USTR NEWS

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Fact Sheet: 2017 National Trade Estimate Report – Major Developments

Report Underscores Importance of Enforcing U.S. Trade Laws, A Top Priority in the Administration's "America First" Trade Agenda

President Trump has been clear: his Administration will aggressively enforce U.S. trade laws and defend American workers from harmful trade barriers and to promote free and fair trade that benefits all Americans. USTR is dedicated to identifying and addressing such barriers to American exports around the world to help level the playing field for the exports of American workers, job-creators, farmers and ranchers.

The National Trade Estimate Report, an annual report on significant barriers to American exports, helps identify and address major roadblocks for American goods and services in markets around the globe.

Covering 58 countries, the European Union, Taiwan and Hong Kong, the NTE highlights both the major developments and impediments to U.S. exports to our largest export markets. The findings raise awareness of trade restrictions and help facilitate efforts toward resolving barriers and opening up overseas markets to U.S. goods and services.

Among the notable changes in the last year in U.S. export market barriers:

AFRICA

KENYA

- Import Restrictions: In June 2016, Kenya doubled the *ad valorem* duty rate on used clothing to 35 percent, or $0.40/kg, whichever is higher. It did so as a first step to implement a March 2016, decision by the East African Community (EAC) governments to eliminate imports of used clothing and footwear within three years. According to the Secondary Materials and Recycled Textiles Association, a U.S. industry association, shutting this market would negatively impact U.S. exports representing thousands of U.S. jobs.

WESTERN HEMISPHERE

CANADA

- Canada Increases Foreign Investment Review Threshold: On November 1, 2016, Canada announced that the threshold for review for foreign investment will be raised to C$1 billion in 2017, two years sooner than originally planned.

- United States Requests WTO Consultations on Wine Sales Policies in British Columbia: In January 2017, the United States initiated WTO dispute settlement regarding the sale of wine in British Columbia grocery stores. These measures allow only British Columbia wines to be sold on grocery store shelves and appear to breach Canada's WTO national treatment commitments.

COLOMBIA

- Distilled Spirits: On December 19, 2016, Colombia adopted a law reforming tax treatment of distilled spirits and federal oversight of provincial level alcohol monopolies. The new law, effective January 1, 2017, replaces the previous tax structure (which appeared to result in lower tax rates on spirits produced locally) with a more neutral combination of a "specific tax" based on alcohol content and an *ad valorem* tax on the retail price. The law also includes provisions that are aimed at disciplining discriminatory practices of the provincial level alcohol monopolies.

- Mobile Phone Import and Export Decree: In December 2016, the trade ministry published a decree reversing prohibition on imports of mobile devices and parts via mail or express delivery, with some limitations, and allows more flexibility with respect to the documentary requirements for the export of used phones, e.g., for servicing and repair, or recycling and safe disposal of electronic waste. In a prior decree issued in October 2015, Colombia's trade ministry limited the import and export of smart phones and their parts. Additionally, the decree prohibited all imports and exports of mobile devices and parts via mail or express delivery, and travelers entering Colombia were limited to carrying no more than three devices as personal items.

ECUADOR

- Liberalization measures:

- Ecuador began easing tariff surcharges in January 2016, with a commitment to fully eliminate the surcharges by June 2017.

- Ecuador eliminated automobile and cellular telephone import quotas beginning on January 1, 2017.

- On August 16, 2016, the Ecuadorian Institute of Intellectual Property (IEPI) issued Resolution 001-2016-CD-IEPI, which lowered exorbitant fees for registration and maintenance of patents, in line with international practice.

HONDURAS

- Honduras Commits to Strengthen Protection and Enforcement of Intellectual Property: Honduras implemented a Work Plan, finalized in early 2016, to improve the protection and enforcement of intellectual property in Honduras. The plan addresses the need for more effective administrative and criminal enforcement against intellectual property violations, including by combatting cable and satellite signal piracy. The United States worked closely with Honduras to support and monitor its efforts.

MEXICO

- Major Reforms in Energy and Telecommunications:

- In 2016, regulations were completed to implement the law passed in 2013 making sweeping reforms in energy, paving the way for new investment by U.S. companies in deep and ultra-deep water exploration. Energy reform legislation opened Mexico's oil and gas sector to private participation for the first time since 1938 and allows greater private investment in power generation

- In the telecommunications sector, reform legislation adopted in 2013-2014 addressed longstanding market access barriers, such as limitations on foreign investment in broadcasting, and sought to eliminate the dominance of near monopolistic companies in the wireless, fixed telephony and broadcasting markets. By 2016, increased competition had led to declining consumer prices and improved quality of service in the wireless sector, and a U.S. firm had become Mexico's third largest carrier and announced plans for significant expansion.

CHINA

- Excess Capacity: Chinese government industrial policies and financial support in manufacturing sectors like steel and aluminum have contributed to massive excess capacity in China, with the resulting over-production and increased exports distorting global markets and hurting U.S. producers and workers in both the U.S. market and third country markets where U.S. exports compete with Chinese exports. This excess capacity has led to lower global prices and a glut of supply that undermine the viability of even the most competitive manufacturers. While China has begun to take steps to address steel excess capacity, these steps have been inadequate to date, and even fewer efforts have been taken by China in aluminum and other sectors.

- Cybersecurity Regime**:** U.S. and global concerns have heightened over a series of Chinese cybersecurity measures that would impose severe restrictions on a wide range of U.S. and other foreign information and communications technology (ICT) products and services with an apparent long-term goal of replacing foreign ICT products and services with Chinese-made ICT products and services in China's market. Concerns center on requirements in sectors that China deems "critical" that ICT equipment and other ICT products and services be "secure and controllable" and that certain cross-border data flows would be restricted. While China has made some bilateral commitments in response to particular concerns raised by the United States, China continues to move forward with its cybersecurity regime, and problems continue to arise.

- Forced Technology Transfer: China uses a range of measures to engineer the transfer of foreign technology to China. For example, China denies certain financial or regulatory incentives to companies that do not own their intellectual property (IP) in China, do not conduct large amounts of R&D in China and/or do not manufacture products in China. China also reportedly conditions foreign investment approvals on technology transfer to Chinese entities; mandates adverse licensing terms on foreign IP licensors; uses the anti-monopoly laws to extract technology on unreasonable terms; and subsidizes acquisitions of foreign high technology firms to bring technology to the Chinese parent companies. Additionally, structural gaps and inconsistencies in intellectual property rights protection and enforcement allow Chinese entities to appropriate foreign IP. For example, misappropriation of trade secrets allegedly for the benefit of Chinese companies has occurred both within China and outside of China.

- Online Piracy**:** Online piracy continues on a large scale in China, affecting a wide range of industries, including those involved in distributing legitimate music, motion pictures, books and journals, software and video games.

- Agricultural Biotechnology**:** Overall delays in China's approval process for agricultural products derived from biotechnology worsened in 2016, creating increased uncertainty among traders and resulting in adverse trade impact, particularly for U.S. exports of corn. In addition, the asynchrony between China's product approvals and the product approvals made by other countries widened. China has made repeated bilateral commitments to work with the United States and to improve its approval process, without demonstrable progress. Currently, eight products of importance to U.S. export interests are awaiting biotechnology approvals in China.

- Beef: China's longstanding import ban on U.S. beef creates a significant trade barrier that appears to lack scientific justification and consistency with international standards. Even though the United States is internationally recognized by the World Organization on Animal Health (OIE) as one of the safest producers of beef and has "negligible risk" status, China has banned imports of U.S. beef since 2003, and it is seeking to impose onerous requirements on future imports of U.S. beef, including full traceability of the cow from birth farm to slaughter facility.

- Electronic Payment Services**:** U.S. suppliers of electronic payment services (EPS) remain blocked from operating in China's market. Even though the United States won a WTO dispute in 2012 confirming China's obligation to permit foreign suppliers to provide EPS for domestic currency payment card transactions, no foreign supplier has obtained a license to enable them to commence these operations in China.

SOUTH AND CENTRAL ASIA

INDIA

- Intellectual Property Rights: India remained on the Priority Watch List in the 2016 Special 301 Report because of concerns regarding weak protection and enforcement of intellectual property rights (IPR). Despite engagement and progress on discreet IPR issues of the past year, India has yet to undertake the meaningful reforms necessary to achieve India's innovation, creative and investment goals. Overall, the incremental positive steps forward were far overshadowed by intransigence on longstanding IPR concerns and alarming new developments.

- Localized Safety Testing Requirements: For certain information and communications technology (ICT) products, the Indian government mandates that manufacturers register their products with laboratories affiliated or certified by the Bureau of Indian Standards (BIS), even if the products are already certified by internationally recognized laboratories. India has expanded the list of ICT products subject to testing. The ICT industry is facing significant delays in product registration due to lack of Indian government testing capacity, a cumbersome registration process, and tens of millions of dollars in additional compliance costs, which includes factory level as well as component level testing.

- Wholesale Labeling: India agreed to no longer require an importer's name and address to be sewn onto bulk packaging, a requirement that increased costs and delays for U.S. exporters.

KAZAKHSTAN

- Lowered Tariffs: On January 1, 2016, Kazakhstan lowered tariff rates on certain food products, automobiles, airplanes, railway wagons, lumber, alcoholic beverages, pharmaceuticals, freezers, and jewelry, in order to implement its WTO tariff commitments to lower 3,512 tariff rates to an average of 6.1 percent by 2020.

SOUTHEAST ASIA

VIETNAM

- Electronic Payment Services: In 2016, to promote the development of a local electronics payments industry, the Vietnamese Government issued Circular 19, mandating all credit and debit transactions be processed through a national switch starting in 2018, which will hinder competitiveness of foreign payment suppliers.

INDONESIA

- Restrictions on Agricultural Imports: Indonesia administers trade restrictive import licensing requirements that impeded imports of horticultural products, animals, and animal products. In December 2016, the WTO issued the dispute settlement panel report, finding for the United States and co-complainant New Zealand on 18 out of 18 claims that Indonesia is applying import restrictions and prohibitions that are inconsistent with WTO rules. In February 2017, Indonesia appealed the ruling.

- Restrictions on Imports of Mobile Technology: Indonesia imposes burdensome import licensing requirements for cell phones, handheld computers, and tablets. In 2016, Indonesia adopted regulations that requires importers of devices with 4G technology to provide evidence of contributions to the development of the domestic device industry or cooperation with domestic manufacturing, design, or research firms in order to obtain an import permit.

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