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KEYNOTE REMARKS OF ASSISTANT SECRETARY THEA D. ROZMAN KENDLER
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As prepared for delivery

Good morning. Thank you for opportunity to speak with you today.

I was asked to talk about Perspectives on the U.S.-EU Trade and Technology Alliance. I welcome the chance to provide some background on the Bureau of Industry and Security's export controls work through the U.S.-EU Trade and Technology Council.

Of course, since I was invited to speak, the world has changed a great deal. Russia has spent the last five weeks engaged in a senseless, unprovoked, and unjustifiable attack on Ukraine.

And with President Biden's announcement on February 24, export controls began to be wielded in a new and powerful way.

The President explained that our new export controls on Russia were designed to "impose severe costs . . . immediately and over time." And that we would "strike a blow to [Russia's] ability to continue to modernize their military . . . degrade their aerospace industry . . . hurt their ability to build ships . . . [and provide] a major hit to Putin's long-term strategic ambitions."

Our export controls response over the last five weeks has been imposed in concert with our Allies and partner countries. Even our controlling statute – the Export Control Reform Act of 2018 – tells us this is the right approach, "Export controls that are multilateral are most effective." We have seen this play out with our Russia export controls coalition of 34 countries that represent well more than half of the global economy.

U.S. exports to Russia have been minimal, particularly since we tightened controls in response to the 2014 invasion of Ukraine. But as President Biden noted, "[b]etween our actions and those of our Allies and partners, we estimate that we'll cut off more than half of Russia's high-tech imports."

With this in mind, let me turn the clock back to September 2021 – before I was confirmed for this position.

The U.S.-EU Trade and Technology Council (TTC) launched last fall with two objectives: to coordinate approaches to key global technology, economic, and trade issues; and to deepen transatlantic trade and economic relations based on shared democratic values.

Under this framework, we had a clear opportunity to jointly enhance our export controls. The first TTC meeting in Pittsburgh, in fact, identified a common set of export controls goals and culminated with the establishment of an Export Controls working group. Through this working group, we and the EU were tasked to:

- Engage in technical consultations on legislative and regulatory developments;
- Exchange information on risk assessments and licensing good practices;
- Similarly exchange information on compliance and enforcement;
- Promote convergent approaches on sensitive dual-use technologies; and
- Conduct joint industry outreach on dual-use controls.

We issued a Statement on Export Control Cooperation, noting some areas of common understanding. Among other points, we noted that multilateral export controls are most effective for protecting international security and supporting a global level-playing field. We identified that potential applications of emerging technologies in the defense and security field raise important concerns. We expressed that security interests are undermined by certain technology acquisition strategies, including economic coercion, and civil-military fusion policies. And we shared the common goal of controlling technologies that may be misused in serious violation of human rights.

Accordingly, we agreed to enhance our cooperation.

As you know, BIS's practice is to consult with and obtain industry input on our export controls whenever possible. On October 27 last year, we held a virtual outreach event – together with EU – where we heard from you. A few salient points became clear: first, you expressed industry preference for multilateral over unilateral controls; second, you sought policy alignment between the United States and the EU; and third, you noted concern that the reach of U.S. export controls into Europe discourages EU companies from U.S. collaboration.

To follow up, BIS issued a request for public comments regarding areas and priorities for export control cooperation under the TTC. We received 30 comments from companies, individuals, and non-governmental organizations, comprising over 300 pages. The comments we received were thoughtful and – on first review – seem to contain similar recommendations. The EU also put out a notice for public comments and received a similar number, some of which overlap with what BIS received.

Which brings us to February, and Russia's further invasion of Ukraine.

We understood from the start that we could use export controls in an unprecedented way. Our stakeholders may always have been aware of the power of export controls to influence international debate and the projection of military power. Now the world is, too.

We are using export controls to degrade Russia's military capability. To accomplish this goal, we have four elements to our strategy, which is aligned with that of the EU.

First, we asked ourselves which items were most important to Russia's military capabilities. In response, we tightened our licensing policy for goods, software, and technology that we control pursuant to the four multilateral export control regimes. As a result of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, BIS was already applying a presumption of denial when reviewing license applications for most of these items due to Russia's use of chemical weapons to poison its own nationals. We made this even more restrictive – now we have a policy of denial.

The thirty-three countries that have joined with us in our export controls coalition have also imposed this licensing policy.

Second, we asked which entities in Russia are most relevant to the defense industrial base. We started with Russian military end users, moving them to the Entity List and imposing a policy of denial for all items subject to the EAR. The Entity List – as you know – creates a license requirement for exports to that organization. It

puts you on notice that BIS has national security and foreign policy concerns about the entity. We have continued to add to the Entity List over the past few weeks, and you will see more of that as Russia's war continues.

Our partner countries have aligned with this in different ways – some have their own lists; others have applied financial sanctions to restrict trade.

Third, we consider what other technologies that could contribute to Russia's military. For BIS, those were items we controlled unilaterally for "anti-terrorism" reasons. We focused specifically on the defense, aerospace and aviation sectors and identified 52 Export Control Classification Numbers (ECCNs). For these items, we imposed Russia- and Belarus-specific controls with that same policy of denial.

Our partner countries have adopted this list, too. The EU refers to it as the "Advanced Technology List."

Fourth, we wanted to be sure that U.S. tools and software were not used to support Russia's military capabilities. And so we used BIS's foreign direct product rules in a way never before extended to a country – we applied them to Russia and Belarus, and to the Russian and Belarussian militaries. One common application of the foreign direct product rules is that if certain specified U.S. tooling is used in a production line outside the United States, then the output of that production line is subject to our regulations.

This application of BIS's new foreign direct product rules is unnecessary, however, in partner countries that are applying their own substantially similar controls. In those jurisdictions, their own controls apply to the output of production lines.

We crafted the exclusion from our foreign direct product rules for Russia, Belarus, and the Russian and Belarussian militaries with the goals of the TTC and your comments on the TTC in mind:

- We should use multilateral controls wherever possible;
- We need policy alignment between the United States and the EU; and
- Industry is concerned that the reach of U.S. export controls into Europe discourages EU companies from U.S. collaboration.

To accomplish our goals, my colleagues and I engaged in extensive international dialogue to design, coordinate, and execute our export control response. As has been reported in press, my Treasury colleagues and I traveled to London, Brussels, Paris & Berlin to bring this coalition together. Deputy Assistant Secretary for Export Administration Matt Borman spent the following week in Brussels building on our work and bringing us to final common ground. While we were not able to travel to other destinations, thanks to the use of technology, we held extensive dialogues with Japan, South Korea, Canada, Australia, and New Zealand, as well. Our work to build this coalition is not yet done – I expect to be able to announce additional like-minded export controls countries soon.

33 countries have joined together with one export controls strategy. We are responding to a shared horror with common purpose.

Note that of Russia's total imports, about 5% came from the United States. When you add the European Union and the other countries that are in the coalition we have built over the last month, we account for roughly 50% of Russia's imports. Necessity brought together this unprecedented collaboration on export controls and other

measures that are having a meaningful impact on Putin's war. Walking this path alone would not have been nearly as effective.

Unlike financial sanctions, our export controls measures were never expected to have immediate effects. The data tell us that as compared to the same time period last year, U.S. exports to Russia of items subject to new licensing requirements have decreased by 99% by value. The Ukrainian government reports that Russia's two major tank plants have halted work due to lack of foreign components. Baikal Electronics, a Russian fabless semiconductor company and computer manufacturer, is cut off from the integrated circuits needed to support its domestic communications equipment—including surveillance, industrial controls, servers, and more. TSMC's exit from the Russia market has cut off the Moscow Center of SPARC Technologies' access to Elbrus chips, which are widely used in Russian intelligence and military systems. Even Russian car maker Lada has shut down production as U.S. and partner countries' export controls have deprived the company of necessary parts and supplies.

What we have learned through this crisis is that the day-to-day work and engagement between BIS and our counterparts is effective. The relationships we are strengthening now will extend well past current crisis. In fact, in terms of export controls, we are closer to our allies than we have been in decades. Matt Borman and I speak with at least one of our counterparts across the globe on a daily basis, and we often have more than one call a day.

With the EU and other countries identified as having substantially similar controls, we are working on similar implementation, and information sharing to support those goals. And for other partners who may still be sorting out their plans, we are talking about adoption. If that isn't likely for their system, we're helping them and their industries understand how our foreign direct product rules will work in their countries.

We are all deeply motivated in light of the plight of the Ukrainian people. Perhaps this common purpose has enabled us to accomplish more than we might have otherwise. But I look back on the shared goals identified in the TTC framework and know we share a purpose beyond that of responding to Putin's war.

In fact, we have jump-started the work of the TTC.

I have always liked the Chinese proverb "from crisis comes opportunity." This crisis has brought partner countries' export controls authorities closer than ever.

I am looking forward to the next TTC meetings in mid-May in France where I hope we can show you that we have made progress on the goals announced last fall. We are looking to build on the relationships that have developed in the last weeks.

Changing gears for a moment, as much as the Russia crisis has occupied BIS these past months, I want to recognize for a moment that our response to Russia has not diverted BIS from our other national security and foreign policy goals.

I am thinking deeply about the policy goals we use export controls to accomplish; trying to clearly define the national security threats we are countering with export controls; focusing on partnership with industry that seeks to comply with our controls and to maintain a level playing field; and collaborating with international partners who share our world view. These are my priorities.

The links between national security, foreign policy, economics, and technology are now clearer and tighter than ever before.

BIS will follow the facts when it comes to identifying national security threats and applying export controls. We will ensure our rules are as effective as possible and reflect our changing world.

National security is a shared responsibility, and we all need to do our part. We need you -- our front lines -- to help us understand the current economic environment—domestically and globally—and ensure our export control rules and policies are informed by the reality of the marketplace. As technology continues to accelerate the linkages between national security, foreign policy, and economics, governments need the private sector as a partner more than ever.

My door is open, and I hope we can have effective two-way communication as we navigate this new world together.

Thank you.