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Gun Industry Rallies Members to Urge Publication of Final Rules

Industry groups are turning on the "big guns" in support of transfer of items from U.S. Munitions List (USML) categories I, II and III, including firearms, close assault weapons and combat shotguns, guns and armament, and ammunition and ordnance, to Bureau of Industry and Security (BIS) jurisdiction.

> "While the Trump Administration stalls and delays publication of the final rules, antigun politicians in the House passed legislation to block these crucial reforms that will strengthen national security, reduce unnecessary regulatory burdens and allow our industry to create more good paying jobs in America," the National Shooting Sports Foundation (NSSF) wrote in an email to thousands of industry members Aug. 12.

In a 225-205 vote July 11, the House approved an amendment to the 2020 National Defense Authorization Act (NDAA) that would prohibit the transfers (see **WTTL**, July 15, page 2). Administration officials have been mum on the status of the final rules since February when Sen. Robert Menendez (D-N.J.) put a "hold" on the transfers after receiving a formal 38(f) notification.

Industry groups are also maintaining their opposition to Acting BIS Under Secretary Nazak Nikakhtar, who sources say has tried to stop the rules or at least slow them down. Nikakhtar is not "confirmable," despite her acting title, and might not get a vote in the Senate Banking Committee, one source told WTTL.

Trade Groups See Boom or Bust in China Tariff Lists

What you see depends on where you stand, C.S. Lewis once wrote. With the administration's decision Aug. 13 to delay some of its threatened tariffs against Chinese imports, industry groups came out of the woodwork to denounce or celebrate the inclusion of their

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products on one of the two lists. Some products, including shipping containers and religious books, fell off the tariff lists altogether, leading to even more industry applause. The U.S. Trade Representative (USTR) in May announced the administration would impose an additional tariff on approximately $300 billion of Chinese imports. The president delayed the tariffs, citing trade talks, then subsequently reversed his decision again, giving importers just 30 days' notice before imposing a 10% tariff on all remaining goods (see **WTTL**, Aug. 5, page 1).

In the latest notice, the USTR's office published two lists, one that will go into effect Sept. 1 and another much smaller list of products, scheduled to be imposed Dec. 15. Products in the latter group include cell phones, laptop computers, video game consoles, certain toys, computer monitors, and certain items of footwear and clothing, the USTR said.

> That list also includes plastic office or school supplies, bamboo chopsticks, nativity scenes and figures, playing cards, music boxes, greeting cards and calendars, fireworks, photo albums, gloves, mittens & mitts, electric blankets and artificial flowers. Certain products are being removed from the tariff list "based on health, safety, national security and other factors" and will not face additional the 10% tariffs at all, USTR noted.

While the president has long claimed that U.S. consumers will not pay for the imposed tariffs, administration officials and the president himself cited the Christmas shopping season as reason for the delays. "Just in case they might have an impact on people, what we've done is we've delayed it so that they won't be relevant for the Christmas shopping season," Trump said in remarks before leaving for vacation Aug. 13.

Industry groups and lawmakers jumped on the president's decision. "Trump's incoherent posturing is hitting American pocketbooks without changing China's behavior," Senate Finance Committee Ranking Member Ron Wyden (D-Ore.) said in a statement. "Postponing tariffs on video game consoles and pet toys is giving Trump the stock market bump he wants, but he's still going ahead with tariffs on books, school supplies and clothes that will hit working Americans the hardest," he added.

The American Trucking Associations (ATA) said the trucking industry is pleased that 53-foot domestic intermodal containers fell off the tariff list. "Because there are no U.S.-based makers of these containers, we estimate the logistics industry would've paid an additional $63 million in the first year, and nearly $750 million more over the next decade for the equipment if these tariffs had not been rescinded," ATA Chief Economist and Senior Vice President for International Trade Policy Bob Costello said.

The American Apparel & Footwear Association (AAFA) denounced the seemingly random division in the two lists. "While the Trump administration is delaying tariffs on 'certain items of footwear and clothing' for 105 days, and removing other items from the list entirely, it is still persisting with a destructive plan to impose tariffs on consumer goods used by every American and critical inputs used by U.S. manufacturers," Rick Helfenbein, AAFA president and CEO said.

Similarly, the National Council of Textile Organizations (NCTO) applauded the inclusion of finished apparel and textile products, but urged certain inputs to be removed from the lists entirely. "While we are pleased with today's announced action, we remain concerned that certain inputs already vetted by the administration and removed from previous retaliatory tariff lists remain on this list for proposed duties. We have long argued that adding tariffs on imports of manufacturing inputs that are not made in the U.S. in effect raises the cost for American companies," NCTO President and CEO Kim Glas said.

Sen. James Lankford (R-Okla.) tweeted his support for the removal of religious texts and bibles from the lists as "a bit of good news as trade talks [with] China continue." He added, "The U.S. & China must find a path forward on our trade disagreements." Twitter followers observed the irony that most American bibles are printed in China.

Commerce Self-Initiates Circumvention Inquiries on Steel Imports

For the first time, Commerce Aug. 14 announced it has self-initiated circumvention inquiries involving exports of certain corrosion-resistant steel products (CORE) made with substrate from China or Taiwan, completed in Costa Rica, Guatemala, Malaysia, South Africa and the United Arab Emirates (UAE), and then exported to the U.S.

> This is the first time that Commerce has self-initiated such inquiries based on its own monitoring of trade patterns, and the first self-initiation of multi-country inquiries the department noted. In these inquiries, Commerce will determine whether CORE imports completed in Costa Rica, Guatemala, Malaysia, South Africa and the UAE using Chinese-origin substrate, or CORE imports completed in Malaysia using Taiwanese-origin substrate, are circumventing antidumping (AD) and countervailing duty (CVD) orders on CORE from China or Taiwan.

In May 2018, the department found that CORE and certain cold-rolled steel flat products imported from Vietnam and produced from Chinese substrate circumvent AD/CVD orders on those imports from China (see **WTTL**, May 28, 2018, page 10). Steel Dynamics, Inc., California Steel Industries, AK Steel, ArcelorMittal USA LLC, Nucor and US Steel requested those investigations.

Shipments of CORE from Costa Rica, Guatemala, Malaysia, South Africa, and the UAE to the United States increased in value by 29,210%, 35,944%, 151,216%, 629%, and 5,571%, respectively, in the 45 months since the initiations of the original AD/CVD investigations on Chinese and Taiwanese CORE. If Commerce preliminarily determines that circumvention is occurring, Commerce will instruct Customs and Border Protection to begin collecting cash deposits on future imports and any unliquidated entries.

Two WTO Environmental Disputes Move Ahead

At a time when the administration is getting pushback over reversing environmental regulations, two World Trade Organization (WTO) disputes involving U.S. protection of its renewable energy sector took a step forward Aug. 15 at a WTO Dispute Settlement Body (DSB) meeting. In one, the U.S. appealed a WTO panel report that sided with India in its complaint over certain U.S. state measures to promote renewable energy. The panel in June found that the measures are inconsistent with the WTO's "national treatment" principle because they provide less favorable treatment to imported products than that accorded to like domestic products (see **WTTL**, July 1, page 3). The next regular DSB meeting will take place Sept. 30.

In another, WTO members agreed to China's second request for a dispute panel to rule whether U.S. safeguard measures on imported solar cells are compatible with WTO rules. China charges the measures, in the form of a tariff-rate quota on imports of solar cells and an increase in duties on imports of modules, is inconsistent with WTO rules. The U.S. blocked China's first request at a DSB meeting in July (see **WTTL**, July 29, page 7).

The U.S. "reiterated that WTO rules allow a member to temporarily suspend concessions in order to take a safeguard action when a product is being imported into its territory in such increased quantities and under such conditions as to cause serious injury or threat of serious injury to the member's domestic industry," the WTO noted.

Ex-Im Could Back More Dual-Use Transactions with New Board

After several years of monitoring just a few dual-use export transactions, that number could increase now that Export-Import (Ex-Im) Bank has a full board up and running. In its annual report on the bank's monitoring of three dual-use transactions published Aug. 12, the Government Accountability Office noted that only one required documentation in 2019.

> The Bank backed sales of a satellite for French company Eutelsat, three satellites for the Mexican government, and construction equipment for Cameroon's military. "For 2019, EXIM received all documents from the government of Mexico on time and subsequently determined that Mexico was in compliance with the bank's dual-use policy," the report noted (GAO-19-656R).

In last year's report, GAO said that while the Bank is generally monitoring dual-use exports on whether they comply with bank policies ahead of internal deadlines, some of those initial determinations lacked sufficient detail and needed clarification (see **WTTL**, Sept. 3, 2018, page 8). Ex-Im is permitted to finance only non-lethal dual-use exports.

The bank did not finance any new exports under its dual-use authority in fiscal year 2018. "According to EXIM officials, dual-use transactions require a quorum of board members for approval, and EXIM's board did not have a quorum from late 2015 to May 2019, precluding the bank from financing such projects during that period," the report said.

* * * Briefs * * *

EXPORT ENFORCEMENT: Federal indictment was unsealed Aug. 15 against Dariush Niknia, of Elk Grove, Calif., and Richard Lant of Las Vegas, on charges of violating Iran sanctions. Pair allegedly conspired to sell 500 Russian-made tank helmets to Niknia's contact in Tehran between May and October 2015 without OFAC license. Niknia and Lant sent one helmet as sample, but rest of delivery proved unsuccessful.

MORE EXPORT ENFORCEMENT: German citizen Mojtaba Biria, Energy Republic GmbH's technical managing director, was sentenced Aug. 14 in Albany, N.Y., U.S. District Court to time served for conspiring to export gas turbine parts to Iran without OFAC license from 2013 through 2017. Iranian citizen Mahin Mojtahedzadeh, president and managing director of ETCO-FZC, pleaded guilty in same court July 19 (see **WTTL**, July 29, page 5). Sentencing is set for Nov. 12. Olaf Tepper, Energy Republic's founder and managing director, was sentenced in August 2018 to 24 months in prison for related charges.

STILL MORE EXPORT ENFORCEMENT: Negar Ghodskani, employee of Iranian company Fanavar Moj Khavar (Fana Moj), pleaded guilty Aug. 9 in Minneapolis U.S. District Court for participation in conspiracy to illegally export-controlled technology, including converters, analog devices and synthesizers, to Iran. Codefendant Iranian citizen Alireza Jalali, employee of Malaysian firm Green Wave Telecommunication, was sentenced in March 2018 to 15 months in prison (see **WTTL**, March 26, 2018, page 5). He pleaded guilty in November 2017. Green Wave operated as front company for Fana Moj. OFAC designated Fana Moj in October 2017 under EO 13382, which targets weapons of mass destruction proliferators and their supporters. Ghodskani, who was indicted in December 2015, was arrested in Australia in 2017.

EVEN MORE EXPORT ENFORCEMENT: Russian national Dmitrii Makarenko was sentenced July 31 in Miami U.S. District Court to time served on charges of conspiring to illegally export military-grade night vision rifle scopes, thermal monoculars and ammunition primers to Russia without State licenses. He pleaded guilty in May and was arrested in Guam in December 2018 (see **WTTL**, Jan. 7, page 9). Co-defendant Vladimir Nevidomy, Ukraine-born naturalized U.S. citizen of Hallandale Beach, Fla., was sentenced in June 2018 to 26 months in prison, followed by three years' supervised release.

ENTITY LIST: BIS in Federal Register Aug. 14 added 17 entities to Entity List in Armenia, Belgium, Canada, China, Georgia, Hong Kong, Malaysia, Netherlands, Russia, UAE and UK. Agency added four Chinese entities – country's largest nuclear power operator China General Nuclear Power Group, China General Nuclear Power Corporation (CGNPC), China Nuclear Power Technology Research Institute Co. and Suzhou Nuclear Power Research Institute Co. -- because each "has engaged in or enabled efforts to acquire advanced U.S. nuclear technology and material for diversion to military uses in China," it noted. At same time, rule modified 23 entries in China, Hong Kong and Russia. In addition, BIS removed Jereh International and Chinese oil and gas company Yantai Jereh Oilfield Services Group Co., Ltd in China and Deira General Marketing in UAE. Yantai Jereh and affiliated companies agreed in December 2018 to pay OFAC and BIS total of $3.3 million to settle charges of violating Iran sanctions (see **WTTL**, Dec. 17, 2018, page 1).

EDITOR'S NOTE: In keeping with our 50-week publishing schedule, there will be no issue of Washington Tariff & Trade Letter on Aug. 26. Our next issue will be Sept. 2.