanoi would eliminate tariffs on imports from Europe over an extended time and also liberalize trade in financial services, telecommunications, transport, and postal and courier services, according to the EU.

According to diplomats, a deal on dairy would have required all participants to have made simultaneous concessions. Countries that would open their dairy markets needed assurance that other countries would open theirs to allow dairy industries to use exports to make up for lost domestic markets. For New Zealand, dairy, its most important export, was the crucial issue, if not the only one, in the negotiations and it didn't get what it wanted in Maui, especially from Canada and Japan (see **WTTL**, Aug. 3, page 6).

Dairy became more complicated Aug. 2 with Canadian Prime Minister Stephen Harper's call for national elections Oct. 19. Canadian press reports suggest Harper has become increasingly unpopular, making a dairy deal before the elections questionable.

Rules of origin for autos also became a sticking point, as the U.S. and Mexico wanted to limit the ability of Japanese autos to use parts from non-TPP countries, especially Thailand. At the end of the meeting there was also no sign that Tokyo had satisfied U.S. demands for opening the Japanese auto market. "We believe that there has been major progress made," Japanese Economic Policy Minister Akira Amari told reporters at a closing press conference. "I believe all the problems will be solved," he asserted.

Mexican Commerce Secretary Ildefonso Guajardo Villarreal was more forthcoming about Mexico's demands. "I am sure you are aware that the auto industry in Mexico is the seventh largest producer in the world and the fourth largest exporter," he told reporters. "So obviously Mexico has a deep interest in autos. So probably what you can accuse me

of is putting myself to the front to push the interests of my country,” he added. The U.S. offer on opening the sugar market apparently failed to satisfy Australia.

It was ironic that sugar became a stumbling block in Hawaii, whose history in the last 150 years has been tied to U.S. sugar tariffs. The U.S. entered a reciprocal free trade agreement with the Kingdom of Hawaii in 1875, giving the islands duty-free access to the U.S. market for raw sugar.

When the McKinley Tariff in 1890 eliminated that tariff and replaced it with a subsidy for U.S. sugar growers, America sugar planters in Hawaii lost their preferences in the U.S. market. In response, some historians claim they instigated the overthrow of the monarchy in 1884 and pushed for the U.S. to annex the islands so they could get the subsidies as well. The U.S. annexed Hawaii in 1897, three years after the Wilson Tariff restored high tariffs on sugar under pressure from the so-called “Sugar Trust.”

Meanwhile, the EU-Vietnam FTA includes promises by Hanoi to adopt core labor standards and International Labor Organization conventions, support the conservation and sustainable management of natural resources and agreed to government procurement rules in line with the WTO Government Procurement Agreement (GPA), an EU press release said. Vietnam also agreed to “improve the protection in Vietnam of Geographical Indications (GIs) representing EU flagship agricultural products, such as Champagne, Parmigiano Reggiano cheese, Rioja wine, Roquefort cheese and Scotch Whisky,” it said.

Failure of TPP Talks Hailed as Success

Rarely has the failure of negotiators to reach an agreement garnered so much praise as the failure of trade ministers from 12 countries to conclude a deal July 31 after a week of talks in Maui, Hawaii, on a Trans-Pacific Partnership (TPP). Both supporters and opponents of an accord appeared to have had their fingers on the “send” button to issue press releases the moment U.S. Trade Representative (USTR) Michael Froman announced “significant progress” in the talks but no gold ring (see **WTTL**, Aug. 3, page 6).

Interest groups and members of Congress following the negotiations probably had two different versions of their press releases ready to issue: one praising success and one praising failure. TPP supporters praised the unidentified progress that ministers made; opponents praised the decision not to agree on a bad deal.

“While our trade negotiators were able to make significant progress this week, it is important that the United States stood firm to ensure America secures the best deal from our international trading partners,” said Senate Finance Committee Chairman Orrin Hatch (R-Utah) in a statement. He said he was “deeply concerned with some of the positions taken by our counterparts in these talks.” Finance Ranking Member Ron Wyden (D-Ore.) said he was “pleased that President Obama and Ambassador Froman are taking the time necessary to get this agreement done right. He said TPP is too consequential “to prematurely conclude the negotiations of this potential agreement without the best deal possible for the United States.”

“We are encouraged by the progress made during this round of TPP negotiations, and we urge negotiators to continue working together to achieve a comprehensive and high-

quality agreement as soon as possible,” said Tom Linebarger, chairman and chief executive officer of Cummins Inc. and chair of the Business Roundtable International Engagement Committee in a statement.

“While we are disappointed that a final, comprehensive and high-standard TPP could not be reached this week, we are hopeful this latest round of talks has identified areas of further agreement and that plans are under-way to overcome roadblocks that will allow the TPP parties to finalize the strongest possible agreement in the near future,” said a statement from National Association of Manufacturers Vice President of International Economic Affairs Linda Dempsey.

Calman Cohen, president of the Emergency Committee for American Trade, issued a statement saying his organization “welcomes the progress made at the TPP Ministerial.” The Sweetener Users Association said they “welcome news that negotiators have made progress to advance the TPP talks, and as they continue working, we urge U.S. negotiators to grant expanded market access for sugar imports from Australia and Canada.”

TPP critics were glad no deal was reached. “The road to completing the climate-damaging Trans-Pacific Partnership continues to be a perilous one,” said Sierra Club Executive Director Michael Brune in a statement. Rep. Lloyd Doggett (D-Texas), a TPP opponent, raised concerns about the environment chapter in a potential accord.

“A buried treasure map shouldn’t be required to locate the terms of the environmental chapter,” he said in a statement. “Giant waves of corporate influence were hitting the beaches in Maui this week to ensure that no Trans-Pacific Partnership deal was sealed without protection for big Pharma, big Tobacco, and big Sugar. Nor could the most seasoned beachcomber find any sign of interest there in protecting workers or stopping human trafficking,” he said.

Senators Join Opposition to ITAR Definitions Proposal

A group of 28 Republican senators have joined some 12,000 gun owners in opposing the DDTC’s proposed definition of “public domain” in rules aimed at harmonizing definitions in the International Traffic in Arms Regulations (ITAR) with those in the Export Administration Regulations (EAR). In an Aug. 3 letter to Secretary of State John Kerry and to DDTC, the lawmakers raised “strong concerns” about the implications of the proposed changes to First and Second Amendment rights (see **WTTL**, July 27, page 2).

“We urge the State Department to modify or delay these misguided changes to the ITAR in order to ensure they do not violate the First and Second Amendment or until commonly owned firearms and ammunition are not adversely impacted,” the letter said. Signers include Sens. Jim Inhofe (Okla.), Orrin Hatch (Utah) and John Cornyn (Texas).

“Conceivably, these new definitions could include information such as how to legally modify or assemble a generally available firearm, such as a hunting rifle or a self-defense handgun, or information on the development of new loading information for existing firearm ammunition. These types of activities are part and parcel of how many Americans exercise their Second Amendment rights,” they wrote. Separately, in

comments filed with DDTC on the proposed definition, the National Shooting Sports Foundation (NSSF), the trade association representing the firearms, hunting and sports shooting industry, filed more measured comments than the heated ones those sent in by many gun owners. NSSF urged DDTC to delay the application of the public domain rule to items in U.S. Munitions List (USML) categories I (firearms) and III (ammunition) or at least provide an exemption for these items.

“NSSF is concerned that the proposed public domain definition within ITAR Section 120.11 constitutes a prior restraint on protected speech and forms of expression. In particular, this concern is greatly increased because the prior restraint within proposed ITAR Section 120.11 does not possess constitutionally recognized procedural safeguards under the First Amendment,” the association wrote in its comments.

The angry comments from gun owners were spurred in part by an ongoing lawsuit non-profit groups Defense Distributed and Second Amendment Foundation filed in May in Austin, Texas, U.S. District Court against Kerry and DDTC, among others.

The plaintiffs claim they are “entitled to declaratory and injunctive relief barring any further application of this prior restraint scheme, and to recover money damages to compensate for the harm such application has already caused,” the complaint noted. In May 2013, State’s Department of Defense Trade Controls Compliance (DTCC) asked Defense Distributed to pull gun blueprints off its website, saying it could violate the Arms Export Control Act. DTCC requested that it submit a commodity jurisdiction request.

BIS Wants to Accept Canadian Certificates for Shotgun Exports

BIS intends to eliminate the licensing of exports of shotguns to Canada when the Canadian government has issued an import certificate to the U.S. exporter, BIS Assistant Secretary Kevin Wolf told a National Shooting Sports Foundation (NSSF) conference in Washington Aug. 4. BIS may propose the change in late August or September, he said.

Because the U.S. is a signatory to the Organization of American States (OAS) Firearms Convention, it is obligated to require export licenses for firearms exports to Western Hemisphere countries, including Canada. At the same time, however, shotguns can be exported to NATO countries and close allies without a license.

“As a result of implementing the firearms convention, there was a strange quirk. We couldn’t use our existing license exceptions to export these shotguns without a license to Canada but you could ship the same thing to the UK or one of the other ally countries,” Wolf explained. “So we are working through the Commerce system and hope to propose something in August or September,” he said. The change would only apply to Canada and only to shotguns and probably shotgun shells, he added. The move could eliminate some 600 licenses that BIS handles annually for shotguns going to Canada.

“What we are basically going to say, in order to satisfy the U.S. obligations under the firearms convention, is we will accept the import certificate that the Canadian government issues, that is a requirement now, as the authorization. So you won’t need to come in separately to the Commerce Department,” Wolf told the NSSF meeting. “It will

reduce significantly a step for those items,” he said. Once the rules are changed, a new code will be created for posting export documentation in the Automated Export System to indicate that the export meets the new requirements.

*** * * Briefs * * ***

SANCTIONS: Production Products, Inc. (PPI) agreed Aug. 5 to pay OFAC \$78,750 to settle charges of violating U.S. sanctions in 2009 and 2010. Company shipped three duct fabrication machines, valued at \$500,000 total, to blocked entity China National Precision Machinery Import and Export Corp. without authorization. PPI did not voluntarily self-disclose violations.

ENVIRONMENTAL GOODS: USTR Aug. 5 asked ITC to conduct Section 131 investigation into “probable economic effects of modifications of tariffs on industries producing like or directly competitive articles, and on consumers” of six products on APEC list of environmental goods that will be subject of WTO negotiations. Products include multilayer assembled flooring panels, steam condensers and four types of steam turbine parts.

EXPORT ENFORCEMENT: Teoman Tosun of Turkey agreed June 30 to pay BIS \$75,000 to settle two charges of acting contrary to terms of denial order and unlicensed reexport to Iran in 2009. Tosun, CEO of Tunca Havacilik A.S., facilitated shipment to blocked entity Mahan Airways of MD-82 aircraft classified under ECCN 9A991.b and controlled for anti-terrorism reasons. Mahan was first subject to denial order in March 2008. Of penalty, \$50,000 will be suspended for two years and then waived if Tosun commits no further violations.

MACHINE TOOLS: Nuclear Suppliers Group (NSG) is “working their way through” adopting “unidirectional positioning repeatability” as standard for turning machines to harmonize with Wassenaar controls published in May (see **WTTL**, May 25, page 9). Organization “will ultimately get to it, but it might be a slightly different number,” Mike Rithmire of BIS Electronics and Materials Division told agency’s Materials Processing and Equipment Technical Advisory Committee Aug. 4. NSG still applies old positioning accuracy standard as control methodology.

DRONES: DDTC announced modification to requirements for permanent export of unmanned aerial systems (UAS) in industry notice posted on website Aug. 6. Phrase “other relevant provisions of U.S. law” was removed from first paragraph of addendum that DDTC requires with DSP-83, agency said (see **WTTL**, March 30, page 11).

ENTITY LIST: BIS in Federal Register Aug. 7 added Yuzhno-Kirinskoye Field, Russian oil and gas field in Sea of Okhotsk, to its Entity List. Field is “reported to contain substantial reserves of oil in addition to reserves of gas,” BIS said. Exports to field “represent an unacceptable risk of use in, or diversion to, the activities specified in the Russian industry sector sanctions,” it said.

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