

CLIENT ALERT

This Month in International Trade - November 2013

Dec.03.2013

THIS MONTH'S TOP TRADE DEVELOPMENTS

1) The Iran Deal – What It Means for Sanctions

On November 24, 2013, the P5+1 and Government of Iran announced a preliminary agreement to freeze key elements of Iran's nuclear program in exchange for limited and temporary sanctions relief. From a practical perspective, the deal does not appear to change existing U.S. sanctions prohibiting U.S. persons from engaging in transactions with the Government of Iran, persons in Iran or SDNs, wherever located. Instead, the sanctions relief appears primarily focused on temporarily rolling back some of the sanctions targeting third-country persons imposed pursuant to the Iran Freedom and Counter-Proliferation Act of 2012 and through Executive Order 13645 (June 3, 2013).

We understand that any sanctions relief (and the six month window) will only go into effect after the Government of Iran has completed certain nuclear-related obligations and they have been verified by the international community. We anticipate that Treasury will issue guidance in the coming weeks regarding the precise scope of the changes, the announced sanctions relief will likely:

- temporarily suspend certain targeted sanctions on gold and precious metals, Iran's auto sector, and Iran's petrochemical exports;
- allow for Treasury to license safety-related repairs and inspections inside Iran for certain Iranian airlines;
- allow purchases of Iranian oil to remain at their currently significantly reduced levels;
- allow \$400 million in governmental tuition assistance to be transferred from restricted Iranian funds directly to recognized educational institutions in third countries to defray the tuition costs of Iranian students; and
- establish banking channels for the payment of OFAC-licensed exports (and re-exports) to Iran of agricultural commodities, food and medicine.

Of the items above, only the second and fifth items directly affect U.S. persons. With respect to the second item, Treasury may issue a licensing policy in favor of specific authorizations for certain repairs to Iran's aging aircraft fleet. Given that these temporary measures are in place for only six months and OFAC currently faces a licensing backlog, it is not clear that this sanctions relief will have a substantial effect in terms of licenses issued. The last item, which calls for the establishment of clear banking channels for exports pursuant to the Trade Sanctions Export Enhancement Act of 2000, is a welcome avenue for securing payment for authorized exports and may help clarify some financial institutions' concerns over inadvertent indirect dealings with prohibited Iranian parties. We understand that the terms of this arrangement will also be dependent on further discussions with the Government of Iran as the payments will be from Iranian funds at non-designated financial institutions.

The remaining sanctions relief items will be focused on rolling back certain of the recently implemented sanctions on third-country persons engaged in activity with Iran's petroleum, shipping, petrochemical, or automotive sectors over which President Obama retains any implementing discretion. Such sanctions relief may present opportunities for non-U.S. persons to do business in Iran, but interested parties should proceed with caution until OFAC issues definitive guidance.

Whatever its merits, this deal is fragile. A key condition of the agreement is that no new sanctions will be imposed over the next six months, and there are concerns that the U.S. Congress will not comply. Press statements from Senators Menendez and Schumer indicate a reluctance to hold off on new legislation. Indeed, as of the date of this writing, new sanctions legislation may be considered by the Senate after the two-week Thanksgiving break. See blogs.rollcall.com.

For more information, contact: Jeff Snyder, Cari Stinebower, Jana del-Cerro, Dj Wolff, Chris Monahan, Richard Massony

2) Sampling for Respondent Selection in Antidumping Administrative Reviews

On November 19, 2013, the US Department of Commerce (DOC) published a proposal in the Federal Register to modify its regulations to establish time limits for the submission of requests for sampling in antidumping administrative reviews. Earlier in the month, the DOC had announced that it would apply a new methodology for selecting respondents in antidumping administrative reviews. Under the new methodology, the DOC would apply sampling upon request by an interested party when certain conditions were met.

The DOC's authority to apply sampling in respondent selection is already provided in the Tariff Act of 1930, as amended. Under the act, when the number of foreign exporters involved in an antidumping review is so large that the DOC finds it impracticable to examine each exporter individually, it is allowed to limit the examination to 1) a statistically valid sample; or 2) exporters accounting for the largest volume of the imports. The DOC has generally used the second option, but the new methodology will expand the use of the first option.

To ensure that the chosen sample is statistically valid, the DOC would use a sampling technique that is random, stratified, and probability-proportional-to-size (PPS). Using this technique, the DOC would stratify foreign exporters by import volume and select one exporter from each stratum. The probability of an exporter being chosen would be proportional to its share of imports in the respective stratum.

Under the proposed time limits, interested parties must request use of sampling within seven days after the release of the Customs and Border Protection data. The request must be accompanied by factual information establishing a reasonable basis to believe or suspect that the dumping margins for the largest exporters differ from the dumping margins for the remaining exporters. In addition, two conditions must be satisfied before sampling is used: 1) The DOC must have the resources to examine at least three exporters; and 2) the respondents that could have been chosen by the "largest volume" method must not account for more than fifty percent of the total volume. Comments on the request must be submitted within ten days from the receipt of the request, and rebuttal comments must be submitted within five days from the due date for submitting the comments.

As a result of the new methodology, small exporters are more likely to be selected as respondents in antidumping administrative reviews. Moreover, because small exporters often lack the resources to hire the best legal professionals to obtain the lowest

dumping margins, the new methodology may have the effect of increasing the "all other" rate that is equal to the weighted average of all company-specific rates.

For more information, contact: Dan Cannistra, Alex Schaefer, Jini Koh, Pierce Lee

3) Texas Company to Pay Largest Export Control Fine to BIS

On November 26, 2013, the Bureau of Industry and Security (BIS) at the U.S. Department of Commerce, the Justice Department (DOJ), the Department of the Treasury's Office of Foreign Assets Control (OFAC), and the Securities and Exchange Commission (SEC) announced coordinated settlements with Weatherford International, Ltd., a Swiss-based oil service company, of \$253 million for alleged exports and activity in Iran, Syria, Sudan, and Cuba.

BIS announced a \$50 million settlement with Weatherford, the largest civil settlement ever imposed by BIS. Simultaneously, DOJ announced that the U.S. Attorney's Office for the Southern District of Texas had imposed a \$48 million penalty on Weatherford under a deferred prosecution agreement in addition to \$2 million in criminal fines following guilty pleas by two Weatherford subsidiaries for related activity.

Weatherford also settled an investigation with the U.S. Securities and Exchange Commission regarding alleged violations of the Foreign Corrupt Practices Act (FCPA) record-keeping provisions, bringing the total combined penalty to \$253 million. The SEC alleged that Weatherford falsified its records to hide transactions involving Cuba, Syria, Sudan, and Iran as well as failing to record bribes allegedly paid throughout the Middle East and Africa.

Additionally, OFAC imposed a \$91 million penalty under an agreement with Weatherford to settle its potential liability for apparent sanctions violations. OFAC will, however, deem its penalty satisfied by Weatherford's payment of \$50 million to BIS and the \$50 million to the Department of Justice. Continuing a trend seen in other areas, OFAC is requiring that Weatherford undergo external audits of its efforts to comply with the relevant U.S. sanctions law for calendar years 2012, 2013, and 2014.

Basis for the OFAC Penalties

The [SEC Complaint](#) provides greater clarity as to the alleged violations giving rise to the sanctions violations. According to the Complaint, Weatherford, headquartered in Texas until 2009, maintained a centralized inventory accounting system in the U.S. to track procurement and inventory of U.S. goods. In 2004, employees of Weatherford Oil Tool Middle East Limited (WOTME), incorporated in the British Virgin Islands and headquartered in Dubai, implemented a scheme to fulfill orders destined to sanctioned countries. According to the SEC Complaint, these employees created a special prefix in the system to allow them to procure and track equipment from the US for Iran, Syria and Sudan while concealing that the orders were destined for those countries. The employees also allegedly concealed that requests for design work from U.S. engineering personnel were for those sanctioned countries.

In addition, the SEC Complaint asserts that, during the relevant time: (1) Weatherford International employees removed serial numbers from products to conceal the destination of U.S. origin goods; (2) U.S. executives participated in the acquisition of two foreign companies that did business in Iran while attempting to mask their involvement through the use of code names for Iran;

(3) Weatherford took steps to conceal in its transaction records the role of U.S. persons in obtaining business in sanctioned countries; and (4) Weatherford Canada created false shipping documents and used code words to make it appear that products were being shipped to "Barcelona, Venezuela" instead of to Cuba.

OFAC's Civil Penalty Notice also indicates that, "between 2005 and 2008, Weatherford conducted 441 transactions totaling \$69,268,078, that provided oilfield equipment and services in which the government of Cuba and/or blocked Cuban nationals had an interest, including travel-related transactions by Weatherford employees to and from Cuba."

* * *

These settlements underscore several points including: the overlapping requirements and jurisdiction of sanctions, export controls, FCPA and reporting requirements; the growing inter-agency coordination within the United States; the willingness of the U.S. to require more intrusive audit and compliance regimes; and the risks even non-U.S. companies face under U.S. law.

For more information, contact: Cari Stinebower, Brian Gatta, Dj Wolff, Carrie Esko

4) Canada and EU Sign Trade Agreement

On October 18, Canadian Prime Minister Stephen Harper reached an agreement with European Commission President Jose Manuel Barroso on a free trade agreement between Canada and the European Union (EU). Although technical details are not set and possible ratification by their respective parliaments is years away, the Comprehensive Economic and Trade Agreement (CETA) is expected to eliminate approximately 98 percent of tariffs on trade between Canada and the EU. Highlights include:

- Complete elimination of tariffs on non-agricultural goods.
- Tariff elimination on 99 percent of industrial goods including forestry, chemical and plastic products with tariff elimination for those products after seven years.
- Duty free treatment of 95 percent of fish and seafood products, including live lobster, frozen lobster and frozen shrimp, and tariff elimination after seven years.
- 94 percent of agricultural products, including maple syrup, fresh and frozen fruits, and certain pet food, will receive duty free treatment.
- An increase in beef and pork import quotas.
- Duty free and quota free access to the EU dairy market, and an increase in the quota of EU cheese imports to Canada.

The deal should also free up trade in service sectors such as communications, energy, financial services, and transportation. Finally, the agreement is set to address Canadian government procurement policies and align Canadian intellectual property protection closer to that provided by the EU.

For more information, contact: John Brew, Michael Larmoyeux

5) Canada Seeks to Reform its Controlled Goods List

In a move similar to US Export Control Reform (ECR), Canada is beginning an effort to revise the items they control via their Controlled Goods Program (CGP). The goal is a Controlled Goods List which regulates only items which represent the highest risk to Canadian security, as well as defense articles from the U.S. Munitions List (USML). Much like US ECR, the hope is the reduction of administrative and compliance burden on Canadian companies will make them more competitive in the global marketplace.

The Controlled Goods Program (CGP) is the Canadian domestic industrial security program which regulates the examination, possession and transfer of controlled goods within Canada. Controlled goods are a sub-set of the Canadian Department of Foreign Affairs, Trade and Development's Export Control List, which is located in the Schedule to Canada's *Defence Production Act*. Any person who conducts business in Canada and examines, possesses or transfers controlled goods must be registered with the CGP. Registration is also a prerequisite for the issuance of an export permit by the Department of Foreign Affairs.

The Controlled Goods List to the Schedule has been in place since 2001. Public Works and Government Services Canada (PWGSC), the lead agency, has requested Canadian industry comments on the proposed amendments with a target date to implement the amended Schedule in November 2014.

The main elements of the amended Schedule are two 'streams.' The first is control of US ITAR Defense Articles, while the second are other items with strategic significance or with national security implications, regardless of country of origin, that merit domestic control via the CGP. In order to keep up with changes to the USML, the amended schedule will directly refer to it to ensure continued alignment of controls.

While an Export License will still be required for items coming off the list, items removed will not require a company to register with the CGP. This is the planned reduction in administrative and compliance burden.

There is no impact to US industry because the Controlled Goods List will automatically cover all USML items as the USML changes. This is a key point as the PWGSC does not want to jeopardize the Canadian Exemption already in place in the ITAR, nor the current ability for Canadian companies to vet their own Dual and Third-Country Nationals.

Please follow this link for more details: [Consultations for Amendments to the Schedule to the Defence Production Act - ISS - Security and Information Services - PWGSC](#)

For more information, contact: Brian Gatta, Edward Goetz

THIS MONTH IN TRADE – OTHER NEWS

Agency Enforcement Actions

Bureau of Industry and Security (BIS)

- [California Company Settles for \\$55,000 for Violations of EAR.](#)

- [Ohio Company Settles for \\$36,800 for Violations of Antiboycott Regulations.](#)
- [Ohio Company Settles for \\$300,000 for Violations of EAR.](#)
- [California Freight Forwarder Settles for \\$27,000 for Violations of EAR.](#)
- [New Jersey Company Settles for \\$27,000 for Violations of EAR.](#)
- [Tennessee Company Settles for \\$15,000 for Violations of Antiboycott Regulations.](#)
- [California Man Settles for \\$800,000 for Violations of Iran Sanctions.](#)

Customs and Border Protection (CBP)

- \$500,000 in Chinese Toys Seized. CBP and CPSC seized 200,000 toy dolls from China. The dolls, which were valued at nearly \$500,000 and which arrived in ten separate shipments, contained banned chemical compounds that could pose a health risk to children.
- [California Man Sentenced to 27 Months in Prison for Customs Evasion.](#) Sunil Jiwat Mirwani, a businessman based in Los Angeles, California, engaged in a scheme to evade customs duties on imports of Chinese-origin blue jeans worth more than \$30 million. Mirwani designated shipments of blue jeans for transshipment to Mexico, but then shipped them to U.S. warehouses for domestic distribution. Mirwani was sentenced to 27 months in prison and was forced to forfeit \$30,000 in cash and merchandise valued at over \$1 million.

Office of Foreign Assets Control (OFAC)

- [California Company Settles for \\$430,000 for Violations of Iran and Cuba Sanctions.](#) Ameron International Corporation (Ameron), a company based in Pasadena, California, allegedly engaged in certain business activities to facilitate its foreign subsidiaries' participation in transactions with Iran. Ameron also allegedly sold pipe to a consortium which had a Cuban company as a partner. Many of the violations involved transactions that were never consummated. Ameron did not voluntarily disclose the violations, and OFAC found the violations to be non-egregious. Ameron settled the charges for \$434,000.
- [UAE Company Fined \\$1.5 Million for Violations of Iran Sanctions.](#) Alma Investment LLC (Alma), a company based in the United Arab Emirates (UAE), allegedly originated electronic funds transfers totaling \$103,000 through the U.S. for the benefit of persons in Iran. OFAC asserted jurisdiction based solely on the fact that the funds transited the U.S. Alma did not voluntarily disclose the violations, and OFAC found the violations to be egregious. OFAC assessed the maximum penalty amount of \$1.5 million for these violations.

Securities and Exchange Commission (SEC)

- [Michigan Company Settles for \\$13 Million for Violations of FCPA.](#) Stryker Corporation (Stryker), a medical technology company based in Michigan, allegedly made payments in the amount of \$2.2 million to government officials in Argentina, Greece, Mexico, Poland and Romania in order to win business that resulted in profits of approximately \$7.5 million. Stryker agreed to pay more than \$13.2 million to settle the charges.
- [Ohio Company Settles for \\$48 Million for Violations of FCPA.](#) Diebold Inc. (Diebold), a company based in Ohio that makes ATM machines and bank security systems, allegedly spent \$1.8 million on improper gifts for officials at government-owned banks in China and Indonesia in order to win business. Diebold also allegedly falsified records in order to hide

bribes paid to employees at private Russian banks. Diebold agreed to pay \$48.1 million in order to settle the SEC's charges and the DOJ's criminal charges.

Treasury

- Community Bank Settles for \$4.1 Million for Violations of BSA Regulations. Saddle Valley River Bank (SRVB), a bank based in New Jersey, allegedly processed \$1.5 billion in transactions on behalf of four foreign exchange houses while failing to maintain an effective anti-money laundering program and failing to conduct due diligence. SRVB settled the charges for \$4.1 million.
- National Bank Settles for \$37.5 Million for Violations of BSA Regulations. TD Bank, N.A. (TD Bank), a large national bank with locations in 16 states, allegedly failed to file suspicious activity reports regarding a Ponzi scheme that involved thousands of transactions with an approximate value of \$4 billion. TD Bank settled the charges for \$37.5 million.

For more information, contact: Richard Massony, Dj Wolff

U.S.-EU Trade Agreement Talks "Fully Back on Track" after Successful Second Round of Negotiations

The U.S. and EU delegations wrapped up the second round of negotiations for a Transatlantic Trade and Investment Partnership (TTIP) in Brussels on November 15th, after which top officials from both sides issued statements both praising the progress made and indicating optimism for future prospects.

During the second round, negotiators continued where they left off on a wide range of topics, including investment, services, regulatory issues and energy. Toward the end of the week, the U.S. and EU chief negotiators held a briefing for over 350 U.S. and EU stakeholders, in which the business community, NGOs and other interested parties were invited to exchange views with the negotiators.

The next round of physical meetings between the two sides is set to involve meetings on each of the 20-plus discrete issue areas being discussed in the negotiation and has been scheduled for December 16-20 in Washington, D.C., with video conferences on certain topics to take place in the interim.

For more information, contact: Christopher Wilson, Josh Kallmer, Brian Gatta

China and Venezuela – Trade on the Rise

China's presence in Venezuela is growing on a daily basis. On September 22, 2013, the two governments signed 12 cooperation agreements, most of them affirming ongoing Sino-Venezuelan projects that include funds, trade exchange and joint ventures. Communication devices, aircraft, motor vehicle parts, and even buses, are a good sample of the increasing line of products that Venezuela is importing from China. After the United States, China has become Venezuela's second largest trading partner, and recent agreements show that both countries would continue intensifying economic ties.

Background

In a recent report from Venezuela's National Institute of Statistics (*Instituto Nacional de Estadística*), China ranked as the second leading exporter to Venezuela. Between January and May of 2013, China supplied 17.2 percent of Venezuela's total imports, an amount of \$3.2 billion. Compared to 2012, imports from China increased by 4.2 percent over Venezuela's total imports (13.0 percent in 2012), representing \$1.1 billion more (\$2.1 billion in 2012). More importantly, trade volume between January and May of 2013 was 16 times the total trade that China and Venezuela had reached by 1999, showing that such increase has been steady over the last decade.

Since 2001, Venezuela and China have signed hundreds of cooperation agreements and carried out dozens of projects in the energy, mining, security, agriculture, telecommunications and technology sectors, among others. In 2007, the governments created a bilateral development fund for a total of \$6 billion to be invested in various projects in both countries. Moreover, between 2009 and 2013, the two nations have signed further agreements, highlighting the establishment of a cell phone factory, and the creation of joint ventures between Chinese corporations and Venezuela's national oil company PDVSA (*Petróleos De Venezuela*).

In addition to these projects, China has become Venezuela's biggest source of foreign financing, where the Venezuelan government has committed to pay its debt with the shipment of approximately 500,000 barrels of oil p/d to China. In 2011, Venezuela obtained a \$5 billion credit line from China, which was later increased to \$20 billion; and recently, on September 22, Venezuela agreed with China Development Bank on another \$5 billion loan. In short, China is not only the second largest trading partner of Venezuela, but also its largest creditor.

Chinese Businesses in Venezuela

The following is just a sample of the dozens of projects that the governments of China and Venezuela have established in recent years. These projects cover a wide range of sectors, including energy, mining, telecommunications, agriculture and telecommunications.

- Sinopec and CNPC – Junin Oil Project: Chinese state oil companies Sinopec (China Petrochemical Corp.) and CNPC (China National Petroleum Company) have established joint ventures with PDVSA, to exploit reserves and develop oil fields in *Junin* area, at the Orinoco Oil Belt in eastern Venezuela. On September 17, 2013, Venezuela's Ministry of Petroleum announced that CNPC and PDVSA agreed to develop the *Junin 1* oil field. The investment amounts to \$14 billion, and PDVSA owns a 60% controlling share.
- CITIC and WISCO – Mining Projects: In 2012, CITIC (China International Trust and Investment Corporation) formed a joint venture with PDVSA to explore the *Las Cristinas* gold and copper mine at Bolivar state, in eastern Venezuela. This project was previously carried out by Canadian Crystallex International Corp. Furthermore, in 2010 Venezuela's mining company CVG (*Corporación Venezolana de Guayana*) signed an agreement with Chinese mining company WISCO (Wuhan Iron and Steel Corp) for the supply of 40 million tons of iron ore at a fixed long-term price.
- Sinohydro – El Palito Thermo Plant: Sinohydro Group Ltd. and Venezuela's state electricity company CORPOELEC (*Corporación Eléctrica Nacional*) agreed to build and operate a thermo plant in *El Palito*, at Carabobo state, Venezuela. The agreement also includes a project to build condominiums in the area.

- ZTE – Cell phones: In 2009, Chinese enterprise ZTE Corp. and the government of Venezuela set up a company called VTELCA (*Venezolana de Telecomunicaciones*). The project includes the construction of a factory that produces subsidized cell phones for Venezuelan market.
- Beidahuang Nongken Group - Food: In 2011, Chinese Heilongjiang Beidahuang Nongken Group Company and PDVSA formed a joint venture to increase agricultural development in the Orinoco Oil Belt, in eastern Venezuela. PDVSA owns a 70 percent controlling share.
- Yutong - Buses: On September 22, 2013, Yutong and the Venezuelan government signed a \$355 million contract for the sale of 2,000 Yutong buses to Venezuela's Land Transportation Department FONTUR (*Fondo Nacional de Transporte Urbano*). Previously in 2011, Venezuela had agreed to import 1,216 buses from the same company.

Mercosur on The Horizon

China is looking for a greater target beyond Venezuela, and it includes top Latin American investment countries, such as Brazil and Argentina. Hence, the Chinese government is considering regional alliances, such as Mercosur, as an option to consolidate its expansion in the region. The first step in the negotiations was already made in 2012, when the prime minister of China, Wen Jiabao, proposed feasibility studies for the establishment of a free trade agreement between his nation and the South American bloc. Although negotiations have not formally launched, recently Venezuelan officials have publicly offered China to "open the door" in Mercosur.

Whether through regional or bilateral agreements, the Asian country is sending a compelling message that will continue expanding its presence in Venezuela and Latin America. China is currently providing significant short-term benefits to Latin American nations, and this gives the Chinese government high leverage to continue establishing further agreements that would catapult them in the region. At least, in regard to Venezuela, it seems that it is only a matter of time before China becomes its largest commercial partner.

For more information, contact: Eduardo J. Mathison

Shanghai Free-Trade Zone in China

China launched the first mainland free-trade zone in Shanghai (Shanghai FTZ) on September 29. The Shanghai FTZ is a nearly 11 square mile district that covers four existing special trade zones in the Pudong district, including: (1) Waigaoqiao Free Trade Zone, (2) Waigaoqiao Free Trade Logistics Park, (3) Pudong Airport Comprehensive Free Trade Zone, and (4) Yangshan Free Trade Port Area.

The State Council of the People's Republic of China and the Shanghai Municipal People's Government released the following regulations:

- Overall Plan for the Free Trade Zone (Overall Plan) and Six Services Sectors Opening for Investment
- The Negative List in the Shanghai Free Trade Zone (2013)
- Measures for Further Opening Up Services Sectors Within the Shanghai FTZ

- Administrative Measures for the Record-Filing of Foreign Investment Enterprises in the Shanghai Free Trade Zone
- Administrative Measures for the Record-Filing of Foreign Investment Projects in the Shanghai Free Trade Zone
- Administrative Measures for the Record-Filing of Enterprises in the Shanghai Free Trade Zone in investing in Overseas Enterprises
- Administrative Measures for the Record-Filing of Enterprises in Shanghai Free Trade Zone in investing in Overseas Projects

Shanghai FTZ is expected to serve as China's experimental area for breaking economic and market reforms. The main functions include:

- Promoting the opening-up of the services industry and investment management system reform;
- Facilitating trade transformation and up-gradation;
- Deepening the opening-up of the financial field;
- Innovating the supervision service mode;
- Exploring and establishing an administrative management system in line with international investment and trade rule systems; and
- Cultivating an international and lawful business environment.

The six services sectors to be opened up for foreign investment management system include financial services, shipping, trade and commercial services, professional services, cultural services and the social services sectors.

Shanghai FTZ adopts the negative-list approach to large foreign investment projects that are not on the Negative List. This negative-list approach is the reform of the foreign management mode, replacing the traditional examining and approving method with a registration-based system. Foreign investment in the areas beyond the Negative List will only have to go through record-filing procedures with the relevant authorities.

When comparing the Negative List (2013) to the Catalogue of Industries for Guiding Foreign Investment ("the Catalogue," 2011 Revision), many of the industry sectors in the Negative List overlap with the restricted and prohibited industries for foreign investment in the Catalogue. Furthermore, in the Negative List, certain prohibitions go beyond the Catalogue's prohibited and restricted coverage: prohibitions on the wholesale of salt, investment in cultural relics auctions; direct and indirect business of online game operations, investment in internet data center businesses and investment in educational institutions (which include preschool education, mid-level education, high-school education, and advanced education).

The Shanghai FTZ reforms should be limited in the early stages with incremental relaxation of the related regulation and measures. The relevant authorities may issue more guidelines to carry out these administrative measures in the near future.

Finally, there are plans to establish China's commercial dispute resolution systems, including both commercial arbitration and courts. Thus, the Shanghai FTZ may provide an unprecedented opportunity for Shanghai to build an international arbitration center and the relevant judicial arrangements.

For more information, contact: Pei-Yi (Ashley) Wang

EU Data Protection Rules Might Transform the Internet

With initial approval in the European Parliament civil liberties committee (the so-called LIBE Committee), the EU is moving ahead with overhauling its existing 15-year-old Data Protection Directive, replacing it with the General Data Protection Regulation (GDPR). The European Commission introduced the draft GDPR in January 2012 and seeks to harmonize regulations across the 28 member-states, replacing varying national laws with a single, consistent regulation on data handling and individual rights.

[Click here to continue reading a related, previously published client alert.](#)

For more information, contact: Josh Tzucker, Robin Campbell, Josh Kallmer, Cari Stinebower, Frederick Van Remoortel

CBP Postpones Residual Cargo Test

The [U.S. Customs and Border Protection \(CBP\) pilot test program](#) phasing-in ruling HQ H026715 (June 19, 2009) was to begin on November 25 – 90 days after the test was announced in the Federal Register (78 FR 52958, August 27, 2013). Ruling H026715 states that importers should not manifest as empty any containers arriving as Instruments of International Trade (IIT) and having residual cargo. Instead, residue within these containers must be classified, entered and manifested.

To enforce this ruling, CBP decided to launch a one-year, nationwide test program. This program would allow for a new residue entry that could be made off the manifest, designed to account for residue in containers that would be cleaned or refilled.

After further consultation with the international trade community, CBP decided to delay the launch of this test due to concerns about the burdens imposed by this ruling. CBP stated that it "will work to address remaining trade concerns related to this matter and announce a future test date after further consultation with the trade community."

For more information, contact: John Brew, Michael Larmoyeux, Carolyn Esko

DDTC Releases Export Control Reform-Focused Update

On October 10, 2013, the Department of State issued an update to their "Guidelines for Preparing Electronic Agreements." The updated version includes a new chapter addressing Export Control Reform changes, including information on Transmittal Letters, Agreements and Amendments, and Licenses in Furtherance of Agreements. The updated guidance also provides new directions regarding foreign licensee addresses, additional transfer territories, and Dual and Third Country Nationals. All changes are highlighted in yellow. [Click here to access a PDF of the new guidelines.](#)

For more information, contact: Jana del-Cerro, Chris Monahan, Edward Goetz

CBP East Coast Trade Symposium

After the U.S. Customs and Border Protection (CBP) postponed the 2013 East Coast Trade Symposium, the CBP Office of Trade Relations sent out a notice that the agency will hold the 2014 East Coast Trade Symposium on March 6-7 in the Washington, D.C. metro area. Further information regarding symposium details and online registration will be available soon.

For more information, contact: John Brew, Jini Koh, Michael Larmoyeux

CROWELL & MORING SPEAKS

John Brew served alongside Stephanie Norris, GE, Customs Enterprise Standards Project Leader, as co-chairs of the American Conference Institute's 2nd U.S. Customs Compliance Boot Camp, November 19-20, at the Washington Plaza Hotel in Washington, DC. John also spoke on a panel for "The Centers of Excellence Debate – How Can Importers Benefit from These Centers?"; other panelists included Judith-Anne Webster of CBP's Pharmaceuticals, Health & Chemicals Center of Excellence and Expertise, and Veronica Messmer, a Senior Import Specialist with Boeing.

Cari Stinebower is participating in a panel discussion at this year's ACI Economic Sanctions Boot Camp in New York on December 4-5. She will be participating in a panel discussion addressing OFAC's prohibitions on facilitations and the implications of recent enforcement actions. [Click here for more information.](#)

CROWELL & MORING WELCOMES

We are pleased to welcome **Michael Appel, Nancy Cruz, Nicholas DeLong, Brian Gatta** and **Brendan Sepulveda** to the International Trade group.

Michael earned his J.D. from the University of Iowa College of Law and his B.S. in political science from the University of Iowa. He joined the firm's Washington, D.C. office in November.

Nancy earned her J.D. from Columbia Law School in 2013 and her B.A. in international relations from Stanford University in 2009. She joined the New York office in November.

Nicholas joins the firm as an international trade analyst. Nicholas graduated with a B.A. in international studies in 2006 from Michigan State University and an M.A. in economics in 2012 from the George Mason University. Prior to joining the firm, Nicholas worked for an international trade consulting firm as an analyst and supervisor where he managed automobile imports into the United States.

Brian joins the firm from Brussels-based VVGB Advocaten/Avocats, where he was a senior associate in that firm's international trade group and handled an assortment of trade matters requiring expertise in each of EU, U.S. and WTO law. Brian earned his

B.A. from Binghamton University in 2003 and his J.D. from Columbia Law School in 2007, where he was a Harlan Fiske Stone Scholar.

Brendan joins the team as an associate after earning his J.D. from Columbia Law School in 2013 and his B.S. in biology and B.A. in history from the University of Virginia in 2008. He joined the Washington, D.C. office in September.

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For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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