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DDTC Races to Replace Digital Certificates

State's Directorate of Defense Trade Controls is rushing to launch its Defense Export Control and Compliance (DECCS) and a new authentication process by June, when the General Services Administration (GSA) will sunset the existing digital certificate system exporters use to submit electronic license applications.

DDTC hopes to have the replacement system, which has been in the works for more than two years, in place by summer, Acting Managing Director Tony Dearth told a the Defense Trade Advisory Group (DTAG) Feb. 1. That way the agency can build the new authentication process in the new system, rather than retrofitting a new process in the old one. "I don't think there's going to be a gap," Dearth told WTTL.

Currently there are two approved digital certificate vendors, but recently one advised GSA it would no longer offer digital signatures. Since that would leave only one source, GSA has advised DDTC that use of digital certificates must discontinue. The announcement caught officials "off-guard," one told WTTL. Current certificates will be allowed for use for the remainder of their two-year approval period.

Behind the scenes, DDTC is asking GSA to reconsider sunsetting the existing system. One DTAG working group presented results of a survey on what types of authentication methods industry would prefer, but "they still have a really short timeline to implement," one DTAG member told WTTL.

Treasury Defends Russia Sanctions Report

In response to the almost immediate criticism of its decision not to impose any further Russian sanctions as required under the Countering America's Adversaries Through Sanctions Act (CAATSA), the administration is defending their interpretation of the law. On the last deadline set by CAATSA, Treasury Jan. 29 issued a list of Russian oligarchs

and political figures, but did not issue any new sanctions against either those on that list or one State previously issued of entities in the defense and intelligence sectors (see *WTTL*, Oct. 30, page 1).

For its part, Treasury issued a list of Russian oligarchs that seemed to be copied and pasted from *Forbes* magazine and one of political figures taken from the Kremlin website. In a statement Feb. 1, the department defended its report. “The unclassified report was derived from open source materials which include websites, government documents, public records, and news stories among other items. The classified version was derived from classified sources and methods,” Assistant Secretary for Public Affairs Tony Sayegh said in a statement.

“Treasury is in compliance with both the requirements and spirit of the law. CAATSA requires Treasury to submit these reports, not to sanction the individuals and entities named in them,” Sayegh added. The department also was careful to note this was not a “sanctions list” in a frequently asked question (FAQ) posted Jan. 30.

“While some persons mentioned in the report may have been sanctioned pursuant to other authorities, the inclusion of individuals or entities in this report, its appendices, or its classified annex does not and in no way should be interpreted to impose sanctions on those individuals or entities. Inclusion in this report also does not constitute a determination by any agency that any of those individuals or entities meet the criteria for designation under any sanctions program,” the FAQ noted.

State Spokesperson Heather Nauert explained the decision not to impose any further sanctions. “Today, we have informed Congress that this legislation and its implementation are deterring Russian defense sales. Since the enactment of the CAATSA legislation, we estimate that foreign governments have abandoned planned or announced purchases of several billion dollars in Russian defense acquisitions,” she said in a statement.

“Given the long timeframes generally associated with major defense deals, the results of this effort are only beginning to become apparent. From that perspective, if the law is working, sanctions on specific entities or individuals will not need to be imposed because the legislation is, in fact, serving as a deterrent,” she added.

More than 20 Democratic senators questioned the deterrent effect in a letter to Secretary of State Rex Tillerson. “While there is deterrent value in Section 231, it is only effective if potential targets believe that the threat of sanctions is genuine. Yesterday’s statement by the State Department unfortunately fell short of sending a strong signal that the U.S. is fully prepared to impose these secondary sanctions in the event of a violation,” the senators wrote.

The senators also asked several questions in preparation for an upcoming briefing of the Senate Foreign Relations Committee. For example, “How has the administration specifically prevented significant transactions from taking place over the past six months? Can you attach a specific dollar amount to these efforts? While we understand the

sensitive nature of this diplomacy, we would urge the administration to publicly share as much information as possible to show the deterrent effect of your actions.”

House Foreign Affairs Chairman Ed Royce (R-Calif.) urged Treasury Secretary Mnuchin to “review the individuals and entities in this report and determine whether they should be designated under existing U.S. sanctions authorities.” The report “shines a light on many who have benefited from this corrupt system,” he noted.

Trade Tensions Cloud Second Round of KORUS Talks

At the second round of talks to renegotiate the U.S.-Korea free trade agreement (KORUS) in Seoul Jan. 31-Feb. 1, U.S. focused on market access, tariffs, and trade in goods deficits while the Koreans laid out their concerns on settling disputes. Amid other trade tensions between the two countries, officials agreed to a third round of talks in the U.S. with specific dates to be determined.

According to the U.S. Trade Representative (USTR)’s office, the U.S. focused on the need to rebalance trade to improve deficits particularly in the autos and auto parts sector. The U.S. also “pressed for the resolution of Agreement implementation concerns that have hindered U.S. goods and services export growth and opportunities in Korea,” it said in a prepared statement.

The Korean delegation offered its U.S. counterparts “a detailed explanation” of Korea’s stance on investor-state dispute settlement and U.S. trade remedies against Korean imports. Amendments to KORUS should be “based on the principle of reciprocity,” Korea’s Ministry of Trade, Industry and Energy said in a statement.

The day before the talks, Commerce Jan. 30 issued an affirmative preliminary antidumping determination on imports of certain tapered roller bearings from Korea. Bearing Art Corporation was assessed at 45.53%, Schaeffler Korea Corporation at 21.23% and all others at 33.42%. The petitioner is The Timken Company. The final Commerce determination is expected by April 17. The U.S. “values its relationship with Korea, but our trading partners must play by the rules,” said Commerce Secretary Wilbur Ross in a statement.

This finding comes a week after President Trump approved safeguard tariffs on large residential washing machines. Seoul responded two days later requesting World Trade Organization consultations, stating the president’s move is “inconsistent” with the U.S.’ obligations under the Agreement on Safeguards and other commitments (see **WTTL**, Jan. 29, page 2).

At a Korean Economic Institute of America event Jan. 31, former Acting Deputy USTR and chief KORUS negotiator Wendy Cutler warned that U.S. safeguard measures could hurt the bilateral trade agreement. While those measures are separate, they “can really bring a cloud over the negotiations and so that is another challenge, particularly if

additional trade measures and trade actions are announced during the course of these negotiations,” said Cutler. Moving the process through the World Trade Organization (WTO) is “healthy” because to address the issue as part of an amendment to KORUS could get complicated. “But once again, I think that these two decisions coupled with perhaps an impending decision on steel and other countervailing and antidumping actions to be taken, could set a cloud over the negotiations and kind of affect the tone and the willingness of both sides to work together enthusiastically to reach an agreement,” she added.

Slow Progress in NAFTA Talks Triggers Congressional Input

While the three NAFTA negotiators were able to close the corruption chapter and make progress on telecommunications, digital trade and food safety measures during the sixth round of talks, that didn’t stop trade officials and members of Congress from weighing in with their own prescriptions for the trade deal. Tensions among the trade ministers, particularly Canada and the U.S., were on full display at the closing remarks Jan. 29 in Quebec. The negotiators have not set a date for the next round in Mexico.

USTR Robert Lighthizer acknowledged the forward momentum but lamented that negotiations are “progressing very slowly. We owe it to our citizens, who are operating in a state of uncertainty, to move much faster,” said Lighthizer, who complained about the trilateral talks versus the Trump administration’s preferred bilateral deals.

He critiqued two Canadian proposals. One on rules of origin “may actually lead to less regional content than we have now and fewer jobs” in the region, he said. Second, Lighthizer said that “Canada reserved the right to treat the United States and Mexico even worse than other countries if they enter into future agreements” including, possibly, China. Had the U.S. made such a demand, “it would be dubbed a poison pill,” he said. Using Canadian statistics, he claimed Canada has more than an \$87 billion U.S. dollar trade surplus with the U.S.

Canadian Foreign Affairs Minister Chrystia Freeland shot back, citing numbers from Commerce’s Bureau of Economic Analysis. Canada actually has an \$8 billion deficit in overall (goods and services) trade with the U.S., she said. Furthermore, Canada has had to come back with “creative” proposals in the face of “unconventional” U.S. demands.

The minister elaborated on some of Canada’s creative solutions at a conference on Jan. 31. On investor-state dispute settlement (ISDS), the U.S. does not want to be “subject to sovereignty above national jurisdiction,” she explained. In response, “what we’ve proposed on Chapter 11 was to say, why don’t we just take the U.S. out of ISDS, but retain ISDS between Canada and Mexico?” said Freeland.

On regional content requirement for automobiles, 62.5% of the car has to be made in NAFTA to qualify as a NAFTA-made car. The U.S. wants to raise that figure to 85% with a 50% U.S. domestic content requirement. Canada believes that will negatively impact the competitiveness of manufacturing in North America, so it has unofficially put forward the

idea of redefining what counts as making up a car: electronics, research and development, steel and aluminum, she cited as examples.

Meanwhile, 36 Republican senators urged the president to keep NAFTA intact with some modernizations. “NAFTA supports 14 million jobs, representing thousands of jobs in each of the 50 states. Despite all of its benefits, however, we can do better and there are opportunities to improve the agreement. Modernizing NAFTA to increase market access, expand energy exports to maximize domestic energy production and including provisions on intellectual property and e-commerce will make this agreement even more beneficial to the United States,” the lawmakers wrote Jan. 30.

Progressive senators responded in kind Feb. 2. In a four-page letter to Trump, the senators laid out demands for the elimination of ISDS, the inclusion of strong labor and environmental standards that raise wages, and the commitment to make medicine more affordable, protect family farmers and support communities of color.

“A renegotiated NAFTA that meets these criteria could end the destructive race to the bottom, protect our air and water, reduce prescription drug prices, support climate action, and lift living standards in the United States, Mexico and Canada,” wrote Sens. Bernie Sanders (I-Vt.), Kirsten Gillibrand (D-N.Y.), Elizabeth Warren (D-Mass.) Edward Markey (D-Mass.) and Jeffrey Merkley (D-Ore.).

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SOUTH SUDAN: DDTC Feb. 2 announced new policy of denial for “with limited exceptions, export licenses or other approvals for defense articles and defense services” subject to ITAR and destined for South Sudan, it said in web notice. Policy is effective immediately. U.S. also is seeking support for UN Security Council arms embargo, State spokesperson Heather Nauert said in statement.

NORTH KOREA: In Jan. 31 Federal Register, State sanctioned two North Korean companies -- Chilsong Trading Corporation, Korea Kuryonggang Trading Corporation, and their sub-units and successors -- under Arms Export Control Act for engaging in missile technology proliferation activities.

JUSTICE: Edward O'Callaghan became acting assistant attorney general for national security division (NSD) Jan. 27, replacing Dana Boente. In addition, he serves as principal deputy assistant attorney general for NSD. O'Callaghan rejoined DOJ in November 2017 from his position as partner at Clifford Chance law firm. At Clifford Chance, he represented Fokker Services, which agreed to deferred prosecution agreement (DPA) for alleged violations of U.S. trade sanctions (see **WTTL**, Sept. 14, 2015, page 4).

RUBBER BANDS: Alliance Rubber Co. filed countervailing and antidumping duty petitions Jan. 30 with ITA and ITC against imports of certain rubber bands from Thailand, China and Sri Lanka. Since 2014, rubber band imports from Thailand alone have increased by 146%. Chinese imports rose by 115% and Sri Lankan imports increased by 26% over same period of time, company said.

IRON PIPE: Cast Iron Soil Pipe Institute filed countervailing and antidumping duty petitions Jan. 26 with ITA and ITC against imports of certain cast iron soil pipe from China. Group filed similar petitions in July against imports of cast iron soil pipe fittings from China.

STEEL PIPE: In 4-0 “sunset” vote Jan. 30, ITC said revoking antidumping duty order on imports of seamless carbon and alloy steel standard, line and pressure pipe from Germany would renew injury to U.S. industry.

TRADE PEOPLE: Peterson Institute for International Economics (PIIE) announced retirement Jan. 30 of Gary Hufbauer after 36 years with Washington think tank. He continues with PIIE as nonresident senior fellow when not enjoying sunny New Mexico. Caroline Freund on leave from PIIE to become director of trade, regional integration and investment climate at World Bank. International trade economists Douglas Irwin and Mary Lovely join Institute this month as nonresident senior fellows.

WTO: India requested Jan. 29 establishment of WTO dispute panel to determine whether India complied with earlier WTO ruling on domestic content requirements for solar cells and solar modules. India says it’s in compliance. India also requested special meeting of WTO’s Dispute Settlement Body to be held Feb. 9. U.S. previously requested authorization to suspend concessions due to India’s alleged non-compliance (see **WTTL**, Jan. 15, page 2).

USTR: Sen. Jeff Flake (R-Ariz.) released his hold on USTR chief agricultural nominee Gregory Doud “after successfully securing commitments on NAFTA-related trade priorities” from USTR and Senate Finance Committee Chairman Orrin Hatch (R-Utah), Flake’s office said in press release Feb. 1. He placed hold to oppose “protectionist efforts to restrict cross-border imports.” Hatch pledged commitment in writing Jan. 29. “I am committed to working with [Flake] to find a solution to [his] concerns and to achieve a modernized NAFTA that will benefit all American producers, services providers, and consumers, consistent with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015,” Hatch wrote. Finance Committee approved Doud’s nomination by voice vote Oct. 24 (see **WTTL**, Oct. 30, page 3).

EXPORT ENFORCEMENT: Federal jury indicted Paul Stuart Brunt of Bellevue, Wash., and Rawnd Khaleel Aldalawi of Seattle Jan. 31 in Seattle U.S. District Court for scheme to smuggle dozens of firearms to Turkey and Iraq without licenses between October 2016 and November 2017. Both were arrested Jan. 24; Brunt was released on bond, and Aldalawi remains in custody.