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Trump and Trade Updates – July 2017

OFAC and State Department Sanction 18 Additional Iranian Entities/Persons

7/18/17 – Almost immediately after the Trump administration's announcement that Iran was in compliance with the terms of the Joint Comprehensive Plan of Action (JCPOA), the Department of the Treasury's Office of Foreign Assets Control (OFAC) and the State Department designated an additional 18 Iranian entities and individuals for engaging in activities supporting Iran's continued testing of ballistic missiles, as well as for engaging in activities supporting Iran's military or Iran's Islamic Revolutionary Guard Corps (IRGC).

OFAC has designated three networks supporting Iran's military and/or the IRGC through the development of unmanned aerial vehicles and military equipment for the IRGC, the production and maintenance of fast attack boats for the IRGC-Navy, or the procurement of electronic components for entities that support Iran's military. Additional persons and entities were added to OFAC's Specially Designated Nationals List for Iran-based transnational criminal organization activities, including the theft of U.S. and western software programs which, at times, were sold to the Iranian government. A complete listing of OFAC designations is available on Treasury's website.

The State Department designated two entities for engaging in activities that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery: the IRGC's Aerospace Force Self Sufficiency Jihad Organization, which is involved in Iranian ballistic missile research and flight test launches, and the IRGC's Research and Self Sufficiency Jehad Organization, which is responsible for the research and development of ballistic missiles.

The State Department stated that Iran continues to test and develop ballistic missiles in direct defiance of United Nations Security Council Resolution 2231, and referred to the JCPOA's statement regarding the participants' anticipation that "full implementation of this JCPOA will positively contribute to regional and international peace and security." In announcing these new sanctions, however, State Department officials stated that "Iran's other malign activities are serving to undercut whatever 'positive contributions' to regional and international peace and security were intended to emerge from the JCPOA." In announcing these new sanctions, the Trump administration stated that it is continuing to conduct a full review of U.S. policy toward Iran and that the United States during this review will continue to aggressively counter Iran's activities in the region.

Trump Administration Again Certifies that Iran Is in Compliance With JCPOA Terms

7/18/17 – The Trump administration has again certified that Iran is in compliance with the terms of the Joint Comprehensive Plan of Action (JCPOA), an international agreement to curtail Iran's development of nuclear weapons. This certification to Congress must occur every 90 days and followed confirmation by the international monitors and other signatories to the JCPOA that Iran is meeting the terms of the agreement. Reports are, however, that President Trump begrudgingly agreed to the certification after multiple meetings with his national security staff and is demanding that his staff develop a new strategy to confront Iran because he does not want to continue to indefinitely recertify Iran's compliance.

In making the announcement, State Department officials noted that President Trump intends to impose new sanctions on Iran for ongoing "malign activities" in non-nuclear areas such as ballistic missile development and support for terrorism. "We do expect to be implementing new sanctions" related to missiles and Iran's "fast boat program," one State Department official indicated.

USTR Releases Summary of Objectives for NAFTA Renegotiation

7/18/17 – U.S. Trade Representative Robert Lighthizer has released a detailed and comprehensive summary of the negotiating objectives for the renegotiation of the North American Free Trade Agreement (NAFTA). In a brief statement upon the release, Lighthizer stated that the Trump administration will seek an agreement "that reduces the U.S. trade deficit and is fair for all Americans by improving market access in Canada and Mexico for U.S. manufacturing, agriculture, and services." The summary notes that the "new NAFTA must continue to break down barriers to American exports. This includes the elimination of unfair subsidies, market-distorting practices by state owned enterprises, and burdensome restrictions of intellectual property. The new NAFTA will be modernized to reflect 21st century standards and will reflect a fairer deal, addressing America's persistent trade imbalances in North America. It will ensure that the United States obtains more open, equitable, secure, and reciprocal market access, and that our trade agreement with our two largest export markets is effectively implemented and enforced."

The negotiating objectives include a new digital economy chapter and stronger labor and environmental obligations that are currently in NAFTA side agreements. These objectives reflect the negotiating standards established by Congress in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, which requires that the USTR release objectives at least 30 days before formal negotiations begin. Negotiations will now start no earlier than August 16, 2017.

NAFTA Renegotiations to Begin on August 16

7/20/17 – The Office of the U.S. Trade Representative (USTR) has announced that the first round of renegotiation of the North America Free Trade Agreement (NAFTA) will occur August 16-20, 2017 in Washington, D.C. Reportedly, the plan is to hold seven rounds of talks at three-week intervals, at alternating sites among the three countries, with a goal of completing the negotiations by early 2018.

John Melle, the assistant U.S. Trade Representative for the Western Hemisphere, will serve as the U.S. chief negotiator for the NAFTA negotiations. Since joining USTR in 1988, Melle has held a number of positions covering Mexico, Canada, the Caribbean and Central America. As assistant USTR for the Western Hemisphere, he is responsible for developing, coordinating and implementing the United States' trade policy for the region.

House Passes Bill for Additional Sanctions Against Iran, Russia and North Korea

7/26/17 – On July 25, the House of Representatives passed legislation that would impose additional sanctions on Iran, North Korea and Russia. The bill would increase sanctions on those involved in Iran's human rights abuses, its support for terrorism, as well as its ballistic missile program. For Russia, the bill would ensure that existing economic sanctions remain as long as Russian aggression continues by empowering Congress to review and disapprove any sanctions relief that the president may seek. The bill also includes the text of H.R. 1644, The Korean Interdiction and Modernization of Sanctions Act, which was passed by the House in May by a vote of 419-1, and seeks to expand sanctions targeting North Korea's nuclear weapons program.

As we noted in a previous post, the Senate has also passed legislation (S. 722) to implement additional sanctions on Iran and Russia; the Senate bill does not contain provisions on North Korea sanctions. Because different bills were passed in each chamber and the House bill included additional sanctions against North Korea, it is expected that the Senate will take up consideration of H.R. 3364 for any final vote. Interestingly, given President Trump's perceived ambivalence on the Ukraine-related Russia sanctions, the votes for passage by each chamber – 419 to 3 in the House and 98-2 in the Senate – likely make any passage of a final bill veto-proof.

Trump Administration Update: Key Players in International Trade

7/28/17 – In an ongoing effort to provide readers with a current reference list of key trade policy officials and advisors in the Trump administration, the Trump and Trade team at Thompson Hine has prepared a presentation for our readers' use. View or download the PDF.

Congressional and Administration Leaders Drop Border Adjustment Tax

7/28/17 – House Speaker Paul Ryan (R-WI), Senate Majority Leader Mitch McConnell (R-KY), Treasury Secretary Steven Mnuchin, National Economic Council Director Gary Cohn, Senate Finance Committee Chairman Orrin Hatch (R-UT) and House Ways and Means Committee Chairman Kevin Brady (R-TX) issued a joint statement yesterday on tax reform in which they announced that the controversial proposal for a border adjustment tax (BAT) system is being dropped from consideration so that the effort to address comprehensive tax reform can move forward.

According to the statement, the group is "… now confident that, without transitioning to a new domestic consumption-based tax system, there is a viable approach for ensuring a level playing field between American and foreign companies and workers, while protecting American jobs and the U.S. tax base. While we have debated the pro-growth benefits of border adjustability, we appreciate that there are many unknowns associated with it and have decided to set this policy aside in order to advance tax reform."