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CLIENT ALERT

This Month in International Trade - April 2015

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TOP TRADE DEVELOPMENTS

Trade Alert: Deadlines Fast Approaching for *All* U.S. Companies with Foreign Subsidiaries to Report Foreign Investment to Commerce

Deadlines are fast approaching for ***all*** U.S. companies with foreign subsidiaries to report their foreign investment to the Department of Commerce's Bureau of Economic Analysis (BEA) using the BE-10 2014 Benchmark Survey Forms. U.S. parent companies with fewer than 50 reportable foreign subsidiaries must report by May 29, 2015 and those with 50 or more reportable investments must report by June 30, 2015. Extensions may be sought but must be done before the deadlines.

For more information, contact: Alan Gourley

Cuba from the Cuban Perspective

Despite a historic thaw in U.S.-Cuba relations, trade remains challenging. From the U.S. perspective, although legislation to fully remove the trade embargo with Cuba has been introduced in Congress, U.S. companies lack a definitive timetable and remain subject to restrictions as they attempt to establish themselves in what is for them a new market. Perhaps more challenging than these domestic factors is a lack of understanding of the practicalities of doing business in Cuba.

In an effort to attract foreign investment, Cuba created a Special Economic Development Zone in November 2013. On March 29, 2014, Cuba enacted a New Foreign Investment Act (FIA), providing a series of protections for foreign investors in Cuba. FIA provides for three modalities of foreign investment, two of which require a partnership with the government or with a Cuban owned entity. The third allows foreign investment without Cuban capital. Significantly, the investment friendly protections of the FIA remain discretionary because authorization from the Cuban government is required. The best example of the Cuban government's effort to maintain control of the economy is that to date only nine foreign owned companies have been authorized to operate on the island.

Cuba targets specific industries and sectors for foreign investment and has expressed interest in foreign partnerships for its agriculture, energy, mining, chemical, electronic, pharmaceutical, biotechnology, tourism, infrastructure and transportation industries. In this effort to attract foreign investment, the Cuban Ministry of Foreign Trade and Foreign Investment publishes an annual report that identifies the projects and Cuban partners which need foreign investment.

There are many signs pointing to Cuba slowly opening its centralized economy to create a more favorable climate for foreign investors. Last month, the Development Bank of Latin America (CAF) held a conference in Havana focused on exploring Cuba's economic opportunities and the prospects for regional integration. After the conference, CAF signed a cooperation agreement with Havana University to promote the study of these topics, an overture which could translate into Cuba beginning to rejoin the global financial system.

Additionally, the Office of Foreign Assets Control (OFAC) has granted licenses to three U.S. companies to operate ferry services to Cuba, but again, Cuban government approval is necessary before operations begin. As with all carrier services, all U.S. persons considering using the ferry service would need to meet the terms of one of the travel general licenses.

U.S. companies face numerous challenges in Cuba, including the absence of a Cuban private sector, the lack of a U.S.-Cuban Bilateral Investment Treaty (BIT), and the differences in the legal culture and political system. Also, foreign investors already established in Cuba see the new U.S. policy as an opportunity to strengthen their existing relations with the Cuban government, thereby maintaining their competitive advantage over prospective U.S. investors.

Still, U.S. companies should consider taking advantage of the recent travel relaxations to explore business opportunities in Cuba. A number of delegations from U.S. and multinational companies have already made the trip since the regulatory changes were announced in mid-January (see Crowell's Client Alert for additional information). Now is the time for companies to visit, to make contacts, and explore and create business opportunities.

For a more in-depth discussion on navigating the complex web of U.S. and Cuban legal restrictions and practical challenges, please click here to watch Crowell's April 21, 2015 seminar on "Cuba: An Update on the Liberalization of Trade Relations."

For more information, contact: Cari Stinebower, Dj Wolff, Mariana Pendas

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Russia's Price for Crimea: $106 billion; EU-Ukraine Summit Held April 27

Although there were no new sanctions-related developments in April with respect to Russia and the Ukraine, there were several significant geopolitical events.

First, Russian Prime Minister Dmitry Medvedev provided the government's first official estimate of the cost of Western sanctions over the annexation of Crimea and supporting separatists in eastern Ukraine: $106.7 billion; $26.7 billion in 2014 and $80 billion projected for 2015. Economic statistics for the first two months of 2015 provided further bad news for the economy. Foreign trade is down 30 percent and inflation is nearly 17 percent. GDP is expected to contract by 5 percent this year.

Second, on April 27, European Commission President Jean-Claude Juncker and European Council President Donald Tusk met with Ukrainian President Petro Poroshenko for trade talks and to discuss escalating violence in eastern Ukraine.

The EU delegation announced the free trade deal between the EU and Ukraine will not be postponed again; it will begin as planned in January 2016. Although the EU is providing 1.8 billion euros of financial assistance, as well as 70 million euros to ensure the safety of the Chernobyl nuclear site, officials are also pushing Poroshenko to end corruption in Ukraine.

Finally, the Minsk agreement's cease-fire continues to hold, but just barely. There is renewed violence around Mariupol, a coastal city on the Sea of Azov, and Donetsk, which is in rebel hands.

Crowell will continue to closely monitor legal developments and alert clients to any changes with respect to the U.S. and EU blocking or sectoral sanctions or export controls.

For more information, contact: Salomé Cisnal De Ugarte, Cari Stinebower, Dj Wolff

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Trade Promotion Authority (TPA) Stalled by Democrats after Passing Committee

On April 22 and 23, the Senate Finance Committee and the House Ways and Means Committee approved the Trade Priorities and Accountability Act of 2015, which would renew Trade Promotion Authority (TPA) for U.S. trade agreements. The passage of TPA legislation, which grants "fast-track" authority guaranteeing U.S. trade agreements an up-or-down vote in Congress without amendments, would be a key step towards the White House's goal of concluding negotiations for the Trans-Pacific Partnership (TPP) in the first half of 2015.

The TPA bill is expected to go to the floors of the House and Senate for consideration sometime in May. However, the bill has received some opposition from both sides of the aisle. Congressional Republicans are hesitant to give the President a "win" on a key priority. House Democrats are notoriously skeptical of free trade agreements. Even Senate Minority Leader Harry Reid (D-

NV) announced in early May that he wanted action on a stalled infrastructure bill and a package of reforms for the Foreign Intelligence Surveillance Act (FISA) before taking up the trade issue.

The current TPA legislation, introduced by Senate Finance Chairman Orrin Hatch (R-Utah), Ranking Member Ron Wyden (D-Oregon), and Ways and Means Chairman Paul Ryan (R-Wisconsin), differs in several respects from previously enacted versions of fast-track legislation, as well as the draft that was proposed during the last Congress. It includes:

- New negotiating objectives on currency manipulation, digital goods and services, state-owned enterprises, localization requirements, and human rights
- New provisions dedicated to ensuring greater transparency in trade negotiations, including a requirement that the U.S. Trade Representative (USTR) publish concluded trade agreements 60 days before signature
- New provisions on Congressional approval of trade agreements, including the creation of a new mechanism for removing TPA procedures if the Administration does not meet negotiating objectives or comply with consultation requirements

Sen. Hatch, Sen. Wyden, and Rep. Ryan were able to push the TPA bill through their respective committees with mostly minor amendments. However, the Senate committee adopted an amendment into the legislation stripping fast-track authority for countries classified by the State Department as "Tier 3" violators of human-trafficking standards. Malaysia, which is currently negotiating TPP with the U.S., was classified under Tier 3 in the State Department's latest Trafficking in Persons Report. The same amendment was not included in the House version of the bill.

Crowell will continue to monitor this important legislation.

For more information, contact: Dj Wolff, Paul Davies, Evan Yu

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Importers Beware: CPSC Seeks Civil Penalties against National Retail Chain

In a rare move, the U.S. Department of Justice filed suit on April 21 in the Northern District of Texas on behalf of the Consumer Product Safety Commission (CPSC or Commission) seeking civil penalties and injunctive relief against Michaels Stores Inc. (Michaels).

The complaint alleges that Michaels knowingly imported and sold glass vases between 2006 and 2010 that were too thin to withstand normal handling and prone to shattering in consumers' hands. The complaint also alleges that, despite numerous injury reports, Michaels failed to immediately notify the CPSC of this substantial product hazard, and instead waited more than two years. According to the CPSC, when Michaels finally reported the hazard its statements regarding Michaels' role in importing the vases, as well as the defects, were intentionally misleading.

Michaels sourced the defective vases from an unaffiliated Chinese manufacturer through a procurement company. Michaels then imported the vases under its own importer of record number before selling the vases in its stores or online. The complaint alleges that Michaels began to receive consumer reports as early as 2007 about the fragility of the vases and customer injuries

caused by their breakage. However, despite the nine incidents identified in the complaint, Michaels did not submit any information to the CPSC until February of 2010.

Finally, the complaint alleges that Michaels sought to mislead CPSC as to its role in importing the defective vases. That is, the Consumer Product Safety Act (CPSA) distinguishes between "retailers" and "manufacturers" – both have reporting responsibilities under the CPSA, but the reporting requirements for "manufacturers" are broader. *See* 16 C.F.R. § 1115.13. Importantly, the CPSA specifically defines "manufacturer" to include any party that imports a product into the U.S. *See* 15 U.S.C. § 2052(a). According to the Commission, Michaels' reports allegedly implied that Michaels was only a "retailer" and not the "manufacturer," which in turn meant that its reports failed to include significant additional information required of a "manufacturer" under the CPSA.

This complaint offers several immediate lessons for importers, manufacturers, and retailers:

- **Be mindful of which entities have reporting obligations –** Importers are treated as manufacturers for CPSC reporting purposes. Although a third company procured the vases, Michaels was the importer of record and therefore the manufacturer as a matter of law for CPSC purposes. As a result, CPSC alleged that Michaels "conveyed a false impression" by identifying the procuring company as the importer of the vases. Michaels, as the importer, was ultimately responsible for reporting potential product hazards.
- **Develop and maintain a formal compliance program** – The CPSC cited Michaels' lack of a formal compliance program or internal controls as grounds for establishing a permanent injunction. According to the CPSC, Michaels had not "adopted appropriate internal controls to ensure and monitor compliance."
- **Set up a continuous improvement loop –** Companies should set up a continuous improvement loop that allows them to promptly address consumer complaints and make real-time changes to products accordingly. Retailers should be vigilant about potential design flaws throughout a product's retail life.
- **Report known defects "immediately" –** Under the Commission's regulations, once an entity has sufficient information to reasonably support the conclusion that a consumer product fails to comply with the applicable safety rule or standard, the entity is required to report "immediately,"which is defined as within 24 hours. *See* 16 C.F.R. § 1115.14.According to the complaint, Michaels failed to file a report immediately; it knew of at least nine injuries beginning in 2007, but didn't file its Initial Report to the CPSC until 2010. Companies should develop a process for evaluating and documenting product data, and determining when they have sufficient data to mandate a report to the CPSC, and ensuring that hazards and risks are reported to the CPSC within 24 hours of making that determination.

As this case represents an uncommon action by the Commission, importers, manufacturers, and retailers should continue to watch this case closely.

For more information, contact: Alex Schaefer, Jini Koh, Danielle Rowen

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Environmental Goods Agreement Begins Phase 2: Crafting Final Product List

The Environmental Goods Agreement (EGA), a 17-nation bloc aiming to reduce or eliminate tariffs and non-tariff barriers on 90 percent of the global trade in environmental products for its members, began its 6th round of talks on May 4, with subsequent meetings planned for the weeks of June 15 and July 27. This round begins the process of shaping the final list from the 600 nominated products.

The Office of the U.S. Trade Representative (USTR) is confident that most U.S. industry requests are covered.

The 600 products have been grouped into ten categories: air pollution control; solid waste and hazardous waste management; waste water management and water treatment; environmental remediation and clean-up; noise and vibration abatement; cleaner renewable energy; energy efficiency; environment monitoring assessment and analysis; resource efficiency; and environmentally preferable products.

The savings for U.S. industry under the EGA is expected to be significant. Per the USTR's website, global trade in environmental goods is estimated at nearly $1 trillion annually, and is growing fast. The U.S. exported $106 billion of environmental goods in 2013, and U.S. exports of environmental goods have been growing at an annual rate of eight percent since 2009. U.S. tariffs on environmental goods are already low; however, other countries charge tariffs as high as 35 percent on these goods.

The deadline for the final list is December of this year.

Crowell will continue to monitor the negotiations to identify when and where strategic support from domestic industry is needed to ensure the best possible trading field for U.S. companies.

For more information, contact: Paul Davies, Dj Wolff, Cameron Prell

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EU Sanctions Best Practices Guide Updated

The Council of the European Union recently adopted a new version of its Best Practices for the effective implementation of restrictive measures (sanctions). The document is an essential guide for practitioners, providing clarification on some of the most complex aspects of EU sanctions law.

The amendments reflect some of the most significant developments in how EU courts and national authorities have interpreted the more than thirty sanctions regimes currently in force in the EU legal system. The most noteworthy changes introduced by the new document are:

- **Providing Sufficient Identifying Information Upon Designation**: Instructions to provide "as many specific identifiers as possible" when a new person is subject to sanctions to facilitate identification and screening and avoid unnecessary freezing of assets caused by homonyms or near-identical names. These identifiers are to include aliases, sex, date and place of birth, nationality, address, and identification or passport number for individuals and names, principal place of business, place of registration, and date and registration number for entities.

- **Harmonizing Data Standards**: In a possible indication of closer future international alignment, the document also calls for the formats of listing of persons and entities to be harmonized. The United Nations developed a new data standard to harmonize formatting of international sanctions lists which the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) adopted in April 2015.
- **Delay in Implementing Annulments**: A statement that the annulment of an act imposing sanctions against an individual or entity does not take effect immediately after the judgment made at first instance by the EU General Court, unless explicitly stated in the judgment itself, consistent with the EU courts' recent practice. Instead, the annulled act will remain in effect for two months and ten days, to allow time to bring an appeal to the European Court of Justice.
- **UN Sanctions De-listing**: The addition of a section on the procedures to obtain de-listing from the United Nations sanctions list.
- **Non-Liability**: Clarifications on the non-liability clauses included in most EU sanctions regulations, according to which liability does not rise (a) for damages caused for sanctioning the designated persons or entities; and (b) in case persons or entities breach sanctions without knowing or having any reasonable cause to suspect that their actions would constitute an infringement. The latter standard differs from OFAC's strict liability requirements under which penalties can be imposed even for actions taken in good faith and with no knowledge.
- **Owned or Controlled Standards**: Clarifications on the notion of "ownership" and "control" in EU sanctions regulations, in order to reflect the information provided in the Guidelines on implementation and evaluation of restrictive measure published by the Council in 2013.
- **Exceptions**: Clarifications on the scope of the exceptions to the prohibition of transfer of funds in EU sanctions regulations.

Crowell will continue to closely monitor legal developments and alert clients to any changes in EU sanctions law.

For more information, contact: Salomé Cisnal De Ugarte, Cari Stinebower, Dj Wolff, Lorenzo Di Masti

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Genetically Modified Food and Feed: EU Proposes new Rules

On April 22, the European Commission published a proposal for the amendment of Regulation (EC) No 1829/2003, which would allow the possibility for Member States to restrict or prohibit the use of genetically modified food and feed.

The EU Genetically Modified Organism (GMO) Regulation includes an authorization procedure to ensure genetically modified food and feed will not pose a risk to human and animal health or to the environment. The new proposal introduces an 'opt-out' rule allowing Member States to restrict or prohibit, in all or in part of their territory, the use of genetically modified food or feed for compelling reasons other than those already identified by the European Food Safety Authority (EFSA). In order to do so, Member States will need to comply with EU, as well as World Trade Organization (WTO) rules.

The proposed amendment is largely drawn from Directive 2015/412, which recently introduced similar obligations in the text of Directive 2001/18/EC, the main EU legislative act on GMOs' cultivation. Most notably, Directive 2015/412 defined the term 'compelling reasons' as relating to environmental and agricultural policy objectives, town and country planning, land use, and socioeconomic impacts.

Per the EU's ordinary legislative procedure, the proposed regulation will now have to be adopted by the European Parliament and the Council of the European Union.

Crowell & Moring will closely monitor the outcomes of this legislation and alert clients of any substantive impacts.

For more information, contact: *Salomé Cisnal De Ugarte, Grégoire Ryelandt, Lorenzo Di Masi*

California Court Enforces Stricter Limits on "Made in U.S.A." Labels

Sellers of products marked "Made in U.S.A." may face an increased risk of being sued in California under the stricter California Business and Professions Code Section 17533.7, if those products contain any foreign components. Two recent federal district court cases held that federal law on designation of origin does not preempt California law. These were Paz v. AG Adriano Goldschmied, Inc. and Clark v. Citizens of Humanity, LLC et al.

Plaintiffs in these cases argued that they had been deceived by the "Made in U.S.A." labels on the denim jeans they purchased because the jeans contained some foreign components. They brought their claims under California State law, which makes it unlawful to use the "Made in U.S.A." label "when the merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States."

The defendants argued that California law was preempted by certain Federal law, such as the Federal Trade Commission Act (FTCA), which contains provisions to prevent deceptive advertising. They argued that the FTCA allows manufacturers in certain circumstances to use a "Made in U.S.A." label on goods that were assembled in the United States, but contain foreign components. The defendants argued that preemption applied because it was impossible to comply with both the Federal law and the California law.

The court disagreed, and found that the FTCA did not preempt California state law. The *Paz* court held, in the order denying defendant's motion to dismiss, that it was possible to comply with both federal and state laws by using separate labels for products sold in California. The court also refused to certify an interlocutory appeal on the preemption issues, stating that an appeal would only "delay…the progress of the case and its ultimate termination." In *Clark*, the court agreed with the *Paz* court regarding preemption, and also held that California's laws do not violate the Dormant Commerce Clause, which prevents states from regulating inter-state commerce.

In light of these decisions, importers, distributors and manufacturers who use the "Made in U.S.A." labels when selling products in California are now on notice that dual labeling may be required in California.

As these cases continue, companies should consider whether they should take action to align their labels with both federal and California state laws. Companies should first consider conducting an internal review to determine how its products are labelled and for those labelled "Made in U.S.A." what components and parts which make up their products are actually made (and not just sourced) in the United States. Companies then will know whether they could become a target of similar litigation, or whether they should consider alternative sourcing options, re-label their products, or consider other actions to mitigate litigation risks.

For more information, contact: Jini Koh, Aaron Marx

AGENCY ENFORCEMENT ACTIONS

Department of Justice (DOJ)

- AMA United Group (AMA) and two individuals pleaded guilty on April 1 to violating U.S. export regulations in connection with the attempted shipment of munitions samples from New York City to Egypt. AMA, an Egyptian procurement agent, entered a guilty plea to violating the Arms Export Control Act (AECA). The two individuals, Egyptian citizens and partners in AMA, pleaded guilty to failing to file required export information relating to the international shipment of a landmine and multiple bomb bodies. According to court filings and facts presented during the plea proceeding, the two were arrested after attempting to close a deal to acquire and export the items, which are included on the U.S. Munitions List.
- A 24-count indictment was unsealed on April 17 charging four corporations and five individuals with facilitating the illegal export of high-tech microelectronics, uninterruptible power supplies and other commodities to Iran in violation of the International Emergency Economic Powers Act (IEEPA). The indictment alleges a Houston-based company, Smart Power Systems Inc. (SPS); Bahram Mechanic, 69, and Tooraj Faridi, 46, both of Houston; and Khosrow Afghahi, 71, of Los Angeles, were all members of an Iranian procurement network operating in the United States. Also charged as part of the scheme were Arthur Shyu, and the Hosoda Taiwan Limited Corporation in Taiwan; Matin Sadeghi, 54, and Golsad Istanbul Trading Ltd. in Turkey; and the Faratel Corporation, co-owned by Mechanic and Afghahi in Iran.
    - In conjunction with the unsealing of these charges, the Department of Commerce designated seven of the nine foreign nationals and companies, adding them to its Bureau of Industry and Security (BIS) Entity List. The indictment alleges these individuals and companies received, transshipped or otherwise facilitated the illegal export of controlled commodities by the defendants.
- On May 1, BNP Paribas was sentenced to a five-year probation, ordered to forfeit nearly $8.9 billion, and to pay a fine of $140 million for conducting business in U.S.-sanctioned countries. This was in line with the June 30, 2014 plea agreement between government regulators and the bank.
- On April 23, Arash Ghahreman, 45, of Staten Island, New York, was convicted of attempted export to Iran, and conspiracy to do the same, in violation of the Iran Trade Embargo; smuggling goods from the United States, and conspiracy to the same; and aiding and abetting the transfer of money from Dubai, United Arab Emirates (UAE), to the United States in support of an illegal export activity, and conspiracy to do the same. The jury returned a guilty verdict on seven counts of a nine-count superseding indictment after one day of deliberation. The jury was unable to reach a verdict on two of the counts involving the attempted exportation and smuggling of a fiber optic gyrocompass, used in both military and civilian marine navigation applications.
- On April 23, two Chinese nationals were sentenced for conspiring to violate the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR) by scheming to illegally export defense articles with military application to the People's Republic of China.
    - Bo Cai, 29, of Nanjing, China, was sentenced to 24 months in prison and his cousin Wentong Cai, 30, of Chifeng, China, was sentenced to 18 months in prison. Both will be deported after completing their sentences. The two men were charged in a three-count superseding indictment with a scheme to illegally export sensors primarily

manufactured for sale to the U.S. Department of Defense for use in high-level applications, such as line-of-sight stabilization and precision motion control systems.

Office of Foreign Assets Control (OFAC)

- First Data Resources, LLC (First Data), of Atlanta, Georgia, has agreed to pay $23,336 to settle potential civil liability for alleged violations of the Foreign Narcotics Kingpin Sanctions Regulations (FNKSR). The alleged violations involve First Data's provision of third party data processing services to a Specially Designated Narcotics Trafficker (SDNT) between February 2011 and June 2011. OFAC determined that First Data voluntarily self-disclosed the alleged violations, and that the alleged violations constitute a non-egregious case. The total transaction value for the alleged violations was $69,144 and the base penalty amount was $34,572.

Bureau of Industry and Security (BIS)

- On April 23, eight persons were added to the Entity List after a determination by the U.S. Government that they were acting contrary to the national security or foreign policy interests of the United States. These eight persons are listed under the destinations of China, Iran, Taiwan, and Turkey. There are nine entries for the eight persons because one person is listed in two locations, resulting in an additional entry. Specifically, the additional entry covers one person that will be listed on the Entity List under the destinations of Iran and Turkey.

Securities and Exchange Commission (SEC)

- The SEC charged Oregon-based FLIR Systems Inc. with violating the Foreign Corrupt Practices Act (FCPA) by financing what an employee termed a "world tour" of personal travel for government officials in the Middle East who played key roles in decisions to purchase FLIR products. FLIR earned more than $7 million in profits from sales influenced by the improper travel and gifts and agreed to pay more than $9.5 million to settle the charges.

For more information, contact: Cari Stinebower, Chris Monahan, Dj Wolff

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OTHER AGENCY ACTIONS

Export Control Reform (ECR)

- On May 5, the Departments of State and Commerce released the proposed ECR changes to U.S. Munitions List Category XII (fire control, range finder, optical and guidance and control equipment). Comments on the proposed rules will be accepted through July 6.

Office of Foreign Assets Control (OFAC)

- On April 1, 2015, President Obama issued an Executive Order (EO), establishing a financial sanctions program under the International Emergency Economic Powers Act (IEEPA), targeting individuals and entities who engage in certain types of cyber-crime and commercial espionage. For further information about the new EO, please see Crowell's Client Alert, which can be found here.
- On April 2, 2015, Iran and the P5+1 (U.S., UK, Germany, France, Russia, and China) announced a "historic" framework for a potential comprehensive agreement to reduce sanctions in return for strict controls on Iran's nuclear program. The following day, OFAC published guidance related to the framework for U.S. persons. For complete details on the deal, please see Crowell's Client Alert, which can be found here.
- OFAC revised the Syrian Sanctions Regulations to authorize by general license certain activities relating to publishing, not already exempt from regulation, that support the publishing and marketing of manuscripts, books, journals, and newspapers in paper and electronic format.

U.S. Customs and Border Protection (CBP)

- On April 6, 2015, the Center Directors for the Electronics; Petroleum, Natural Gas & Minerals (PNGM); and Pharmaceuticals, Health & Chemicals (PHC) Centers of Excellence and Expertise (Centers) assumed trade authority for post-release trade processes of entry summaries for the respective industry tariff lines filed in certain Ports of Entry under the following Field Offices:

Electronics	PHC	PNGM
Atlanta, Baltimore, Boston, Buffalo, Detroit, El Paso, Laredo, Miami, New Orleans, New York, San Diego, San Juan, Tampa, and Tucson	Buffalo, Laredo (will transition to the PHC Center on May 4), Los Angeles, New Orleans, and Seattle	Chicago, Detroit, Houston, and Laredo

- CBP published a notice in April reminding filers that they must ensure they are fully prepared to file all electronic entries and corresponding entry summaries in ACE by the November 1, 2015 ACE filing deadline. CBP is encouraging filers to contact their software vendors or service bureaus to verify your software program can successfully transmit both ACE Cargo Release (SE transactions) and ACE Entry Summary (AE transactions).

- CBP will convene its 2015 West Coast Trade Symposium May 27 in Tacoma, Washington. This event will feature panel discussions involving agency personnel, members of the trade community and other government agencies on CBP's role in international trade initiatives and programs.

Department of State

- Effective April 20, the Office of Defense Trade Controls Licensing (DTCL) implemented a reorganization to more efficiently handle the post-Export Control Reform (ECR) workload. D-Trade has been configured to automatically route cases to the proper division (see below) based on the U.S. Munitions List (USML) commodities on the application, so no action is required by industry to adjust applications as a result of this reorganization. The new structure has 4 divisions:
    - Space, Missile, and Sensor Systems;
    - Electronic and Training Systems;

  - Sea, Land, and Air Systems; and
  - Light Weapons and Personal Protective Equipment Systems.
- The ELLIE Net system will be decommissioned in the very near future (no date has been provided). ELLIE allows Industry users to find and track their paper applications, such as General Correspondence (GC) Letters and Applications for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Related Classified Technical Data (DSP-85).
  - DDTC is recommending Industry include valid email addresses on all paper applications so DDTC can send users an email with their application number.
    - On GC Letters – clearly state an email address the letter;
    - DSP-85s – clearly state the email address in either the letter of explanation (preferred) or in the Specific Purpose, Block 21 (if no letter is sent).

Bureau of Industry and Security (BIS)

- The Export Administration Regulations (EAR) were revised on April 7 to reflect changes to the Missile Technology Control Regime (MTCR) Annex that were agreed to by MTCR member countries at the September and October 2014 Plenary in Oslo, Norway, and pursuant to the 2014 Technical Experts Meeting in Prague, Czech Republic. The rule also makes conforming changes to correlate the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) with the current MTCR Annex. The final rule also revises six Export Control Classification Numbers (ECCNs) to implement the changes that were agreed to at the meetings and to better align the MT controls on the CCL with the MTCR Annex.

U.S. Trade Representative (USTR)

- The USTR published the 2015 National Trade Estimate Report on Foreign Trade Barriers (NTE) in April. The report classifies foreign trade barriers into ten different categories, covering government-imposed measures and policies that restrict, prevent, or impede the international exchange of goods and services.

For more information, contact: Cari Stinebower, Chris Monahan, Dj Wolff

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CROWELL & MORING SPEAKS

Dj Wolff presented on the practice of international trade in DC at Stanford Law School on April 15, 2015.

Jeff Snyder and Chris Monahan presented at the annual Spring Meeting of the American Bar Association (ABA) Business Law Section in San Francisco on April 16. They provided an update and overview of Export Controls and Economic Sanctions for corporate attorneys.

David Blair and Salomé Cisnal de Ugarte spoke on "Transfer Pricing, BEPS and the EU State Aid Investigations into Tax Rulings" at the 80th Annual API Federal Tax Forum for the Oil and Natural Gas Industry, April 28-29, in Houston, Texas.

Addie Cliffe, Alan Gourley, and Jana del-Cerro presented at Crowell's OOPS (Ounce of Prevention Seminar) 2015 on May 5. The panelists discussed issues relating to "Commercial Contracting in a Global Public Procurement Market," including compliance with US export controls and sanctions, managing global compliance risk in General Services Administration (GSA) schedule contracting, and managing global supply chain security.

Cari Stinebower presented on Russia Sanctions and the new 50 percent rule for Specially Designated Nationals (SDN) at the 8th Annual Advanced Forum on Economic Sanctions Enforcement and Compliance, April 28-29, in Washington, DC.

Jeff Snyder moderated a panel on trade agreements in Asia for the International Trade Committee of the Inter-Pacific Bar Association (IPBA) on May 7 in Hong Kong at the IPBA's 25th Annual Meeting and Conference.

Frances Hadfield will be speaking at Fashion Group International of Toronto's event on 'Export Success to the USA" on May 26 at Shopify, 98 Spadina Ave, 4th Floor in Toronto (@FrancesHadfield).

CROWELL & MORING – NEW YORK EXPANSION

The International Trade group is pleased to announce the continued expansion of the practice in our New York office. Ms. Jini Koh, who is currently an associate in our Washington DC office, will be moving to our New York office in May. Prior to joining Crowell, Ms. Koh was a clerk for Senior Judge Tsoucalas in the U.S. Court of International Trade, and worked in the trade group of a Big 4 accounting firm in New York. Ms. Koh has over 10 years of experience in customs and unfair trade litigation. She will be joining Ms. Frances Hadfield, who recently joined the International Trade group in the New York office to further develop the firm's customs litigation, fashion, and retail industry practices.

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