

Vol. 38, No. 43

October 29, 2018

BIS Implements 2017 Wassenaar Changes

Bureau of Industry and Security (BIS) Oct. 24 implemented dozens of changes Wassenaar Arrangement (WA) members agreed to at its December 2017 plenary. Changes to the Export Administration Regulations (EAR) include revisions to 50 Export Control Classification Numbers (ECCNs) and additions and expansions to certain license exception eligibility.

A proposed rule implementing changes to controversial cyber intrusion software controls is being worked on separately from other plenary changes, Hillary Hess, director of BIS' regulatory policy division, told the agency's RAPTAC in June (see **WTTL**, June 18, page 9). The plenary added two new notes and two technical notes including relevant definitions.

At the December plenary, Wassenaar continued its annual practice of raising the threshold for computer controls by increasing adjusted peak performance (APP). This year the regime raised the APP from 16 to 29 Weighted TeraFLOPS (WT). The rule also removed ECCNs 6A990 and 6E990, which controlled read-out integrated circuits (ROICs); ROICs are now specified in 6A002.f and technology in ECCNs 6E001 and 6E002.

The rule also corrected ECCN 3A991 to close a gap in control for secondary cells introduced by a previous Wassenaar rule. In September 2016, BIS increased the energy density in 3A001.e.1.b from 300 to 350 Wh/kg, but did not make the corresponding change to ECCN 3A991.j.2, the agency noted. License Exception GBS also was revised to add new paragraph 3A001.i to "address photonic components for analog Radio Frequency (RF) over fiber antenna remoting, and analog RF distribution of signals."

Members Urge WTO Reform, Without U.S. Presence

While the U.S. continues to block new Appellate Body members' appointments and threatens leaving the group altogether, 13 other World Trade Organization (WTO)

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WTTL is published weekly 50 times a year except last week
 in August and December. Subscriptions are \$697 a year.
 Additional users pay only \$100 each with full-priced sub-
 scription. Site and corporate licenses are also available.
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members took matters in their own hands to urge three main actions to fix current WTO dysfunction: fill those continued vacancies in the Appellate Body, reinvigorate the negotiating function, especially on fisheries subsidies, and strengthen the monitoring and transparency of members' trade policies

"We share a common resolve for rapid and concerted action to address these unprecedented challenges and to restore confidence," the trade ministers of Australia, Brazil, Canada, Chile, European Union, Japan, Kenya, Korea, Mexico, New Zealand, Norway, Singapore and Switzerland said Oct. 26 in a joint communique after a two-day meeting in Canada.

"The current situation at the WTO is no longer sustainable. Our resolve for change must be matched with action: we will continue to fight protectionism; and we are committed politically to moving forward urgently on transparency, dispute settlement and developing 21st century trade rules at the WTO," they wrote. The group plans to meet again in January 2019.

Specifically, "we acknowledge that concerns have been raised about the functioning of the dispute settlement system and are ready to work on solutions, while preserving the essential features of the system and of its Appellate Body," the ministers said. As a result of the U.S. actions, the body is now down to its minimum of three members (see **WTTL**, Oct. 1, page 6).

WTO Director-General Roberto Azevêdo welcomed the members' "high levels of engagement" on this issue. "Whatever precise path the debate takes and whatever specific issues members want to take forward, we all have a responsibility to do everything we can to diffuse tensions, mitigate the risks and strengthen the system for the future, he said at the meeting Oct. 25.

Singapore-Based Executive Indicted for Evading North Korea Sanctions

An indictment against a director of a Singapore-based commodities trading company was unsealed Oct. 25 in Manhattan U.S. District Court, charging Tan Wee Beng, aka "WB," for conspiring to use the U.S. financial system to conduct millions of dollars' worth of transactions to finance shipments of goods to North Korea.

At the same time, Treasury's Office of Foreign Assets Control (OFAC) designated Beng, the company Wee Tiong (S) Pte Ltd, and WT Marine Pte Ltd, an affiliated marine fuels company, for "having, directly or indirectly, engaged in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, narcotics trafficking, or other illicit economic activity that involves or supports" the government of North Korea, OFAC noted. Beng remains at large.

In one example, in October 2016, an unnamed co-conspirator sent an email directing Daedong Credit Bank (DCB) to make a payment of \$380,000 to Wee Tiong, the indictment

noted. Ten days later, the co-conspirator caused a U.S. bank to process a transaction through a correspondent account in the U.S. for \$379,556, to be paid to Wee Tiong by a front company located in Hong Kong, it added. OFAC designated DCB in June 2013.

“Beng made a concerted effort to obfuscate payment origins and structure transactions to avoid regulatory scrutiny,” OFAC said. “In at least one instance, when a wire payment was rejected, Tan Wee Beng and Wee Tiong (S) Pte Ltd orchestrated payment in bulk cash, hand-delivered to a North Korean,” it added.

In November 2017, Financial Crimes Enforcement Network (FinCEN) issued an advisory to “further alert financial institutions to schemes commonly used by North Korea to evade U.S. and United Nations (UN) sanctions, launder funds, and finance the North Korean regime’s weapons programs,” the agency said (see **WTTL**, Nov. 6, 2017, page 8).

*** * * Briefs * * ***

BELARUS: Treasury Oct. 24 issued General License 2F extending authorization of transactions with nine blocked companies in Belarus and any entities owned 50% or more by them until Oct. 25, 2019 (see **WTTL**, April 30, page 8). Transactions are authorized with Belarusian Oil Trade House, Belneftekhim, Belneftekhim USA, Inc., Belshina OAO, Grodno Azot OAO, Grodno Khimvolokno OAO, Lakokraska OAO, Naftan OAO and Polotsk Steklovolokno OAO.

SODIUM HEXAMETAPHOSPHATE: In 4-0 “sunset” vote Oct. 25, ITC said revoking antidumping duty order on imports of sodium hexametaphosphate from China would renew injury to U.S. industry. Commissioner Meredith Broadbent did not participate in vote.

XANTHAN GUM: In 5-0 “sunset” vote Oct. 23, ITC said revoking antidumping duty order on imports of xanthan gum from China would renew injury to U.S. industry.

REBAR: In “sunset” votes Oct. 23, ITC said revoking antidumping duty orders on imports of steel concrete reinforcing bar from Belarus, China, Indonesia, Latvia, Moldova, Poland and Ukraine would renew injury to U.S. industry. Votes were 5-0 for Belarus, China, Moldova and Ukraine, and 4-1 for Indonesia, Latvia and Poland. Commissioner Meredith Broadbent cast ‘no’ vote.

MAGNESIUM: US Magnesium LLC filed countervailing and antidumping duty petitions Oct. 24 with ITA and ITC against magnesium from Israel. Alleged average dumping margins are 126.5-172.0%.

TRADE PEOPLE: Brian Lenihan was named executive director of SelectUSA Oct. 15. He previously served as Commerce deputy assistant secretary for legislative and intergovernmental affairs in 2017. Prior to joining Commerce, Lenihan was “a government affairs professional that facilitated development and advocated on behalf of the non-residential construction industry’s federal policy positions,” according to his online bio.

BICYCLES: Bicycle Corporation of America and Detroit Bikes Oct. 18 filed Section 201 global safeguard petition at ITC seeking relief from imports of certain assembled bicycles having Customs value under \$400. “A complete bicycle includes a fully-assembled unit comprised of all component parts and requiring no additional assembly, fabrication, or finishing operations,” petition noted.

E-WASTE: As promised, BIS in Federal Register Oct. 23 published notice of inquiry (NOI) seeking public comments on “effects and costs” of potential restrictions on exports of electronic waste (e-waste). Agency specifically highlighted potential “export authorization requirements regarding electronic waste, including new recordkeeping requirements, reporting requirements, and data elements in the Automated Export System, maintained by the U.S. Census Bureau.” Comments are due Dec. 24. BIS and Census proposed controversial “yes-no indicator” for exports of used electronics but backed off plans due to negative industry response in 2017 (see **WTTL**, April 24, 2017, page 1). House bill introduced in 2017 prohibits e-waste exports or re-exports (H.R. 917).

HIZBALLAH: President Oct. 25 signed Hizballah International Financing Prevention Amendments Act (S. 1595). Senate passed bill by unanimous consent two weeks prior (see **WTTL**, Oct. 15, page 4). House passed bill by voice vote in September. In statement next day, president took issue with two provisions of bill: requirement to deny “certain aliens” entry into U.S., without “sufficient exception” for President’s responsibility to receive ambassadors, and requirement to adopt particular foreign policy. “My administration supports the diplomatic initiatives described in the Act but will treat these provisions in a manner consistent with the President’s exclusive constitutional authorities in the area of foreign relations,” he said.

TARIFFS: In news to U.S. importers, President reportedly said, “We don’t have any tariffs,” in interview with Wall Street Journal Oct. 23. “Where do we have tariffs? We don’t have tariffs anywhere. I read that today: We’re worried about the tariffs. You know what happens? A business that’s doing badly always likes to blame Trump and the tariffs because it’s a good excuse for some incompetent guy that’s making \$25 million a year,” he added, according to published transcript. In fact, USTR announced in September latest list of approximately \$200 billion worth of Chinese imports that will be subject to additional tariffs (see **WTTL**, Sept. 24, page 1).

MORE TARIFFS: China Oct. 18 filed request with WTO to set up “expert group” on U.S. Section 232 steel and aluminum tariffs. “In accordance with the WTO rules, China has already been engaged in consultations with the U.S. under the WTO dispute settlement mechanism, only to find consultations unable to address China’s concerns,” MOFCOM official said in statement posted on website. “China hopes the panel can hear the case in an objective and fair manner so as to safeguard the rules-based multilateral trading system,” official added.

STAFFING: DDTC’s compliance office will soon announce new director, Acting DDTC Chief Mike Miller told Defense Trade Advisory Group (DTAG) Oct. 25. “We have made a selection,” he said. Post has been vacant for two years since Sue Gainor left in August 2016. Office also will be adding seven new compliance specialists in coming months, Miller said. Agency expects to have additional legal support in new year, he added. Separately, FIRRMA legislation could double to quintuple number of CFIUS reviews agency will handle (see **WTTL**, Oct. 15, page 1). “We’re going to have to staff up to meet the requirements,” Miller said.

SOYBEANS: U.S. soybean growers made zero exports to China week of Oct. 18, compared to 1.74 million metric tons in same week in 2017, Sen. Heidi Heitkamp (D-N.D.) reported Oct. 25. Exports to China in this marketing year, which began Sept. 1, are down 97% to 201,685 metric tons from 6.4 million metric tons at this time in 2017. “The loss of the Chinese market due to the administration’s trade war is an unfolding disaster for North Dakota soybean farmers,” Heitkamp said.