CLIENT ALERT

The Month in International Trade — August 2017

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This news bulletin is provided by the International Trade Group of Crowell & Moring. If you have questions or need assistance on trade law matters, please contact Jeff Snyder or any member of the International Trade Group.

TOP TRADE DEVELOPMENTS

U.S. PUSHES SEVERAL PROPOSALS DURING NAFTA RENEGOTIATION TALKS
The U.S., Canada, and Mexico officially launched the renegotiation and modernization of NAFTA in August, holding the first round of negotiations August 16-20 in Washington, D.C. and the second on September 1-5 in Mexico City. Negotiators affirmed their commitment to a rapid pace of negotiations and produced a consolidated text to work on throughout the year, with the hope of concluding talks by December. A third round is expected to take place September 23-27 in Ottawa.

U.S. proposals in the following areas were reportedly discussed:

- Intellectual property, where the U.S. is seeking 12 years of market exclusivity for biologic medicines;
- Trade remedies, where the U.S. is seeking to eliminate NAFTA's Chapter 19 dispute settlement and the global safeguard exclusion;
- Broad-based approaches to rules of origin, where the U.S. is seeking overall increases in regional content requirements (without yet elaborating on specifics); and
- Digital commerce, where the U.S. is seeking commitments on e-commerce and telecommunications.

Trade officials have already begun discussion on some of the more difficult areas in the negotiations. Canada and Mexico have staunchly opposed elimination of Chapter 19 dispute settlement, which requires NAFTA parties to adjudicate anti-dumping/countervailing duties through a special tribunal rather than their domestic courts. Both Canada and Mexico have also indicated their opposition to the 12-year exclusivity rule for biologics. Neither of these issues is likely to reach a quick resolution.

Moreover, two issues that are likely to be especially controversial for U.S. industry going forward are investor-state dispute settlement (ISDS) and the rule of origin for automobiles.

During the first round, the media reported the United States was internally considering a system whereby NAFTA countries would have to "opt-in" to ISDS on a case-by-case basis. This triggered immediate and forceful pushback from U.S. industry groups. Such a measure would likely also face significant opposition in Congress. No investment texts have yet been tabled, and the Trump administration has not clarified its policy position on ISDS.

During the second round, U.S. negotiators reportedly engaged their Mexican and Canadian counterparts on increasing the regional value content requirement for automobiles as well as establishing a national content requirement, without proposing specific requirements or rules. Many U.S. automakers have opposed substantial changes to the automotive rules of origin due to the potential for disruption to current supply chains, which would likely result in higher costs and production shifts.

Progress on NAFTA talks continued at the working level despite threats from President Trump throughout August that the United States could withdraw from NAFTA. In a press conference on August 28, for example, he said that the U.S. "will either terminate or renegotiate" NAFTA, stating that Mexico was being "difficult" in the negotiations. Although many consider the President's statements to be an attempt to create leverage for U.S. negotiating positions (unilateral withdrawal remains unlikely in the face of agriculture, industry, and Congressional opposition), his response to the uncertain pace of negotiations will no doubt be a factor to monitor as talks continue. Both the Canadian and Mexican delegations privately expressed frustration with the President's statements.

For more information, contact: Robert Holleyman, Melissa Morris, Evan Yu
NAFTA RENEGOTIATION: APPAREL, FASHION, AND MANY RETAIL BRANDS VS. TEXTILE INDUSTRY

The Trump administration's decision to renegotiate NAFTA has created concerns for U.S. fashion, apparel, and textile companies and their respective supply chains. As with U.S. automakers, NAFTA has allowed fashion, apparel, and textile companies to develop regional supply chains where qualifying U.S. apparel and textiles enter into Canada and Mexico duty-free.

The priorities for fashion, apparel and many retail brands in the renegotiation are more streamlined customs enforcement, facilitation of regional supply chains, protection of intellectual property and provisions for digital and e-commerce. These companies advocate a cautious approach so that a new deal does not harm their existing supply chains.

The U.S. textile industry has different priorities. Qualifying textiles have duty-free access to the U.S. and Canadian markets because of the "yarn-forward" origin rules, which require that each step of apparel production from the spinning of the yarn onwards take place in the United States, Canada, or Mexico. The U.S. textile industry wants the renegotiation to provide for more jobs and production in the United States, Canada, and Mexico and to this end mirrors the administration's stated goals to "update and strengthen the rules of origin, as necessary, to ensure that the benefits of NAFTA go to products genuinely made in the United States and North America." Textile companies would also like to remove tariff preference for articles produced from yarn and fabric from China and other non-NAFTA countries.

Conversely, U.S. fashion brands, importers, and many retailers believe the "yarn-forward" rule is too restrictive and limits their sourcing options. U.S. apparel would like to see less restrictive rules of origin for apparel articles made from fabric that is in short supply in North America. They would also like less restrictive rules to govern articles made from fabric not commonly produced in the NAFTA region. The administration has indicated that it would like to "ensure that the rules of origin incentivize the sourcing of goods and materials from the United States and North America." Yet, apparel companies see the exceptions as a means to provide them with the flexibility to import materials not readily available in the NAFTA countries. It seems unlikely that the NAFTA renegotiation will liberalize the "yarn-forward" rules of origin to their benefit.

The added challenge to the process is the pressure to wrap up negotiations by the end of 2017. The renegotiation pursuant to Trade Promotion Authority (TPA) expires on June 30, 2018, and there are upcoming elections in all three member countries next year. Time is the enemy of the renegotiation. The political climate gives all parties a strong incentive to finish by the end of 2017, but a rushed timeline and lengthy agenda makes that equally unlikely to happen. There is also the risk that President Trump pulls the U.S. out of NAFTA if he loses patience for the renegotiation, which is the greatest risk to industries that have developed complex supply chains in accordance with the agreement.

For more information, contact: Frances Hadfield
At President Trump's direction, on August 14, the United States Trade Representative (USTR) initiated an investigation under Section 301 of the Trade Act of 1974 against China's laws, policies, or actions that could threaten U.S. intellectual property and technology development.

USTR Robert Lighthizer commenced the preliminary stages of the investigation and will convene a public hearing on October 10 at the U.S. International Trade Commission. The results of the investigation could lead to additional tariffs or restrictions on imports from China.

This is the third investigation the administration has initiated concerning foreign imports and trade practices. The U.S. Department of Commerce is currently conducting two investigations on whether U.S. imports of aluminum and steel products threaten national security.

The President's August 14 memorandum unveiled the following four types of conduct USTR will consider during the investigation:

- Whether the Chinese government uses a variety of tools to regulate or intervene in U.S. companies' operations in China to transfer U.S. technologies and intellectual property to Chinese companies;
- Whether the Chinese government's policies and practices deter U.S. companies from issuing market-based terms in licensing and technology-related negotiations with Chinese companies; and
- Whether the Chinese government obtains high-technology products and intellectual property by investing in or acquiring U.S. companies pertinent to Chinese government industrial plans;
- Whether the Chinese government is breaching U.S. commercial computer networks to access and/or steal intellectual property, trade secrets, or business proprietary information.

USTR will determine whether the aforementioned four types of conduct are actionable under Section 301 of the Trade Act. Pursuant to the Trade Act of 1974, USTR must determine within 12 months from the beginning of the initiation whether any act, policy, or practice described in Section 301 exists.

In general, the retaliatory action proposed by USTR must be implemented within 30 days of the determination. USTR may delay the implementation up to 180 days if it determines that substantial progress is being made regarding removing the trade barrier. If the determination is affirmative, then USTR will decide what action, if any, to take.

Though certain company executives and politicians support the investigation as a way to help U.S. businesses access the Chinese market without conceding their intellectual property to the Chinese government, others are more reluctant to voice their opinions due to their fear of drawing retaliation from China.

The investigation comes shortly after the Chinese government unveiled a new cybersecurity law to "protect personal information and individual privacy" in late May of 2017. The law requires foreign companies operating in China to reveal...
intellectual property to the PRC and forces these companies to store their data to local servers. U.S. companies are now instructed to participate in a joint venture with Chinese enterprises, therefore sharing valuable technology information with their Chinese counterparts.

There has only been one recent USTR Section 301 investigation in the past two decades. In 2010, USTR initiated a Section 301 investigation of Chinese policies and subsidies supporting its wind and solar industries. Because the issues covered involved U.S. rights under the World Trade Organization, USTR requested WTO dispute settlement consultations with the government of China. Less than a year after the initiation of the investigation, China removed the challenged acts. Thus, it is possible that this current Section 301 investigation could follow a similar timeline, whether or not WTO rights are implicated.

For more information, contact: Robert Holleyman, Dan Cannistra, Ben Caryl, Cherie Walterman

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CBP TARGETS U.S. IMPORTERS FOR ILLEGAL IMPORTS FROM CHINA USING NEW AD/CVD EVASION AUTHORITY

**Issues First Final Determination of Evasion against a U.S. Importer**

On August 14, CBP issued its first final determination in an Enforce and Protect Act of 2015 (EAPA) investigation, finding substantial evidence that wire hangers were imported through evasion. The agency determined the hangers were transshipped by Eastern Trading NY Inc. (Eastern Trading) from China through Thailand in order to evade antidumping duties.

The case was initiated by CBP on October 11, 2016, as a result of an allegation submitted by M&B Metal Products Company (M&B Metal), the sole remaining U.S. producer of wire hangers. On December 13, 2016, the agency issued a notice of initiation of an investigation and notified the parties of its decision to take interim measures based on reasonable suspicion that Eastern Trading imported the merchandise into the U.S. through evasion.

**Initiates Eight New Evasion Investigations against U.S. Wire Hanger Importers**

As a result of CBP’s action, M&B Metal filed an additional eight allegations of evasion concerning the transshipment of wire hangers through Malaysia. CBP conducted eight on-site visits in Malaysia to investigate the new allegations. It found no production of wire hangers at any of the locations, and therefore concluded there was a reasonable suspicion the wire hangers were imported through evasion, instead of being produced in Malaysia, as claimed upon entry.

On August 17, CBP issued a consolidated notice for the decision on interim measures in those investigations. The notice of the final determination for these investigations is due March 15, 2018, if the investigations are not extended.

**Investigates California Furniture Company for Evasion of Wooden Bedroom Furniture Duties**

In April, the American Furniture Manufacturers Committee for Legal Trade (AMFC) filed an evasion allegation against Aspects
Furniture International, Inc. of Chino Hills, CA. On August 14, CBP issued a notice of interim measures on its investigation into the company for evading AD duties on wooden bedroom furniture. The notice indicated the agency "was already reviewing Aspects’ entries, covering the entire calendar year of 2016, for potential evasion of AD duties before AFMC’s allegation was filed." CBP expanded the scope of their investigation to include the new allegation.

In this environment, it is more important than ever for companies to ensure that they are importing from reliable manufacturers and sources.

For more information, contact: Frances Hadfield

FORD PREVAILS AT CIT IN 'TARIFF ENGINEERING' CASE

On August 9, in the latest in a long-running battle between Ford and CBP over 'tariff engineering', Ford won a key victory at the Court of International Trade.

The CIT agreed with Ford that its Transit vehicles, imported with second-row passenger seats removed after importation, qualify for the lower tariff rate on passenger vehicles (2.5%), and are not subject to the higher "chicken tax" (25%) on cargo vehicles. The key facts as stated by the court include:

Ford manufactures the Transit Connect 6/7s in Turkey and imports them into the United States. Although these vehicles are made to order and are ordered as cargo vans, Ford imports them with a second row seat, declaring the vehicles as passenger vehicles . . . . After clearing customs but before leaving the port, Ford (via a subcontractor) removes the second row seat and makes other changes, delivering the vehicle as a cargo van.

CBP took the position that the second row seat "is an improper artifice or disguise masking the true nature of the vehicle at importation," instead of what Ford argued was legitimate tariff engineering. Customs defines 'tariff engineering' as "the longstanding principle that merchandise is classifiable in its condition as imported and that an importer has the right to fashion merchandise to obtain the lowest rate of duty and the most favorable treatment." In adopting Ford's view, the court found that the vehicles, at the time of importation, are "principally designed for the transport of persons."

The court's analysis is a "must read" for anyone with more than a passing interest in customs classification. The case provides a robust articulation of an expansive and legitimate foundation for tariff engineering. Basing its analysis on important historical precedent, the court pins its finding for Ford in an 1891 Supreme Court ruling that classification must be made of the imported item "in the condition in which it is imported," and an even earlier high court decision that ruled a manufacturer may purposely manufacture goods in such a manner as to "evade higher duties." The court further analyzed more recent CIT decisions applying them to Ford's extensive facts.

Given the long running nature of this dispute and the amount of difference in the two tariff rates, many observers expect
Customs to appeal and so the last word may not yet be written on the Ford vehicles at issue or factual applications of ‘tariff
engineering’.

In today's trade debates, the historical background is worth remembering: the 25% duty on trucks (compared to 2.5% duty on
cars) was imposed by the United States in the 1960s in retaliation against Europeans for imposing high tariffs on American
chickens. It was later used against Japan as Japanese vehicles began to make serious inroads into American commerce. That
high duty remains in place 50 years later. Duties invoked in haste in trade wars can become permanent.

*For more information, contact: John Brew, Jeff Snyder, Frances Hadfield; Barry Nemmers*

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**U.S. TARGETS GOV’T OF VENEZUELA AND PDVSA WITH NEW SANCTIONS**

On August 24, President Trump issued an Executive Order (E.O.) "Imposing Additional Sanctions with Respect to the Situation in
Venezuela". Unlike previous sanctions on Venezuela targeting individuals, the new sanctions specifically target the Government
of Venezuela and *Petróleos de Venezuela* ("PDVSA"), the state-owned Oil and Gas Company. The E.O. also targets, for the first
time in an OFAC sanctions program, government issued bonds and securities.

The new E.O. prohibits U.S. persons or persons within the United States from:

- Dealing in new debt with PDVSA and the Government of Venezuela. These new sanctions bear a resemblance to the
  Sectoral Sanctions targeting Russia. In practice, no new debt can be issued to PDVSA—for a maturity of more than 90
days—or to the Government of Venezuela—for a maturity of more than 30 days. The E.O. defines "new debt"
broadly.
- Dealing in bonds issued by the Government of Venezuela prior to the E.O. This is the first time OFAC has imposed a
  prohibition on U.S. persons from acquiring sovereign bonds. The restriction is however limited, as General License 3 (as
discussed below), authorizes the purchase of certain bonds.
- Payment of dividend or other distributions of profits to the Government of Venezuela from entities owned or controlled
  by the Government of Venezuela.
- Purchasing, directly or indirectly, securities from the Government of Venezuela, unless they can be considered as new
debt and have a maturity period of less than 90 or 30 days.

OFAC also issued four General Licenses authorizing certain transaction otherwise prohibited under the E.O.:

- **General License 1** provides a wind-down period of 30 days with respect to contracts and other agreements in effect prior
to the entry into force of the E.O., on August 25. Such wind-down transactions are subject to a reporting requirement to
OFAC. This general license does not apply to distributions of dividends or profits to the Government of Venezuela.
- **General License 2** authorizes all transactions provided that the only Government of Venezuela entities involved in the
transactions are CITGO Holding, Inc. and any of its subsidiaries. CITGO Holding, Inc. is a subsidiary of PDVSA and has...
operations in the U.S. This General License, however, does not authorize the payment of dividends to the Government of Venezuela or PDVSA.

- **General License 3** encloses a List of Authorized Venezuela-Related Bonds. All transactions related to the provision of financing for, and other dealings in bonds contained on list are authorized. General License 3 further authorizes all transactions related to, the provision of financing for, and other dealings in bonds issued prior to the effective date of E.O, if such bonds were issued by U.S. person entities owned or controlled, directly or indirectly, by the Government of Venezuela, such as CITGO Holding, Inc.

- **General License 4** authorizes all transactions related to the provision of financing for, and other dealings in new debt related to the exportation or reexportation of agricultural commodities, medicine, medical devices, or replacement parts and components for medical devices, to Venezuela, or to persons in third countries purchasing specifically for resale to Venezuela, provided that the exportation or reexportation is licensed or otherwise authorized by the Department of Commerce.

OFAC issued a list of **Frequently Asked Questions**, with some questions and interpretations which remain to be clarified. For example, while the E.O. applies to entities fifty percent or more owned by the Government of Venezuela, the E.O. defines "Government of Venezuela" as to include the Central Bank of Venezuela and PDVSA, and any person owned or controlled by, or acting for or on behalf of, the Government of Venezuela. OFAC will need to clarify how to define "controlled by" and "acting on behalf of" the Government of Venezuela.

For details on other sanctions imposed against Venezuelan officials, see Crowell's Client Alerts on the E.O. issued by President Obama in March 2015, and the **Venezuela Sanctions Regulations** issued by OFAC in July 2015.

*For more information, contact: Cari Stinebower, Jeff Snyder, DJ Wolff, J.J. Saulino, Eduardo Mathison, Mariana Pendás*

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**VENEZUELA SUSPENDED FROM SOUTH AMERICAN TRADING BLOC MERCOSUR**

On August 5, the Southern Common Market, Mercosur, suspended Venezuela's membership for violating democratic principles and failing to comply with trade obligations adopted since its incorporation into the bloc in 2012. Mercosur members stated that Venezuela will remain suspended until democratic order and stability is achieved in the country.

Mercosur is the largest free trade area and customs union in South America. Aside from Venezuela, membership includes Argentina, Brazil, Paraguay, and Uruguay, with Bolivia in the process of becoming a full member. Intra-Mercosur trade is tariff-free except for certain sectors. Mercosur also has comprehensive trade agreements with neighboring South American countries such as Chile and Colombia, as well as Free Trade Agreements and other preferential trade agreements with Mexico, Israel, and the Southern African Customs Union, among others. Mercosur also has engaged in longstanding FTA negotiations with the EU.

Mercosur has suffered numerous political and institutional challenges which have significantly damaged the trade bloc's sustainability. In 2012, Mercosur suspended Paraguay's membership for having impeached then president, Fernando Lugo.
Shortly thereafter, Argentina, Uruguay and Brazil made the decision to bypass Paraguay and allow Venezuela to enter the bloc, despite criticism over Paraguay's suspension. Since Venezuela joined, corruption and lack of proper democratic institutions steered the country's growth into economic chaos. And while Paraguay re-entered Mercosur shortly after, internal divisions within the bloc have since then remained. Furthermore, longtime trade disputes between Argentina and Brazil have led to delayed imports and retaliatory barriers.

Officials have stated that Venezuela's suspension will not affect Mercosur's trade and migration policies. Members also have indicated that the suspension would not undermine Mercosur's trade talks with other economies, including Mercosur's agenda toward finalizing trade negotiations with the EU. Regardless, whether Mercosur will be affected by the ousting of Venezuela is uncertain.

For more information, contact: John Brew, Eduardo Mathison

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**ITA/USTR REQUEST FOR COMMENTS ON TRADE AGREEMENTS AND GOVERNMENT PROCUREMENT**

Implementing the President's direction in the Buy American Hire American Executive Order, the Department of Commerce's International Trade Administration and the United States Trade Representative have issued a request for comments from industry on how U.S. government procurement obligations affect U.S. companies' participation in the U.S. and foreign government procurement markets. This request presents a significant opportunity for companies to provide input on how such agreements have positively affected their global supply chains as well as the extent to which the public procurement markets of participating governments are important to U.S. industry and jobs. Unfortunately, the notices provide a very short 30-day period in which to respond (until 11:59 pm EDT on September 18, 2017), particularly given the end of summer timing.

For more information, contact: Alan W.H. Gourley, Adelicia R. Cliffe, M. Yuan Zhou

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**USTR REVIEWING DUTY-FREE TREATMENT OF IMPORTS FROM DEVELOPING COUNTRIES**

In a Federal Register Notice from August 11, the Office of the United States Trade Representative announced it would consider petitions to modify the list of articles that are eligible for duty-free treatment under the Generalized System of Preferences (GSP) program, and to modify the GSP status of certain GSP beneficiary developing countries because of country practices. The following deadlines were announced in the notice:

- **September 12, 2017 at midnight EST**: Deadline for submission of comments, pre-hearing briefs and requests to appear at the September 26-27, 2017, public hearing.
• **September 26-27, 2017:** The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) will convene a public hearing on the GSP country practice review of Bolivia in Rooms 1 and 2, 1724 F Street NW., Washington DC 20508, beginning at 10:00 a.m. The GSP Subcommittee is extending the hearing to September 27th to provide interested parties with an opportunity to submit testimony on all country practice petitions accepted in previous years that continue to be under review.

• **October 17, 2017 at midnight EST:** Deadline for submission of post-hearing briefs.

• **October 17, 2017 at midnight EST:** Deadline for submission of petitions to modify the list of articles eligible for duty-free treatment under the GSP and new petitions to review the GSP status of any beneficiary developing country.

*For more information, contact: John Brew*

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**FORCED LABOR: CBP ISSUES INDUSTRY AND COUNTRY SPECIFIC QUESTIONNAIRES**

U.S. Customs and Border Protection has been running year-long investigations into forced and child labor. The agency publically stated it has been acting on information concerning specific manufacturers/exporters and specific merchandise and was not targeting entire product lines or industries in suspect countries or regions.

However, in practice it has recently come to light that the agency has issued questionnaires to certain industries related to their production in countries named on the Department of Labor’s website as those that use child or forced labor in their production of certain goods.

As of September 30, 2016, the list of goods produced by child labor or forced labor comprises 139 goods from 75 countries. If there is forced labor in any portion of a company’s supply chain, these goods may be excluded from importation into the United States.

Companies should closely examine their supply chains to ensure that goods imported into the U.S. are not mined, produced or manufactured, wholly or in part, with prohibited forms of labor, i.e., slave, convict, forced child, or indentured labor.

*For more information, contact: Frances Hadfield*

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**ENFORCEMENT ACTIONS FROM BIS and OFAC**

*Bureau of Industry and Security (BIS)*

• Export Violations
On August 18, BIS announced a Settlement Agreement with Cryofab, Inc. of New Jersey. On two different occasions in 2012, the company engaged in conduct prohibited by the Export Administration Regulations (EAR). Cryofab exported gas storage containers and related tools and accessories from the U.S. to an Indian entity, the Bhabha Atomic Research Center (BARC), listed on the Entity List. The company was assessed a penalty of $35,000 and agreed to an external audit of its export controls compliance program covering the 12-month period beginning on the date of the order.

- **Alleged Antiboycott Violations**
  - On August 22, BIS announced a Settlement Agreement with Carrier Saudi Services Company Ltd. (CSSC), a controlled-in-fact affiliate of Carrier Corporation, a U.S. firm for four alleged violations of Part 760 of the EAR, Restrictive Trade Practices or Boycotts. The company was charged with two violations of "Refusal to Do Business" and two violations of "Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States". All four violations came as a result of contracts from 2012. CSSC agreed to pay a $12,000 civil penalty.
  - On August 22, BIS announced a Settlement Agreement with CH Robinson Freight Services, Ltd. (CHR) for 17 alleged violations of Part 760 of the EAR. The company was charged with ten violations of "Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons" and seven "Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States". All 17 violations occurred between 2012 and 2015 and were transactions involving the sale and/or transfer of goods or services (including information) from the U.S. to the UAE. CHR agreed to pay a $12,000 civil penalty.

**Office of Foreign Assets Control (OFAC)**

- On August 10, OFAC announced IPSA International Services, Inc. agreed to pay $259,000 to settle its potential civil liability for 72 apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR).
  - IPSA, on 44 occasions, imported Iranian-origin services into the U.S. and on 28 occasions, IPSA engaged in transactions or dealings related to Iranian-origin services by approving and facilitating its foreign subsidiaries' payments to providers of Iranian-origin services.
  - The company did not voluntarily disclose the apparent violations and OFAC determined it to be a non-negligible case. OFAC found at least one of IPSA's senior management knew, or had reason to know, it was dealing in transactions related to Iran; however, the fine was mitigated by, among other things, the company undertaking remedial measures and submitting an investigation report to OFAC without an administrative subpoena. It answered additional questions promptly, and entered into a statute of limitations tolling agreement.
- On August 17, OFAC announced Blue Sky Blue Sea, Inc., doing business as American Export Lines and International Shipping Company (USA), agreed to pay $518,063 to settle potential civil liability for 140 apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR).
  - Between 2010 and 2012, the company appears to have transshipped used and junked cars and parts from the U.S. via Iran to Afghanistan on 140 occasions.
  - The company did not voluntarily disclose the apparent violations and OFAC determined it to be a non-negligible case. OFAC found the company's President and co-owner knew and approved of the
transshipments via Iran; however, the fine was mitigated by, among other things, taking remedial steps before OFAC’s investigation began. It also cooperated, to include agreeing to toll the statute of limitations for 804 days.

- On August 24, OFAC announced COSL Singapore Ltd., an oilfield services company located in Singapore and a subsidiary of China Oilfield Service Limited, agreed to pay $415,350 to settle its potential civil liability for 55 apparent violations of the Iranian Transactions and Sanctions Regulations (ITSR).
  - Between 2011 and 2013, the company, through two subsidiaries, exported or attempted to export 55 orders of oil rig supplies from the U.S. to Singapore and the UAE, then re-exported or attempted to re-export these supplies to four oil rigs in Iranian territorial waters.
  - The company did not voluntarily disclose the apparent violations and OFAC determined it to be a non-negligent case. COSL Singapore's fine was mitigated by, among other things, the institution of an OFAC sanctions compliance program and its display of substantial cooperation, to include entering a tolling agreement with OFAC.

For more information, contact: Jeff Snyder, Edward Goetz

FINCEN’S ACTION AGAINST BTC-E: ANOTHER EFFORT TO BRING LAW AND ORDER TO THE VIRTUAL CURRENCY FRONTIER

On July 26, 2017, the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) assessed a civil money penalty of more than $110 million against BTC-e, a Russian-headquarted, internet-based virtual currency exchanger, and a $12 million penalty against its Russian owner, Alexander Vinnick.

On that same day, the Department of Justice announced a 21-count indictment against Vinnick for money laundering and the operation of an unlicensed money services business (MSB). Vinnick was arrested in Greece the day before. This is the second time FinCEN has pursued enforcement against a virtual currency provider. It also represents the second largest penalty FinCEN ever has levied against an MSB.

For more details, please see Crowell’s Client Alert.

For more information, contact: Carlton Greene, Thomas A. Hanusik, Jenny E. Cieplak, J.J. Saulino, Sarah Bartle

CROWELL WELCOMES

Amanda Simpson will join Crowell's New York office as an Associate and a member of the firm's International Trade Group. Amanda comes to us from a big four accounting firm, where she was a Customs and International Trade Manager. Prior to that, she was an International Trade and Customs Associate at a New York-based law firm for four years. Amanda has a broad range of experience in handling import regulatory matters, including providing advice to clients on how to reduce duties, avoid penalties and navigate U.S. Customs and Border Protection audits, investigations and disclosures.

Amanda received her B.S. from the Fashion Institute of Technology and her J.D. from Hofstra University. Amanda was a New
York City Bar Association Committee on International Trade Member for five years, and is currently a Committee Member on the Bar’s Fashion Law Committee.

We are pleased to welcome Amanda to the International Trade Group and the firm.

CROWELL SPEAKS

John Brew and Melissa Morris were panelists for a Plumbing Manufacturers International webinar on "What to Expect from NAFTA Renegotiations" on September 7. John and Melissa provided an overview of the administration’s objectives for a renegotiated NAFTA and how it may impact plumbing manufacturers, as well as key areas such as trade in goods, procurement, and currency. In addition, they focused on how trade remedies will play into NAFTA, as well as what businesses with operations or trade interests in Mexico and Canada could do now.

On September 7, Jeff Snyder and Jenny Cieplak, joined by IBM’s Vice President for Blockchain Initiatives for Supply Chain Industry Platforms, Stephen J. Rogers, provided a presentation to the Staff of the U.S. International Trade Commission on "Blockchain and International Trade – Selected Issues." Blockchain is emerging as a tool to manage many issues in international trade, including everything from transaction records, payments, contracts, disputes, audit, origin verification, supply chain risk management, and many others. The program included a look at:

- What blockchain, or distributed ledger technology (DLT) is and how it works in the larger context.
- DLT in the supply chain, including how it is being used today and what issues are presented by its adoption in trade and by governments.
- Issues arising from whether and how trade DLT implementations will be viewed from a regulatory agency perspective.

John Brew will be speaking at the American Conference Institute's Annual Forum on Customs and Trade Enforcement, to be held September 26-27 in Washington, DC. He will be interviewing three CBP Center of Excellence and Expertise (CEE) Directors. In addition to a Q&A session with the audience, John will be focusing on:

- How to work effectively with the CEEs...
- An update on account-based processing: How this will lead to a smoother process when working with your CEE.
- How to deal with overlap when your product(s) are covered by multiple CEEs.
- Engagement with other agencies, including the FDA.

Crowell clients or contacts may obtain a 10 percent discount by registering as a guest of Crowell. The code is S10-675-675L18.S.

Chris Monahan will be speaking at the ICPA's Annual Fall Conference and One Day Valuation Seminar in Grapevine, Texas, scheduled for October 23-25. His topic is "Understanding Commodity Jurisdictions (State vs. BIS)."
CROWELL EVENTS

INVESTIGATIONS 201: PROTECTING THE ATTORNEY CLIENT PRIVILEGE IN CROSS-BORDER INVESTIGATIONS

September 26, 2017 • Webinar

Starts: 11:00 AM (EDT)
Ends: 12:00 PM (EDT)

Click here to register for this webinar.

As lawyers, we want to protect our client’s investigation and strategy as confidential. With increasing government pressure to probe into the details of an investigation, how is that accomplished? And how does counsel balance the competing claims, inconsistent laws, and practices of different jurisdictions while maintaining confidentiality? Crowell & Moring's Investigations practice lawyers will discuss preserving privilege during various stages of cross-border investigations. Our presenters will respond to real-time questions taken from our listeners.

Topics of discussion will include:

• The delegation of tasks and sharing of information between in-house and outside counsel and the use of non-lawyer investigators
• Best practices for conducting employee interviews, including the efficacy of Upjohn warnings in global investigations
• Determining the use and distribution of the investigation report

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