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## BIS Nominee Ricardel Gets Day (or Hour) in Senate

At a Senate Banking Committee hearing May 16, Mira Ricardel, the president's nominee to be Bureau of Industry and Security (BIS) under secretary, generally got a friendly reception. A lot of nice things were said and in response, Ricardel's answers "were not substantive at all," one observer noted. No one asked about the Obama administration's export control reform effort generally, or the status of U.S. Munitions List Categories I, II and III (firearms and ammunition) more specifically.

The committee vote on Ricardel and three Treasury nominees, who also participated in the May 16 hearing, is scheduled for May 23. Sens. Ron Wyden (D-Ore.) and Mark Warner (D-Va.) had put a hold on one of the nominees until Treasury provides information and documents related to Russia (see related story, page 4).

In her opening statement, Ricardel said all the right things, while avoiding specific commitments. "The role of the Under Secretary of Commerce for Export Administration is consequential and one in which I will be able to leverage my experience and skills if confirmed," she said. Ricardel referred to her own experience at Boeing. "As a former employee of an aerospace company, I can appreciate the impact of exports on jobs. At the same time, the health of the U.S. defense industrial base is imperative," she said, noting the two recently launched Section 232 investigations on steel and aluminum imports.

Still remaining for the committee are two BIS assistant secretaries as well as an Export-Import (Ex-Im) Bank chairman and board member. The president in April said he "intends to nominate" two men for the Ex-Im posts, but has not formally sent their names to the Senate (see **WTTL**, May 1, page 10). This delay is "unusual," one source noted.

## Lighthizer Formally Starts NAFTA Modernization Process

Mere days after being sworn in as U.S. Trade Representative (USTR), Robert Lighthizer issued a letter to congressional leaders May 18, notifying them of the president's intent to

initiate negotiations with Canada and Mexico toward the modernization of NAFTA. Negotiations will begin no earlier than August 16 with the goal of maintaining the trilateral format, though Lighthizer told reporters that some issues will need to be worked out bilaterally.

“NAFTA was negotiated 25 years ago, and while our economy and businesses have changed considerably over that period, NAFTA has not. Many chapters are outdated and do not reflect modern standards,” Lighthizer’s letter, as required per the Trade Priorities and Accountability Act of 2015 (TPA), noted.

“For example, digital trade was in its infancy when NAFTA was enacted. In addition, and consistent with the negotiating objectives in [TPA], our aim is that NAFTA be modernized to include new provisions to address intellectual property rights, regulatory practices, state-owned enterprises, services, customs procedures, sanitary and phytosanitary measures [SPS], labor, environment, and small and medium enterprises. Moreover, establishing effective implementation and aggressive enforcement of the commitments made by our trading partners under our trade agreements is vital to the success of those agreements and should be improved in the context of NAFTA,” it notes.

At the same time, USTR May 18 asked the International Trade Commission (ITC) to conduct a Section 131 investigation into “the probable economic effect of providing duty-free treatment for imports of currently dutiable products from Canada and Mexico,” specifically agricultural products currently still subject to U.S. tariffs under NAFTA.

“With this letter, we intend to notify not just Congress, but all our trading partners, that free and fair trade is the new standard for U.S. trade deals. Since the signing of NAFTA, we have seen our manufacturing industry decimated, factories shuttered, and countless workers left jobless. President Trump is going to change that. I look forward working with the President, Ambassador Lighthizer, and our counterparts from Mexico and Canada, to find a solution that is both fair and beneficial for all parties,” said Commerce Secretary Wilbur Ross in a statement.

In response to Lighthizer’s letter, Canadian Minister of Foreign Affairs Chrystia Freeland confirmed her country’s steadfast commitment to free trade in North America. “In recent months, with respect to NAFTA, my colleagues and I have been listening to Canadians from across the country and from all sectors and backgrounds,” she said in a statement. “This will enable us to assess what matters most to Canadians and to advance our interests,” she added. Freeland and Canadian Minister of National Defense Harjit Sajjan were in Washington May 15-16 and met with Ross, Secretary of State Rex Tillerson and Defense Secretary James Mattis to “discuss Canadian priorities and cooperation between the two countries,” she noted.

“The Government of Mexico welcomes this development; we are prepared; we are ready. This is to work together with both the governments of the U.S. and Canada to make our trade agreement better – better for the people of Mexico, the people of the U.S., and the

people of Canada,” Mexican Foreign Secretary Luis Videgaray Caso told a press conference in Washington May 18. “And we understand that this is a 25-year-old agreement, when it was negotiated. The world has changed, we’ve learned a lot, and we can make it better. We can make this a negotiation that is good for the three parties involved, certainly, under a win-win framework. The ministry of the economy in Mexico... will lead the process. We have a very capable negotiating team. And we’ll approach this process constructively and we are sure that this is going to be a step towards improving our relationships and building a future together,” he added.

## **Congress, Industry Respond Quickly to NAFTA Restart**

Within minutes of USTR Lighthizer’s NAFTA letter reaching Capitol Hill, responses from lawmakers and industry groups, both enthusiastically positive and more cautious, flooded email inboxes and news wires. On the industry side, everyone had something to say, from lumber firms and retailers to software and dairy, from unions and environmental groups to services and agriculture.

“There is no question that NAFTA has been tremendously successful for American workers, farmers, and businesses. The United States enjoys a tremendous advantage through our NAFTA supply chain, for example, which allows us to partner with Canada and Mexico to create an integrated production base that improves our competitive edge against China and other competitors,” House Ways and Means Chairman Kevin Brady (R-Texas) said in a statement.

Brady’s Democratic colleagues were less thrilled with Lighthizer’s letter and fired off a letter of their own in response. “Businesses, workers, farmers, and their representatives in Congress today face a great deal of uncertainty as to what the Administration’s intentions are with NAFTA. This notice provided an opportunity to finally provide some clarity. Unfortunately, it fails to do that – and may not even meet the basic consultation requirements” set out in TPA, Reps. Richard Neal (D-Mass.) and Bill Pascrell (D-N.J.) wrote.

“For example, neither TPA nor the final notice provide any guidance as to how government procurement should be handled in a NAFTA renegotiation. Does the administration intend to grant Canadian and Mexican suppliers reciprocal access to our government procurement market, or not?” the two Democrats wondered.

Three days before the formal notification, 18 Republican senators, led by Sens. Jeff Flake (R-Ariz.) and Deb Fischer (R-Neb.), sent the new USTR a welcome letter on NAFTA just hours after his confirmation May 15. “Given that the agreement is more than two decades old, there are areas in which NAFTA will benefit from strengthening and modernization. On the other hand, efforts to abandon the agreement or impose unnecessary restrictions on trade with our North American partners will have devastating economic consequences,” they wrote.

Likewise, industry seemed to want specifics, but overall applauded the notice. “With this first step, I now encourage the administration to swiftly commence modernization negotiations with our NAFTA partners and prioritize their quick conclusion,” said Tom Vilsack, president and CEO of U.S. Dairy Export Council (USDEC) and former agriculture secretary under President Obama.

“Mexico is our only \$1 billion dairy market; finding a replacement for sales that are so critical to supporting tens of thousands of jobs across this country is no small task, so preserving it is essential. At the same time, numerous opportunities exist to shore up open trade and further deepen it with our NAFTA partners, such as addressing Canada’s tariff and nontariff constraints on dairy trade, instituting stronger SPS commitments and ensuring that geographical indications are not used to restrict the use of common names,” added Vilsack.

“NAFTA renegotiations must be focused on strengthening American competitiveness and North American trade so that manufacturers can continue to expand output and create well-paying jobs,” said National Association of Manufacturers (NAM) Vice President of International Economic Affairs Linda Dempsey in a statement. NAM is “explaining the impact of the current agreement on manufacturers and are providing detailed proposals on how best to reshape and improve this agreement,” she added.

Lori Wallach, director of Public Citizen’s Global Trade Watch, like congressional Democrats, called the notice “markedly vague” and warned that corporate trade advisors “who got us into the TPP” [Trans-Pacific Partnership] had already been consulted whereas labor advisers have been shut out. Wallach, as well as Rep. Rosa DeLauro (D-Conn.), called on Trump to divest from his Canadian and Mexican interests.

“If Trump won’t make negotiations transparent – by issuing detailed goals and making draft texts available – how can the public know that the deal is not being shaped to benefit Trump’s many Canadian and Mexican investments, or that the Goldman Sachs team in the White House isn’t turning NAFTA into TPP 2.0?,” added Wallach.

## **Treasury Issues New Iran Sanctions, State Upholds Nuclear Deal**

The Trump administration May 17 said it will continue to suspend nuclear-related sanctions under the Joint Comprehensive Plan of Action (JCPOA) negotiated and signed by the previous administration. At the same time, Treasury announced new non-nuclear sanctions on Iran in connection with the Islamic Republic’s ballistic missile program.

Treasury’s Office of Foreign Assets Control (OFAC) designated seven entities, including Chinese national Ruan Runling and three associated Chinese companies accused of providing support to Iran’s Shiraz Electronics Industries (SEI). OFAC designated SEI in September 2008 for its connection to Iran’s Ministry of Defense and Armed Forces Logistics, which itself was designated in October 2007.

“This administration is committed to countering Iran’s destabilizing behavior, such as Iran’s development of ballistic missiles and support to the Assad regime. It is alarming that individuals involved with Iran’s missile program are assisting the brutal Assad regime, and we are taking action to curtail this behavior,” said Treasury Secretary Steven Mnuchin in a statement.

Treasury’s announcement purposefully coincided with State’s release of its semi-annual report to Congress on Iran’s human rights abuses. “As we continue to closely scrutinize Iran’s commitment to the JCPOA and develop a comprehensive Iran policy, we will continue to hold Iran accountable for its human rights abuses with new actions. We urge our partners around the world to join us in calling out individuals and entities who violate international sanctions targeting Iran’s human rights abuses,” Acting Assistant Secretary of State for Near Eastern Affairs Stuart Jones said on the report’s publication.

Despite the suspension of sanctions, Iran, who as of press time was in the midst of voting for president, is still very much in Congress’ crosshairs. The House Foreign Affairs subcommittee on terrorism, nonproliferation and trade will hold a hearing May 24, titled: “Nuclear Deal Fallout: The Global Threat of Iran.” Also moving through both chambers are two bills that would mandate additional sanctions: the Iran Ballistic Missiles and International Sanctions Enforcement Act (H.R. 1698) with more than 230 cosponsors and the Countering Iran’s Destabilizing Activities Act of 2017 (S. 722) with more than 45.

Despite potential criticism of the hearing, Wendy Sherman, who led the U.S. negotiating team, told a Cato Institute audience May 16 that recent polling shows increased support for the deal. As the administration keeps up the U.S. end of the deal, “now there is some acceptance that we are safer because of it, that no one wants to rip up the deal,” said Sherman.

While Sherman was defending her record, over on Capitol Hill, the Senate Banking Committee held a two-hour confirmation hearing for three Commerce and Treasury nominees, including Sigal Mandelker, nominated to be Treasury under secretary for terrorism and financial crimes. The occupant of that role is responsible for unwinding or upholding sanctions on Iran. Senate Democrats have placed a hold on Mandelker’s nomination until Treasury turns over information related to Russia’s financial dealings with President Trump and his associates (see **WTTL**, May 15, page 9).

Sherman called the position “very important” and commended the work of Adam Szubin – who served as acting under secretary before serving as acting Treasury secretary - David Cohen, Felicia Swindells and other Treasury lawyers in unwinding sanctions. When questioned about the hold, Sherman was noncommittal. “Holds are the politics of the Senate and having lived through many of them over the years in dealing with the Senate it is a prerogative they hold dear,” she said.

## **Services Industry Pushes Back at Trade Deficit Hearing**

Focusing only on goods trade deficits does not accurately depict the U.S. economy, a services trade expert testified May 18 at a joint Commerce and USTR hearing on

significant trade deficits. Christine Bliss, president of the Coalition of Services Industries (CSI), noted that with the exceptions of India and Thailand, the U.S. has a services trade surplus with every market identified in the Federal Register notice for the hearing (see *WTTL*, May 15, page 3).

This testimony stood in stark contrast to the witnesses who testified for nearly seven hours about the unlevel playing field manufacturers encounter, particularly in China. Commerce must submit an “Omnibus Report on Significant Trade Deficits” by the end of June, though Commerce Secretary Wilbur Ross has said he’d like to deliver the report sooner.

“We are concerned that an exclusive focus on manufactured goods deficits will not produce results that will promote the competitiveness of the American economy as a whole. This narrow focus completely excludes services, which is a major part of the U.S. economy that accounts for 75% of the American workforce and nearly 80% of U.S. GDP,” said Bliss. Nearly 10 million U.S. jobs are tied to U.S. services exports, she added.

The U.S. is the world’s largest exporter of services and is a leader in services trade. In fact, the U.S. has maintained an overall services trade surplus since 1970, and in 2016 U.S. services exports measured approximately \$754 billion and the U.S. had a total services trade surplus of \$249 billion, Bliss said.

When services are taken into account, the U.S. trade relationships with much maligned countries, like China, or criticized deals, like NAFTA, look pretty good. Bliss noted that since 1999 the U.S.-China services trade surplus has seen a 28-fold increase. The services surplus with Canada has quadrupled since 1999, far outweighing the goods deficit that resulted from NAFTA, meaning the U.S. has an overall trade surplus with Canada of \$12.5 billion, said Bliss. With Mexico, the U.S. has an \$8 billion services surplus.

The picture isn’t entirely rosy. CSI is wary of tighter restrictions on foreign firms, including limitations on data flows, that are set to go into effect in China on June 1. Data flow and localization requirements in India and regulatory barriers in the European Union are also problematic, she said. The NFL likewise testified that Canada violated NAFTA copyright protections during the Super Bowl.

## **Sudan Looks to Boost Export Value of Crucial Raw Materials**

Sudan aims to move up the value chain in the production and export of a raw material crucial to many U.S. industries as international trade with that country normalizes after many years of sanctions, and as trade and regulatory reforms take hold in its bid to join the World Trade Organization (WTO), officials from that country told reporters May 17 in Geneva.

Sudan will start “directly exporting” gum arabic, Sudanese Foreign Minister Ibrahim Ghandour told reporters during a three-day official visit to Switzerland, the first by a

foreign minister in nearly two decades. Trade in other products is also loosening, he said. Cotton exports to the U.S. have started, without preferential market access, and exports of gum arabic will follow, Ghandour said.

Global trade with Sudan is normalizing after the U.S. in January lifted sanctions, a move that is expected to be confirmed this summer after a six-month review, officials said (see **WTTL**, Jan. 16, page 13). In addition, Sudan this year hopes to clear the last hurdles in its WTO accession process, as the Working Party on the country's accession met in January, 13 years after its last formal meeting (see **WTTL**, Feb. 6, page 7).

Sudan aims to garner foreign direct investment, skills and expertise to move up the value chain from an exporter of about \$160 million annually in gum arabic, a high-quality raw material used in a wide range of everyday products and industries, officials said. Freedom from U.S. sanctions is expected to spur exports of gum arabic, which rose 20% last year, and foreign direct investment, officials said.

About 80 industries and many products use the raw material, including pharmaceuticals, spirits, colas, chewing gum, chocolate, toner and inks, and munitions. Sudanese producers deliver about 80% of global supply, which like rubber is harvested from trees, Ghandour said.

Nearly 20 years ago, U.S. sanctions on Sudan, which included trade in gum arabic, had disproportionately hurt U.S. businesses, which had to turn to lesser quality raw materials at higher prices. The sanctions buoyed the fortunes of foreign competitors and strengthened market control enjoyed by foreign processors. U.S. sanctions were changed to improve the supply of Sudan's gum arabic to U.S. firms, but foreign direct investment in Sudan stayed low.

Other countries, namely France, have dominated international trade in the raw material and have supplied the U.S., after restrictions on international trade were eased nearly two decades ago, officials said. France has been the largest importer and exporter and has been a middleman for the U.S. during sanctions, sources said.

**\* \* \* Briefs \* \* \***

**WIRE ROD:** In 4-0 "sunset" vote May 18, ITC said revoking antidumping duty orders on stainless steel wire rod from India would renew injury to U.S. industry. Commissioner F. Scott Kieff did not participate in vote.

**STAPLES:** In 5-0 preliminary vote May 12, ITC found U.S. industry may be injured by allegedly dumped imports of carton closing staples from China.

**EXPORT ENFORCEMENT:** Mark Komoroski, of Nanticoke, Pa., was indicted May 10 in Scranton U.S. District Court on charges of attempting to export two riflescopes to Russia in 2016 without BIS licenses. Items included Leupold VX-6, 1-6x24mm CDS Matte FireDot Circle 112310 riflescope and Trijicon ACOG BAC 4x32mm riflescope, both on Commerce Control List. Indictment was unsealed May 11 after Komoroski's arrest. He pleaded not guilty and was released.

**MORE EXPORT ENFORCEMENT:** Miami-Dade Police Officer Michael Freshko was charged May 16 in Miami U.S. District Court with smuggling six firearms from Miami International Airport (MIA) to Dominican Republic in 2012. Firearms included four Glock .9 mm pistols, one Sig Sauer .9 mm pistol, and one Sig Sauer 5.56 rifle. Freshko used his official position with police department “to transport the firearms into the portion of the MIA terminal that housed the departure gates, without having to be inspected at the passenger screening area,” criminal information noted. Then coconspirator would travel to Dominican Republic with firearms in carry-on baggage, information said.

**EVEN MORE EXPORT ENFORCEMENT:** Josef Zirnsak of Czech Republic was indicted May 16 in New Haven, Conn., U.S. District Court on two charges of violating Arms Export Control Act by exporting USML infrared dual-beam aiming laser and rifle scope to Germany in 2011. In same court, Martin Gula, also known as “Mark Welder,” former member of Slovakian Military Special Forces, was indicted May 3 for purchasing and attempting to arrange export of USML night-vision goggles and aviator night-vision system to UK in 2012. Gula previously was charged in Los Angeles U.S. District Court with export-related offenses in January 2014 and is listed on ICE Most Wanted List. Gula and Zirnsak were charged as result of same investigation.

**TRADE PEOPLE:** President Trump May 18 announced intent to nominate former State official and Goldman Sachs executive Elizabeth Erin Walsh to be assistant secretary of Commerce and director general of U.S. and Foreign Commercial Service. Walsh currently serves as special assistant to president and associate director for presidential personnel and was member of State landing team during transition.

**VENEZUELA:** OFAC May 18 designated eight members of Venezuela’s Supreme Court of Justice (TSJ) who “are responsible for a number of judicial rulings in the past year that have usurped the authority of Venezuela’s democratically-elected legislature,” agency said. “I welcome the administration’s move to sanction those helping [President] Maduro squash all dissent, and again urge regional leaders to unite – both in words and in action – to address this crisis,” House Foreign Affairs Committee Chairman Ed Royce (R-Calif.) said in statement. Officials include TSJ president Maikel Jose Moreno Perez and seven principal members of TSJ’s Constitutional Chamber.

**SYRIA:** Treasury’s Office of Foreign Assets Control (OFAC) May 16 designated five individuals and five entities in response to violence by Syrian government. Action taken pursuant to three Executive Orders: 13572, 13582 and 13382. House passed Caesar Syria Civilian Protection Act (H.R. 1677) May 17 by voice vote. Bill, introduced by Reps. Eliot Engel (D-N.Y.) and Ed Royce (R-Calif.), seeks sanctions on Syria’s Bashar al-Assad regime (see **WTTL**, May 1, page 8).

**APEC:** House Ways and Means Chairman Kevin Brady (R-Texas) and Ranking Member Richard Neal (D-Mass.), Senate Finance Committee Chairman Orrin Hatch (R-Utah) and Ranking Member Ron Wyden (D-Ore.), along with Trade Subcommittee Chairman Dave Reichert (R-Wash.) introduced May 18 resolutions (S. Con. Res. 16 and H. Con. Res. 54) expressing support for stronger relations between U.S. and Asia-Pacific Economic Cooperation (APEC). “Strengthening trade and investment between the United States and other APEC members and addressing tariff and nontariff barriers to United States exports has the potential to benefit United States businesses, manufacturers, farmers, ranchers, workers, and consumers,” resolution reads, in part. APEC trade ministers scheduled to meet May 20-21.

**JAPAN:** William Hagerty, nominee to be U.S. ambassador to Japan, told Senate Foreign Relations Committee confirmation hearing May 18 he’s optimistic about reaching trade deal with Japan. “At

a personal level, at a relationship level, I see advancement taking place that encourages me that we will be able to still achieve a good deal of what we'd hoped to accomplish in the TPP, what might have been hoped before," said Hagerty. His nomination was sent to Senate March 27 (see **WTTL**, March 27, page 6).

**CHINA:** Speaking at U.S. Chamber of Commerce May 18, Vice President Mike Pence said 100-day plan with China should be model for other country negotiations going forward (see **WTTL**, May 5, page 2). "The agreement announced last week between America and China is actually a model of what President Trump will continue to achieve. It opens the path to greater commerce by breaking down barriers to trade and investment in beef, biotechnology, energy, financial services, and more," said Pence.

**STEEL REBAR:** Commerce announced affirmative final determinations in antidumping (AD) investigations of steel concrete reinforcing bar (rebar) imports from Japan and Turkey, as well as countervailing duty (CVD) investigation of product from Turkey. All Japanese producers/exporters assigned AD rate of 209.46%. Turkish mandatory respondents Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. received final dumping margins of 5.39% and 8.17% respectively. All other Turkish producers/exporters assessed at 6.94%. In CVD investigation, Habas assessed final subsidy rate of 16.21%. ITC will make final determination June 29.

**SUGAR:** Mexico and U.S. making progress toward meeting Jan. 5 deadline to resolve Mexican sugar export issues, Mexico's Economy Minister Ildefonso Guajardo said May 16, day after he met with Commerce Secretary Wilbur Ross in Washington. Should two countries fail to reach agreement, U.S. will resume collection of antidumping and countervailing duties on sugar imports (see **WTTL**, May 8, page 1). International Sugar Trade Coalition (ISTC) criticized Mexico's "bad acts" in letter to Commerce and Agriculture May 15. "ISTC members' fairly traded sugar should not be prejudiced by sugar from Mexico that has been found to be unfairly dumped, subsidized, and diverted away from the traditional U.S. refineries whose access to supplies the [suspension agreements] were intended to protect," group wrote.

**CFIUS:** Senate Finance Committee Ranking Member Ron Wyden (D-Ore.), together with Banking Committee Ranking Member Sherrod Brown (D-Ohio) and Homeland Security Ranking Member Claire McCaskill (D-Mo.), May 16 requested Government Accountability Office (GAO) investigate how Committee on Foreign Investment in U.S. (CFIUS) examines U.S. real estate transactions involving foreign investors. Request follows two recent, and ultimately unsuccessful, high-profile real estate transactions involving Chinese conglomerate Anbang. "We know that real estate deals are one of the favored ways to launder illicit finances," Brown said in statement. "But we don't know if our oversight agencies have the resources and tools they need to vet Russian, Chinese, and other foreign investments in U.S. real estate for potential threats to our nation's security."