

CLIENT ALERT

This Month in International Trade - January 2015

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TOP TRADE DEVELOPMENTS

Cuba: Legislation Introduced in Congress to Lift Embargo, Travel Restrictions

In addition to the release of the [final rules](#) amending the Cuban Assets Control Regulations (CACR) and the Export Administration Regulations (EAR) to implement the changes President Obama announced in December, January saw **new legislation introduced in both the House and Senate seeking an end to the trade embargo and all travel restrictions for U.S. persons to Cuba.**

On January 12, Representative Bobby L. Rush (D-IL) introduced H.R. 274, the [United States-Cuba Normalization Act of 2015](#). Four days later, Representative Charles B. Rangel (D-NY) proposed H.R. 403, the [Free Trade with Cuba Act](#).

The **two bills are almost identical**, with both calling for a **repeal** of the trade embargo, a **removal** of all prohibitions on exports to Cuba under the Export Administration Regulations, the **repeal** of both the Cuban Democracy Act of 1992 and the Cuban Liberty and Solidarity Act of 1996, and the **authorization for common carriers to install and repair telecommunications equipment and facilities in Cuba**.

The **key differences** between the two are that H.R. 274 **extends** nondiscriminatory treatment (normal trade relations) to the products of Cuba, **prohibits** the Secretary of the Treasury from limiting the amount of remittances to Cuba that may be made by any person subject to U.S. jurisdiction and **rescinds any determination by the Secretary of State that Cuba has repeatedly provided support for acts of international terrorism**. H.R. 403 does not contain these provisions.

Similarly, a bipartisan group of 8 Senators (4 Republican/4 Democrat), led by Senator Jeff Flake (R-AZ), introduced **legislation to lift all travel restrictions on U.S. citizens traveling to Cuba**. The bill, the Freedom to Travel to Cuba Act of 2015 (S.299), would repeal laws enacted in 1996 and 2000 on travel. Although the Senators would prefer to see a total end to the trade embargo, ending the travel restrictions is seen as a more manageable short-term goal. Included in this effort would be an end to any restrictions on transactions related to travel. President Obama's Cuban policy changes eased some travel restrictions and transactions, but fully ending the ban requires Congressional approval. A **similar measure** is scheduled to be introduced in the House in the first week of February by Representatives Jim McGovern (D-Mass) and Mark Sanford (R-SC).

Crowell's experienced export control and economic sanctions attorneys will continue to work closely with Commerce, State, and Treasury to understand what is and is not allowed under the revised CACR and EAR, as well as monitor all Cuban-related legislation to keep clients informed and one step ahead of their competitors.

For more information, contact: Cari Stinebower, Chris Monahan, Dj Wolff, Jana del-Cerro, Edward Goetz

Russia: New EU Sanctions Coming, Putin Continues to Test the West

Although no new sanctions were imposed on Russia or separatist leaders in Ukraine in January, rebel attacks on Donetsk and the port city of Mariupol prompted a **special meeting** of the EU's foreign ministers in late January to review the situation. The **result** of that session was three-fold, as the ministers agreed to:

- **Extend** until September 2015 the **restrictive measures** targeting persons and entities for threatening or undermining Ukraine's sovereignty and territorial integrity, which were first adopted in March 2014 and updated as recently as November 2014. **EU sectoral sanctions are scheduled to expire in July and must be reauthorized before then.**
- **Call** upon the High Representative and the European Commission to present within a week a **proposal on additional listings** for decision at the next meeting of the Foreign Affairs Council on February 9, 2015.
- **Clarify** designation criteria for the freezing of funds targeting persons responsible for the misappropriation of Ukrainian State funds.
 - For the purpose of this decision (Council Decision CFSP 2015/143 of 29 January 2015), persons identified as responsible for the misappropriation of Ukrainian State funds include persons subject to investigation by the Ukrainian authorities:

- (a) for the misappropriation of Ukrainian public funds or assets or being an accomplice thereto; or
- (b) for abuse of office as a public office-holder in order to procure an unjustified advantage for him- or herself or for a third party and thereby causing a loss to Ukrainian public funds or assets, or being an accomplice thereto."

Rebels have launched a large-scale offensive across a front from Lugansk in the North to Mariupol in the South, a port on the Sea of Azov. Ukrainian officials are calling on the West once again, not only for military assistance, but also for **high-tech systems and training** to match their **better-armed opponent**. Journalists have reported that the Separatists are in possession of sophisticated equipment including drones and equipment to jam Ukrainian communications.

In Washington last week, Secretary of the Treasury Jack Lew announced the U.S. has "**more tools**" available to **increase pressure on Moscow** for its actions in the Ukraine. Any additional sanctions by the EU would most likely be matched by the U.S., but it is unknown whether **new sanctions would target more individuals and entities, or be additional sector-based measures**.

Finally, President Putin's continued breaches of NATO-member States' airspace have increased tension between Moscow and NATO-member States. The most significant incident occurred on January 29th when two Cold War-era **Russian Tu-95 "Bear" bombers breached** one of the **busiest flight paths in Europe** within **UK airspace**. **The bombers did so with their transponders turned off, making them invisible to air traffic control systems** and only detectable by radar. British fighters were scrambled to intercept them.

Crowell will continue to monitor the situation as it develops and provide clients with important alerts as they happen.

For more information, contact: Salomé Cisnal De Ugarte, Cari Stinebower, Chris Monahan, Dj Wolff, Lorenzo Di Masi, Edward Goetz

Iran: Negotiations Stalemated, Senate Delays New Sanctions, and Iranian Conservatives Push Back on Talks

Nuclear talks in January **stalled** between Iran and the P5+1, despite several opportunities to find common ground through multilateral, bilateral, and expert level negotiations between the two sides. Discussions will restart in early February; however, even the most optimistic observers have begun to **doubt whether a high-level political agreement can be struck by the March 26 deadline**.

Tension between the Obama Administration and the Senate over new sanctions dissipated when Senate Democrats agreed to **delay a full Senate vote on the Nuclear Weapon Free Iran Act of 2015 until after March 26**, abating for now the President's fear that the legislation would cause Iran to walk away from the negotiating table. The bill would introduce increased sanctions if an accord is not reached by the June 30th deadline to complete all the technical details of an agreement, or if Iran does not comply with the terms of any deal it agrees to. Senator Robert Menendez (D-NJ) sent President Barack Obama a letter announcing the concession, but added that he and other Senators "remain deeply skeptical that Iran is committed to making the concessions required to demonstrate to the world that its nuclear program is exclusively peaceful by March 26."

President Hassan Rouhani of Iran is facing difficulties of his own with conservative members of Iran's parliament who are working on a resolution that would not allow the Iranian negotiators to agree to production limits on nuclear fuel. Additionally, **foreign minister Mohammad Javad Zarif** is under intense scrutiny from hardliners in Tehran after images of a fifteen minute walk Zarif took with U.S. Secretary of State John Kerry during talks in Switzerland appeared in Iran. Twenty-one members of parliament signed a petition calling for the foreign minister to provide an explanation.

Crowell will continue to follow negotiations closely and alert clients of any significant developments.

For more information, contact: Salomé Cisnal De Ugarte, Cari Stinebower, Chris Monahan, Dj Wolff, Lorenzo Di Masi, Edward Goetz

CBP Transitions Post-Release Trade Work at 3 Centers of Excellence and Expertise (CEE)

On January 28, the CBP Centers of Excellence and Expertise (CEE) for **Electronics; Petroleum, Natural Gas & Minerals; and Pharmaceuticals, Health & Chemicals**, transitioned from a test phase to full operational status.

Moving beyond the test program allows CBP to fully implement the Centers by **transitioning all post-release trade work** within their respective industries. CBP has designated a total of 10 CEEs, each covering an entire industry spectrum and managed out of the corresponding CBP field office.

Over the next six months, the CEEs will execute an incremental expansion in three stages. Each stage will consist of assuming trade functionality from key ports of entry while also bringing on the trade staff in a full time capacity at those locations to support the transition of work.

The 10 CEEs and their locations are:

- Agriculture & Prepared Products, Miami
- Apparel, Footwear & Textiles, San Francisco
- Automotive & Aerospace; Detroit
- Base Metals, Chicago
- Consumer Products & Mass Merchandising, Atlanta
- Electronics, Los Angeles
- Industrial & Manufacturing Materials, Buffalo
- Machinery, Laredo
- Petroleum, Natural Gas & Minerals, Houston
- Pharmaceuticals, Health & Chemicals, New York

For more information, contact: John Brew, Jini Koh, Edward Goetz

Mexico Asks Commerce for Authorization to Swap Heavy Crude for U.S. Light Crude

Mexico's state-owned oil company, Petroleos Mexicanos (Pemex), announced it is negotiating with the Department of Commerce's Bureau of Industry and Security (BIS) for authorization to swap up to 100,000 barrels per day (bpd) of Mexican dark crude for U.S. light crude oil and condensates. Pemex first submitted the proposal to BIS last year, following Mexico's adoption of energy reforms in 2013 that allowed it to import crude from other countries. **If authorized, swapping may provide a way for U.S. producers to export crude even absent statutory or regulatory changes to the decades-old U.S. ban on crude exports.**

The Export Administration Regulations (EAR) generally authorize BIS to license the export of crude on a case-by-case basis provided that the exports benefit the U.S.'s national interests and are consistent with the Energy Policy and Conservation Act (EPCA). The EAR provide the following guidance on the types of transactions that meet these criteria, including those for which the crude exports will be "part of an overall transaction":

1. That will result directly in the import into the United States of an equal or greater quantity and an equal or better quality of crude oil, or quantity or quality of petroleum products;
2. That will take place under contracts that can be terminated if the petroleum supplies in the United States are interrupted or seriously threatened; and
3. In which the applicant can demonstrate that, for compelling economic or technical reasons that are beyond the control of the applicant, the crude cannot be reasonably marketed in the United States.

In the case of the proposed Pemex swap, the deal would benefit U.S. Gulf Coast refineries that have invested heavily to retrofit their facilities for processing heavier crude, and are already importing significant quantities of the heavier crude from Mexico and other countries. Mexico currently imports close to 370,000 bpd of gasoline and 120,000 bpd of diesel, mostly from the United States, to meet Mexico's domestic demand.

If approved, the swap would allow some U.S. producers to export to Mexico under the terms of the authorization. **It could also lay the groundwork for future similar applications to allow U.S. producers to export their excess light sweet crude,** although industry analysts point out that economic conditions, including the relative prices of crude, and geographic limitations may make such swaps less attractive to domestic producers.

Last month, the Department of Commerce clarified through an FAQ on the agency's website that lightly processed lease condensate is not subject to the export ban.

For more information, contact: Jennifer Waters, Jana del-Cerro, Edward Goetz

Canadian Border Services Agency Modernizes its Policy for Transfer Pricing Adjustments

As a result of a court decision last March, the Canadian Border Services Agency (CBSA) has changed its policy regarding retroactive transfer pricing adjustments.

Specifically, the **CBSA's new policy acknowledges that downward price adjustments** made pursuant to an agreement that was in place at the time of importation are **appropriate post-entry reductions in customs value**. The policy requires importers to file corrections or disclose those adjustments to CBSA, regardless of any revenue impact.

The notable significance of the change in policy is that now importers have the **opportunity to obtain refunds of customs duties** previously remitted when the downward adjustment also results in a reduction in customs duties.

CBSA will further clarify its new policy in a D-memo, anticipated to be released in the next few months. The change in policy represents a step forward in modernizing the interplay between tax and customs value, which often presents administrative challenges for multinational corporations.

For more information, contact: John Brew, Jini Koh

Proposed Rules for 2015: Customs Brokers, Prior Disclosures, Air Cargo Advance Screening and Due Process Procedures are Priority

Homeland Security and Treasury released their semiannual regulatory agendas, laying out a number of **significant proposed rules affecting international trade for 2015**. Some highlights with approximate times are:

June 2015

- CBP intends to publish an advance notice of proposed rulemaking on **continuing education requirements for licensed customs brokers**.
- **CBP will propose a rule which will incentivize participation in the prior disclosure program** with the goal of improving the effectiveness of revenue collection.

August 2015

- CBP plans to create a proposed rule to enact the **trial Air Cargo Advance Screening program as a permanent regulatory program**.
- CBP will propose a final rule regarding the **due process procedures that it must comply with** before suspending or revoking entry filer codes, immediate delivery privileges or remote location filing privileges.

The agenda also discussed 'Rules in Progress.' Important highlights are:

- A proposed rule to enact specific changes already approved by the U.S., Canada, and Mexico, to the **NAFTA preference rules of origin**.
- A final rule to complement and reinforce CBP's plan to **centralize the continuous bond program** in the CBP Revenue Division.
- Several final rules **modifying previous customs regulations** in order to adhere to the U.S.-Singapore and U.S.-Australia free trade agreements.

If you have any questions regarding 2015 regulatory changes, or would like support advocating your company's position on an issue, please contact one of Crowell's experienced Customs attorneys.

For more information, contact: John Brew, Alex Schaeffer, Jini Koh, Nick DeLong

Is your Company Prepared for CBP's Increased Use of Audit Surveys?

CBP's Office of Regulatory Audit recently announced its intention to **expand the use of audit surveys in order to more efficiently monitor importers**. These surveys have been historically limited to intellectual property rights enforcement, but will now be **expanded to all areas of import controls**.

Audit surveys are used to gauge importer conduct through on-site risk assessments. Typically they involve a request for additional information in the form of a questionnaire, a presentation on the importer's compliance responsibilities, and a walk through of sample entries. The walk through is conducted to give CBP a thorough understanding of the trade compliance procedures and controls set in place by the importer. Survey results allow CBP to differentiate between **high and low risk companies and inform the agency if further action (full extensive audits) is warranted**.

Currently CBP only has a handful of audit teams conducting surveys, but it plans to **increase the volume of surveys throughout 2015**.

Please contact Crowell with any questions you might have on how to strengthen your compliance program in order to stay "low risk" and avoid larger audits. Crowell's Customs attorneys have years of experience building strong compliance programs, making audits easier to handle.

For more information, contact: John Brew, Alex Schaefer, Jini Koh, Nick DeLong

Strict EU Anti-Money Laundering Rules on the Horizon: 'Beneficial' Corporate Owners to be Publicly Registered

The fourth directive to deal with money laundering in the EU was approved at the committee-level of the EU Parliament on January 27 in a deal involving Members of Parliament (MEP) and the Council of the European Union.

This fourth anti-money laundering directive (AMLD) will provide **increased transparency to the ultimate 'beneficial' ownership of corporate and other legal entities, including trusts**, by mandating the disclosure of such ownership information in a central registry in each EU country. A "beneficial" owner actually owns or controls a company and its activities and ultimately authorizes transactions, whether such ownership is exercised directly or by a proxy.

These registers will be open to not only the authorities and "obliged entities" (i.e., banks conducting customer due diligence), but other people who have a "legitimate interest" in the information, such as journalists. This is the first time the EU has mandated registries of this type.

It also clarifies the rules on "**politically-exposed persons**." These include people at a higher than usual risk of corruption due to the political positions they hold, as well as their family members. Under the directive, Financial Institutions (FI) should put additional measures in place to monitor these high-risk business relationships.

Separately, MEPs also approved a deal on a draft "transfers of funds" regulation, which aims to improve the traceability of payers and payees and their assets.

The next step for both measures will be endorsement by the full Parliament and the EU Council of Ministers (most likely in March or April). If endorsed, member states will have two years to implement the new rule.

Crowell's experienced financial services attorneys in Brussels and Washington will continue to monitor the progress of these proposals and alert clients of new developments.

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

Trade Agreements Update

The New Year promises a significant number of developments in U.S. trade policy, both with respect to the United States' negotiation of agreements with other countries, as well as through efforts in the U.S. Congress to facilitate passage of such agreements. The following is an overview of the key trade policy priorities as to which the Administration hopes to make progress early in 2015.

Trade Promotion Authority (TPA): The Administration and Congressional Republicans are working to pass Trade Promotion Authority (TPA) legislation, which would allow the Executive Branch to submit trade agreements to Congress for a simple up-or-down vote, without the possibility of amendments. The Administration believes that TPA is critical to achieve progress in negotiations with other countries, which are reluctant to put their best offers on the table in the absence of assurances that agreements will not be unpicked by Congress. On January 27, Senate Finance Committee Chairman Orrin Hatch (R-UT) said that he intends, likely with the support of Ranking Member Ron Wyden (D-OR) and House Ways and Means Committee Chairman Paul Ryan (R-WI), to introduce legislation to renew TPA in February. The White House, meanwhile, has deployed the entire Cabinet to make the case for TPA to individual Members of Congress. To be sure, TPA faces formidable challenges on Capitol Hill, with Democrats potentially demanding that TPA be conditioned on the inclusion in U.S. trade agreements of provisions addressing currency manipulation, labor and environmental protection, and investor-State dispute settlement, among other topics. **Expect to see a bare-knuckled legislative fight over the contours of a TPA bill, with narrow passage by the end of the first half of the year and the likely inclusion of related trade programs, including the renewal of Trade Adjustment Assistance (TAA), the Generalized System of Preferences (GSP) program, and the African Growth and Opportunity Act (AGOA).**

Trans-Pacific Partnership (TPP): U.S. negotiations with 11 Pacific Rim economies – including Canada, Mexico, Japan, and Vietnam – toward a Trans-Pacific Partnership (TPP) are the key reason the Administration believes it is important to secure TPA. Japan is unwilling to open its agriculture market, Vietnam refuses to discipline its state-owned enterprises, and numerous countries repel patent demands from the U.S. pharmaceutical industry on the grounds that the United States cannot assure ratification of an agreement. Nevertheless, the United States is working to wrap up negotiations by the middle of March, an

objective that may be as unrealistic as it is ambitious. **There are still numerous outstanding issues in the areas of intellectual property rights, rules of origin, financial services, investment, and agricultural market access that will need to be overcome before the possibility of conclusion comes into view.**

Transatlantic Trade and Investment Partnership (T-TIP): Negotiations between the European Union and United States on a Transatlantic Trade and Investment Partnership (T-TIP) will turn two this summer, and to outside observers that birthday will be marked by a woeful, but unsurprising, lack of progress. **Despite that appearance, T-TIP negotiators have actually made significant progress in defining the landscape and "modalities" of what will be a truly revolutionary effort not just to dismantle tariff barriers but to drastically reduce the costs that companies bear as a result of having to comply with two different regulatory systems.** The EU has a new Commission, and Trade Commissioner Cecilia Malmström appears committed to advancing the talks. Of course, European concerns regarding the implications of a T-TIP for its regulatory discretion concerning food safety, data protection, and other public interest areas may continue to affect the discussions. T-TIP negotiators will convene again for negotiations during the week of February 2 in Brussels for the first time under the new Commission.

For more information, contact: Josh Kallmer; Dj Wolff

U.S. Sugar Producers Challenge U.S.-Mexico Suspension Agreements

U.S. sugar producers [Imperial Sugar Co.](#) and [AmCane Sugar LLC](#) are challenging the two **agreements made last month to settle the government's anti-dumping (AD) and countervailing duty (CVD) cases over Mexican sugar. The company's claim that the deals do not "eliminate completely" the injurious effect of the dumped and subsidized Mexican imports as required by law.**

Both filed petitions with the U.S. International Trade Commission (ITC), the first time that suspension agreements have been petitioned for review since the provision became available in 1979. The next step is for the ITC to conduct a 75-day investigation.

Commerce [released](#) a memorandum on January 26 stating it will not charge importers of Mexican sugar with duties while the ITC reviews the challenge.

In addition to petitioning the ITC, both companies also **filed requests with the Department of Commerce to resume the trade remedy investigations which were closed in December.** While the two were not parties to the original petitions challenging allegedly dumped and subsidized Mexican sugar, [Imperial](#) and [AmCane](#) cite themselves as interested parties in the dispute, which are allowed to request continuations under the law.

However, the American Sugar Coalition, the original petitioner to bring AD/CVD challenges against imports of Mexican sugar, sent a [memorandum](#) to Commerce saying that Imperial and AmCane **lack standing under trade remedy laws to revive the challenges** because they only took part in the agency's process for creating the suspension agreements, a separate statutory process from the cases themselves.

Calling for resuming the investigations is seen as a backstop to the ITC petitions because either way the ITC rules, the requests will restart the enquiries. So, even if the ITC determines the suspension agreements are providing sufficient relief to U.S. sugar producers, the Commerce requests from Imperial and AmCane will ensure that the reviews continue regardless.

Commerce will only restart the probes if it is determined that the two companies have standing to seek a continuance.

For more information, contact: John Brew, Jini Koh, Edward Goetz

Domestic Paper Companies Seek Additional Duty on Office Paper from 5 Countries

Four U.S. companies and the United Steelworkers (USW) union filed petitions with the Department of Commerce and the U.S. International Trade Commission on January 28 seeking a **significantly increased duty on imports of office paper** from China, Indonesia, Brazil, Portugal, and Australia. The petitions allege the paper has been sold at unfairly low prices and benefited from illegal government subsidies.

USW International President Leo W. Gerard noted that **eight mills producing uncoated paper have closed** since 2011 and that the U.S. Department of Labor has certified workers at seven of the mills as eligible to receive **Trade Adjustment Assistance** after determining that imports 'contributed significantly' to the mill closures.

The anti-dumping (AD) and countervailing duty (CVD) petitions claim that paper imports from the five countries increased by 44 percent between 2011 and 2013, and continued to increase throughout 2014. The petitioners claim this same period saw domestic production of paper fall by 8 percent and is still dropping today.

All five countries are facing allegations of dumping, while China and Indonesia are also alleged to have received government subsidies.

China and Australia are facing the steepest dumping claims, with alleged margins ranging from 264.27 percent to 271.88 percent and 33.7 percent to 262 percent, respectively.

The next step will be the ITC making a preliminary determination that the domestic paper industry is being threatened with injury by the imports. This finding is due in March. At that point, Commerce will launch its own investigation to determine the appropriate duty margins on the imports, which will be implemented only if the ITC upholds its injury findings in its final ruling.

For more information, contact: Dan Cannistra, Alex Schaefer, Jini Koh, Edward Goetz

Changes to Harmonized System (HS) Nomenclature Published; Effective Jan. 1, 2017

The World Customs Organization (WCO) published the **accepted amendments** to the **Harmonized System (HS) Nomenclature** that will enter into force on **January 1, 2017**. It includes **233 sets of amendments** to the agricultural, chemical, wood, textile, base metal, machinery, and transport sectors.

Environmental and social issues of global concern were the major feature of the HS 2017 amendments. For example, the amendment for forestry products is aimed at one main area: enhancement of the coverage of wood species in order to get a

better picture of trade patterns, including endangered species. Also, the update aims at detailed information for several categories of products that are used as antimalarial commodities.

For more information, contact: John Brew, Edward Goetz

AGENCY ENFORCEMENT ACTIONS

U.S. Customs and Border Protection (CBP)

Two men pled guilty to charges related to a **scheme to avoid a 305 percent anti-dumping duty on Chinese magnesium powder** that was unknowingly used by a U.S. military contractor to make \$42 million worth of aircraft flares. Gregory Magness, president of a domestic company named Superior Metal Powders Inc., pled guilty to conspiracy to smuggle and conspiracy to commit money laundering, while his son Justin, the company's vice-president, admitted to aiding and abetting by giving a false document to Customs agents.

- Superior sourced the powder from another firm, the International Technology Group Inc., who in turn imported it from China. Magness admitted he had ordered the president of the sourcing firm to **mix the pure powder with chunks of aluminum** and falsely label it as magnesium reagent, which had only a 5 percent duty. This saved the company \$6.2 million in duties, according to prosecutors.

The Court of International Trade sided with CBP on the matter of a Louisiana corporation charged with **transacting customs business without a broker's license**, fining the company \$10,000 plus post-judgment interest and costs, including the fee for service of the summons and complaint. The court also found that CBP complied with statutory provisions requiring it to issue a pre-penalty notice giving the company 30 days to respond before imposing a monetary penalty. The company allegedly ignored four separate bills for payment of the penalty issued by CBP.

Bureau of Industry and Security (BIS)

B&H Foto & Electronics Corporation of New York entered into a Settlement Agreement with BIS after it was charged with **exporting optical sighting devices to various countries on 50 occasions without the required license**. The company agreed to pay a civil penalty of \$275,000.

Export privileges for Mario Obdulio Padilla **were revoked** for a period of 10 years. Padilla was convicted of violating the Arms Export Control Act in 2012 for attempting to export defense articles from the United States to Honduras without having first obtained a license or written approval from the U.S. Department of State.

Infinova Corporation, a security surveillance systems manufacturer located in New Jersey, entered into a Settlement Agreement with BIS after it was charged with **violating two anti-boycott statutes**. The charges concerned a series of transactions from September 2009 to June 2011 with a company in the United Arab Emirates. The company agreed to pay a civil penalty of \$12,800.

BIS added fourteen (14) persons, removed one person, and updated the addresses of other persons listed on the **Unverified List (UVL)**. Persons are added to the UVL on the basis that BIS cannot verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control.

Securities and Exchange Commission (SEC)

The Securities and Exchange Commission (SEC) and the PBSJ Corporation entered into a deferred prosecution agreement (DPA) after a former officer at the firm was charged with violating the Foreign Corrupt Practices Act (FCPA) by offering and authorizing bribes and employment to foreign officials to secure Qatari government contracts. The DPA defers the charges for a period of two years and requires the company to comply with certain undertakings. PBSJ must also pay \$3.4 million in financial remedies as part of the agreement. PBSJ is now known as The Atkins North America Holdings Corporation and no longer offers public stock in the U.S.

Financial Crimes Enforcement Network (FinCEN)

The Financial Crimes Enforcement Network (FinCEN), working closely with the SEC, assessed a \$20 million civil money penalty against Oppenheimer & Co., Inc., for willfully violating the Bank Secrecy Act (BSA). Oppenheimer, a securities broker-dealer in New York, admitted that it **failed to establish and implement an adequate anti-money laundering program, failed to file suspicious activity reports, failed to conduct adequate (and enhanced) due diligence on a foreign correspondent account, and failed to comply with requirements under Section 311 of the USA PATRIOT Act**. This penalty was the third for Oppenheimer. Prior fines were assessed in 2005 and 2013 for its inadequate anti-money laundering (AML) program.

Consumer Product Safety Commission (CPSC)

Gerber Legendary Blades, a division of Fiskars Brands Inc., of Madison, Wis., agreed to pay a \$2.6 million civil penalty and abide by a permanent injunction. The government charged that Fiskars **knowingly failed to report to CPSC immediately, as required by federal law, a defect and an unreasonable risk of serious injury** involving the Gerber Gator Combo Axe.

For more information, contact: Edward Goetz

OTHER AGENCY ACTIONS

Office of Foreign Assets Control (OFAC)

The President signed Executive Order (E.O.) 13687 on January 2, 2015 **Imposing Additional Sanctions With Respect To North Korea** due to its "provocative, destabilizing, and repressive actions and policies...including its destructive, coercive cyber-related actions during November and December 2014. "The E.O. expanded the designation criteria and imposed sanctions on several additional persons in North Korea.

Bureau of Industry and Security (BIS)

The Department of Commerce released its semiannual regulatory change update, providing a glimpse into **possible rule changes** affecting International Trade in 2015.

BIS amended the EAR to further implement the bilateral understanding between the United States and India announced by President Obama and India's Prime Minister Singh on November 8, 2010. Specifically, in this rule, BIS **removed license requirements** for certain items controlled for **crime control and regional stability** reasons to India.

BIS amended the EAR to impose additional sanctions that implement U.S. policy toward Russia. This rule imposes a **license requirement** for the export/re-export to the Crimea region of Ukraine, and the transfer within the Crimea region of Ukraine, of all items subject to the EAR, other than food and medicine designated as EAR99. It establishes a **presumption of denial** for all such exports/re-exports to the Crimea region of Ukraine and transfers within the Crimea region of Ukraine, except with respect to items authorized under the Department of the Treasury's Office of Foreign Assets Control (OFAC) General License No. 4, relating to authorized transactions involving the export of agricultural commodities, medicine, or medical supplies, which BIS will review on a case-by-case basis.

For more information, contact: Edward Goetz

CROWELL & MORING SPEAKS

JOIN US FOR "This Year in Trade – What's Ahead in 2015?"

This free webinar will be held on Tuesday, February 10, 2015 from 12:00 – 1:30 PM ET.

As globalization pushes forward, the potential rewards – from trade, from expansion, from partnerships – have multiplied along with the risks. As a result, companies doing business nationally and internationally are facing a variety of issues affecting their bottom line. Should you expect anything different in 2015?

Our Crowell & Moring team will discuss predictions for the coming year.

Topics will include likely trends and issues in the U.S. and EU on:

- Export controls
- Sanctions
- Anti-money laundering
- Import litigation
- Anticorruption (FCPA)
- Free trade agreements (TTIP/TPP)

Presenters include members of our international trade team based in Washington, D.C. and Brussels and we hope you can join us for this webinar.

John Brew was a panelist at the Sports and Fitness Industry Association's (SFIA) Litigation and Risk Summit Management Summit on February 2 in Las Vegas, NV. His panel's subject was examining "Border Crossing Issues for Products."

Jonathan (Josh) Kallmer will be speaking at the International Sweetener Colloquium in Orlando, Florida on February 10. His topic is "Perspectives on the Trans-Pacific Partnership (TPP) & Transatlantic Trade and Investment Partnership (T-TIP) Agreements."

J.J. Saulino will be speaking on "Burdens and Standards of Proof for Corruption" at the Ninth Annual Investment Treaty Arbitration Conference sponsored by Juris in Washington, D.C. on February 26, 2015.

SAVE THE DATE! This year's International Compliance Professionals (ICPA) Association Annual Conference will be held in Fort Worth, Texas from March 15 – 19, 2015. Crowell & Moring will be hosting an event on Monday, March 16, which is open to Crowell & Moring clients and friends. Please contact John Brew at jbrew@crowell.com - (202) 624-2760 if you would like to attend.

Cari Stinebower and **Chris Monahan** will be presenting at the annual Spring Meeting of the American Bar Association (ABA) Business Law Section in San Francisco on April 16. The topic will be an update and overview of Export Controls and Economic Sanctions for corporate attorneys.

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

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