



EIB World Trade Headlines

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The 2012 GINA Award Nominees

The following list of individuals have been nominated for the GINA award in recognition of their outstanding contribution to export compliance ITAR, EAR or both at their company. These individuals push forth to build robust export compliance programs, some with the support of their organization and some without the necessary support. We congratulate their persistence and steadfast commitment to U.S. National Security.

- **Geraldine St. Jean, Coghlin Companies, Columbia Tech, MA*
- **Richard Schulman, Coghlin Companies, Columbia Tech, MA*
- **Michele Lehtinen, Bruker Detection, MA*
- **Patrick Kelly, General Kinetics (Active Shock), NH*
- **Susan Zilaro, Ulvac Technologies, MA*
- **Diane Hanley, Ulvac Technologies, MA*
- **Stephanie Wiley, Senior Flexonics, TX*
- **Rick Cote, Senior Flexonics Wahlco, ME*
- **Naomi Kyle, Senior Aerospace Damar, WA*
- **Doug Nelson, Senior Ketema, CA*
- **John Dugger, Synchronous Aerospace Group, Helicomb International, OK*
- **Laurie Trimmer, Munters Corporation, MA*
- **Carol Adams, Enviro Systems, Inc., OK*

(Continued below)

NEWSLETTER NOTES

*GINA AWARD NOMINEES
2012

* State Police Seize \$684,000
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Microsoft and Other Electronics

* Treasury Issues FR Notice
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*International Chamber of
Commerce Posts New Rules
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January 1, 2013

*CBP Bulletin 11/7/12 -
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Valve Cable Supports

*OSHA To Meet on Global
Harmonization of Chemical
Labeling

***MAKE SURE YOU
DISPOSE PROPERLY!**

*WTO Announces New
Interactive Trade Data Tool

*U.S. Posts Information on
Plans for Trade Facilitation
Agreement with ASEAN

The 2012 GINA Award Corporate Nominees (cont'd)

The following list of companies have been nominated for the GINA award in recognition of their outstanding and robust compliance programs in export compliance ITAR, EAR or both. We congratulate their persistence and steadfast commitment to U.S. National Security.

**Senior Aerospace Metalbellows, Sharon, MA*

**Ulvac Technologies, Methuen, MA*

State Police Seize \$684,000 in Alleged Counterfeit Apple, Microsoft and Other Electronics

Mark Lin is accused of warehousing \$480,000 in counterfeit electronics components.

Suburban News

on November 29, 2012 at 1:44 PM, updated
November 29, 2012 at 2:14 PM

A Roselle Park man faces charges that he warehoused \$684,620 in counterfeit electronics components that were sold as components made by Apple, Microsoft, Sony, and other legitimate companies.

State Police Detectives from the State Police Cargo Theft Unit arrested Mark Lin, 34, of Roselle Park yesterday, Nov. 28, and said they recovered more than 8,000 counterfeited electronics components during the execution of a search warrant at a warehouse on West Westfield Avenue rented by MuchBuy, Inc.

Lin is the owner of MuchBuy, Inc. according to State Police. Police gave the following account.

In September, Apple, Inc. notified State Police that counterfeit Apple product components were being sold illegally from bodegas in Union City and on the website www.muchbuy.com.

During the course of the investigation, detectives made purchases of counterfeit electronic components being sold as legitimate Apple products.

As a result of the investigation, Troopers and Union City Police detectives searched the West Westfield Avenue warehouse and seized counterfeit electronic components falsely bearing the trademarks of Apple, Dell, Microsoft, Sony, Blackberry, and HTC.

The owner of MuchBuy Inc, Mark Lin, 34, of Roselle Park, was arrested yesterday at the warehouse and charged with Possession of Trademark Counterfeiting Merchandise. He was released pending a court appearance.

A company named Allegiance Protection identified the counterfeit Apple products. Representatives from Dell, Microsoft, Sony, Blackberry and HTC will also identify the counterfeit products bearing their trademarks. Lin was charged with possession of trademark counterfeiting merchandise and released pending a court appearance.

The investigation is being prosecuted by the New Jersey Division of Criminal Justice, police said.



Treasury Issues FR Notice on Countries Requiring Boycott

A current list of countries, which require or may require participation in, or cooperation with, an international boycott as defined by the Internal Revenue Code has been released by the Treasury Department (TD). The list includes Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, United Arab Emirates and Yemen.

Firm to Pay Fine for Antiboycott Violations

Climax Molybdenum Marketing Co. will pay \$9,000 to settle Bureau of Industry and Security (BIS) charges that it violated antiboycott provisions of the Export Administration Regulations (EAR). BIS reported Climax, doing business with a Kuwaiti company in early 2008, failed to report two requests to engage in a foreign boycott in violation of Section 760.5 of the EAR, and then furnished information about its relationships with boycotted countries or blacklisted persons in violation of Section 760.2(d) of the EAR.

Specifically, Climax did not report a requirement that the carrying vessel be allowed to enter Kuwaiti ports, and certified that its carrying vessel met the requirement. BIS notes, if Climax does not pay the penalty within 30 days of the order, interest will accrue and BIS will suspend Climax's export privileges for one year. Climax did not admit its guilt in the settlement agreement. BIS notice: http://beta-efoia.bis.doc.gov/index.php/component/docman/doc_view/812-a729?Itemid

Ocean Port Labor Update

- Talks with LA/LB clerks break down, disruption 'likely'
- USMX: ILA needs to get 'serious' in contract talks
- SEIU workers disrupt Oakland

ITA Posts Third Edition of Guide to Trade Financing for Exporters

The International Trade Administration (ITA) recently released the third edition of its "Trade Finance Guide: A Quick Reference for U.S. Exporters." ITA advises this guide was created for small and medium-sized (SME) businesses. The guide has been distributed as a self-learning tool to exporters, as a counseling tool to financial institution professionals, and as an educational tool for college professors teaching international business. The third edition includes a new chapter on consignment and government-backed agricultural export financing.

International Chamber of Commerce Posts New Rules on Forfaiting -Effective January 1, 2013-

The International Chamber of Commerce (ICC) recently set new uniform rules on forfaiting to govern the international forfaiting market estimated at more than US\$300 billion annually. As reported, forfaiting is a financial transaction designed to aid trade finance. It involves buying receivables from exporters. The forfaiter assumes the risks involved in the receivables in return for a margin on the deal.

Effective 01/01/13, the new ICC forfaiting rules will provide a set of rules for the sale of instruments used for financing trade; which include bills of exchange, promissory notes, documentary credits and invoice purchases. The new rules are a result of a three and a half-year project by ICC and the International Forfaiting Association (IFA). These rules were adopted during the November meeting of the ICC Banking Commission in Mexico City.

ICC press release:

<http://www.iccwbo.org/News/Articles/2012/ICC-unveils-new-rules-for-forfaiting/>

EU Announces Settlement of Banana Dispute

The European Union recently issued the following trade-related releases:

*The EU and 11 Latin American countries signed a Mutually Agreed Solution through which they agree to end eight pending banana dispute settlement proceedings. The signature follows the certification by the WTO of reductions in EU banana tariffs.

EU press release:

<http://trade.ec.europa.eu/doclib/press/index.cfm?id=843>

Russia PNTR Moving in Congress with Administration Support

The House Rules Committee has given its approval for a closed vote on Russia's Permanent Normal Trade Relations (PNTR), thus preventing the addition of amendments that could further slow the process. As reported, the bill HR-6156 would repeal the Jackson-Vanik amendment, which limits U.S. trade with communist countries. The bill being considered includes the so-called Magnitsky rule, which calls for repercussions for Russian leaders thought to be involved in the death of a Russian lawyer, Sergei Magnitsky.

The Magnitsky language was a sticking point for several lawmakers involved with the PNTR bill. A vote on the legislation is expected this week. Meanwhile, the Office of Management and Budget (OMB) noted the Obama Administration strongly supports the bill. The U.S. Chamber of Commerce urged swift passage of the bill to establish permanent normal trade relations (PNTR) with Russia.

OMB statement:

http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saphr6156r_20121113.pdf

HR-6156 text:

<http://docs.house.gov/billssthisweek/20121112/CPRT-12-HPRT-RU00-HR6156a.pdf>

Press release:

<http://www.rules.house.gov/Legislation/legislationDetails.aspx?NewsID=960>

Justice and SEC Posts Guide on FCPA Compliance

A guide to the Foreign Corrupt Practices Act (FCPA) has been released by the Securities and Exchange Commission (SEC), and the Department of Justice (DOJ). According to the SEC, the resource aims to provide businesses and individuals with information to help them abide by the law, detect and prevent FCPA violations, and implement effective compliance programs.

The guide, entitled "A Resource Guide to the U.S. Foreign Corrupt Practices Act," provides a detailed analysis of the FCPA, and closely examines the SEC and DOJ approach to FCPA enforcement.

SEC press release

<http://www.sec.gov/news/press/2012/2012-225.htm>

FCPA Guide

<http://www.sec.gov/spotlight/fcpa/fcpa-resource-guide.pdf>



CBP Bulletin 11/7/12 - Bearings, Kimberly Diamonds, Screwdrivers, Valve Cable Supports

U.S. Customs and Border Protection (CBP) posted CBP Bulletin (Vol. 46, No. 46); CBP is:

- proposing to modify a ruling on the classification of bearings;
- proposing to modify a ruling on the classification of tumbled diamonds;
- revoking a ruling on the classification of screwdrivers; and
- revoking a ruling on the classification of valve cable supports.

This notice covers any rulings on this merchandise, which may exist but have not been specifically identified. CBP cautions that an importer's failure to advise CBP of such rulings, decisions, or substantially identical transactions may raise issues of reasonable care on the part of the importer or its agent.

Bearings and Housings from Japan - Bearings and housings, separately or individually, from Japan. The pivot bearing is comprised of steel balls and a sapphire plate that retains the balls. The housing is a manufacture of brass designed to incorporate the pivot bearing. All the articles are for use in aircraft instrumentation.

CBP previously classified the pivot bearings based on the inclusion of a sapphire plate. CBP now finds that pivot bearings have their own classification. CBP notes the housings were properly classified previously. The combined pivot bearings and housing were previously classified based on the sapphire plate, which CBP not finds shouldn't preclude classification elsewhere,

Old HTS/Rate: Housings alone: 8483.30.8020, 4.5%. Pivot bearing and the pivot bearing and housing combined: 7116.20.4000, 10.5%.

New HTS/Rate: Pivot bearings alone: 8482.10.5068, 9%. Housings alone: 8483.30.8020, 4.5%. Pivot bearings and housings: 8483.20.8040, 4.5%.

(Continued above)

New Ruling: HQ H088396(10/09/12), modifies NY N070076 (2009)

Jewelry Set with Tumbled Diamonds from Zambia - jewelry set with tumbled diamonds from Zambia consisting of silver, gold, or copper. Each piece of jewelry was said to be valued at over \$40, but a carat weight of the tumbled diamonds was not provided. The tumbled diamond jewelry set would be classified in subheading 7113.11.50 (5%) when set in silver; 7113.19.50 (5.5%) when set in gold; and 7116.20.15 (6.5%) when set in copper.

CBP previously found the subject jewelry will not be allowed into the U.S. because tumbled diamonds are considered rough and Zambia is not a member of the KPCS. CBP advised that a tumbled diamond is where the surface has been rendered glossy and shiny by chemical treatment (polishing) and that tumbled diamonds are not considered "worked" but still in their "rough" state.

Previously: Tumbled diamonds are considered rough, subject to Kimberley Process Certification Scheme (KPCS) requirements and not allowed to enter the U.S.

Now: Tumbled diamonds are not rough, not subject to KPCS requirements and allowed to enter the U.S.

New Rulings: HQ H173035 (dated 10/09/12), modifies NY N018792 (2007)

Screwdrivers with Interchangeable Bits - Two styles of screwdrivers with interchangeable bits. The 1st screwdriver is a 6-in-one Supergrip Screwdriver with six attached bits. The screwdriver has a plastic handle with a 2.5 inch black grip. The shank is made of carbon steel. There are six bits made of chrome vanadium steel that measure 1 inch in length and are housed on the screwdriver. The screwdriver and bits are sold as a single unit. The 2nd screwdriver is an interchangeable tool consisting of six bits (two flat head screwdriver bits, two Phillips head screwdriver bits and two star shaped bits) with a lighted "driver" handle.

(Continued below)

The handle incorporates a magnetized, telescoping shaft and a small battery powered light to illuminate the tool. Each bit, measuring approximately one inch, is stored in a molded plastic housing located in the handle. According to CBP, because the screwdriver bits are imported with the screwdriver shaft and screwdriver handle, are stored within the actual screwdriver handle itself, and the screwdriver bits, shaft, and handle are all sold together in retail, CBP has now determined that the article is classified as a complete article pursuant to GRI 1. Therefore the screwdriver and bit are classifiable as a single tool screwdriver under heading 8205.

Current: 8207.90.6000, 4.3%

Proposed: 8205.40.0000, 6.2%

Proposed for revocation: NY D87806 (1999), NY D888605 (1999)

Proposed new ruling: HQ H070915, HQ H070916

Valve Cable Support - The item is made of non-alloy carbon steel and is used to support and protect electrical cables that run between a valve assembly and an injection molding machine on a plastic injection molding system. CBP advised it found that the valve cable supports are both dedicated solely for use with the injection molding machine and an integral component of the machine, without which the machine would not function properly. Therefore the supports should be classified as machinery for working rubber or plastics.

Current: 7326.90.8588, 2.9%

Proposed: 8477.90.85, 3.1%

Proposed for revocation: NY N134819 (2010)

Proposed new ruling: HQ H207578
CBP Bulletin
(11/7/12) http://www.cbp.gov/linkhandler/cgov/trade/legal/bulletins_decisions/bulletins_2012/vol46_11072012_no46/46genno46.ctt/46genno46.pdf

Further information:

http://www.cbp.gov/linkhandler/cgov/trade/legal/bulletins_decisions/bulletins_2012/vol46_08292012_no36/title.ctt/title.pdf

USITC Posts Information on AD/CVD Investigation of China Hardwood Plywood

International Trade Commission voted unanimously that U.S. industry is injured by dumped and subsidized imports of hardwood and decorative plywood from China. Therefore, antidumping and countervailing duty (AD/CVD) investigations will continue. The ITA will set to issue its preliminary determination on 12/12/12 for the CV duty investigation, and 03/06/13 for the AD duty investigation. The American Alliance for Hardwood Plywood (AAHP) commented, "the outcome of this case before the ITC will have a far reaching effect on your supply chain and create a level of tremendous uncertainty in the market place for at least five years."

AAHP opposes the imposition of AD/CV duties. "If the petitioned tariff is approved, up to half the world's supply of hardwood plywood would be unavailable to U.S. manufacturers, creating an economic advantage for overseas producers of these products." Currently Chinese hardwood plywood is used by producers of furniture and cabinetry; components for marine, aircraft, and recreational vehicles; and hundreds of other products that are painted or laminated. AAHP advised the Chinese product is made from fast growing, short rotation hardwoods that can be harvested in as few as six years, and is stronger and lighter than domestic plywood.

The domestic product is typically produced with softwood cores and decorative face veneers made from woods available only in North America. In addition, the AD petition, filed by the Coalition for Fair Trade of Hardwood Plywood (CFTHP), alleges dumping rates of 310.02 percent. According to the CFTHP, the share of the U.S. hardwood plywood market captured by imports from China has grown from single- or low double-digits to about 50 percent over the last several years.

The increased market share is the result of Chinese dumping and subsidization. In a statement released alongside the filing of the AD/CV petitions, CFTHP acknowledged Chinese dumping and subsidization "present a fundamental, if not insurmountable, obstacle to the domestic industry's ability to recover its competitive footing, even when underlying economic conditions in this country turn more favorable.

USITC press release:

http://www.usitc.gov/press_room/news_release/2012/er11_09kk1.htm

OSHA To Meet on Global Harmonization of Chemical Labeling

The Occupational Safety and Health Administration (OSHA) is seeking interested parties to participate in an open, informal public meeting to discuss proposals in preparation for the 24th session of the United Nations Subcommittee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals (UNSCGHS).

The meeting is scheduled for 12/12-14/12 in Geneva, Switzerland. The public meeting will be at 2 p.m. (EST) 11/28/12 at the U.S. Department of Labor, Washington, D.C., Room C5320, and Conference Room #6. To participate by telephone, dial 1-800-369-1938, and enter participant passcode 12725.

OSHA contact: Maureen Ruskin, 202-693-1950
or: ruskin.maureen@dol.gov.

OSHA notice:

http://www.pdfdownload.org/pdf2html/pdf2html.php?url=http%3A%2F%2Fwww.ofr.gov%2FOFRUpload%2FOFRData%2F2012-27751_PI.pdf&images=yes

MAKE SURE YOU DISPOSE PROPERLY!

(Confetti That Fell During Thanksgiving Day Parade Included Police Documents, Sparking Investigation)

Confetti from the Thanksgiving parade (Reuters)
A parade-goer watching the Macy's Thanksgiving Day Parade on New York's Upper West Side noticed that the confetti that fell on him and some friends contained what appeared to be confidential personal information about Nassau County Police Department employees, including names, addresses, Social Security numbers, bank routing numbers—even references to Mitt Romney's motorcade during last month's presidential debate at Hofstra University. Ethan Finkelstein, a Tufts University freshman who was home on Thanksgiving break, showed WPIX-TV some of the confetti, which led to the police investigation.

(Continued above)

It turns out an employee of the Police Department who was watching the parade brought "shredded NCPD documents with him for his family and friends to use as confetti," according to WPIX. Nassau County Police officials would not disclose the name of the employee.

"I'm just completely in shock," Finkelstein said. "How could someone have this kind of information, and how could it be distributed at the Thanksgiving Day parade?"

"The Nassau County Police Department is very concerned about this situation," Nassau County Police Inspector Kenneth Lack said in a statement. "We will be conducting an investigation into this matter as well as reviewing our procedures for the disposing of sensitive documents."

Macy's, for its part, maintains that the confetti it used during the parade did not include badly shredded police documents.

"[We use] commercially manufactured, multicolor confetti," a spokesperson for Macy's told the network, "not shredded paper."



-RAPPORT INTERNATIONAL PRESENTS....

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WTO Announces New Interactive Trade Data Tool

The Journal of Commerce (JOC) reported that the World Trade Organization recently launched International Trade and Market Access, an interactive tool that presents WTO data on merchandise and commercial services trade, as well as selected market access indicators from the publication World Tariff Profiles.

The tool can be accessed through the WTO's website and is presented in the form of interactive maps, charts and data tables using arrows and pop-up boxes to depict trade flows and to provide supplementary information. Users can export the data underlying the graphics.

Further information:
http://www.wto.org/english/news_e/news12_e/stat_19_nov12_e.htm
www.joc.com (11/19/12)

USTR Posts Information on Possible Tariff Acceleration for Colombia FTA

The U.S. Trade Representative (USTR) concluded at the inaugural meeting of the U.S.-Colombia Free Trade Commission (FTC), the six-month-old Free Trade Agreement (FTA) is working well and is already benefiting both countries. U.S. exports to Colombia from May to September were up more than 20 percent over the corresponding period last year. The USTR noted the governments decided to consider tariff acceleration and to set time frames for establishing dispute settlement mechanisms and updating rules of origin.

USTR Press release: <http://www.ustr.gov/about-us/press-office/press-releases/2012/november/us-colombia-complete-first-ftc-meeting>

Port of Oakland Renews Labor Talks with SEIU - Strike Delayed

A Port of Oakland press release announced a meeting between Port of Oakland leaders and Service Employees International Union (SEIU) Local 1021 to try to resolve contract issues. The action allowed marine terminals in the seaport to resume operations after all terminals had been closed due to a strike.

The port and SEIU are set to hold fact-finding hearings on 11/30/12 and 12/3/12. Acting Director Deborah Ale Flint commented that the port is "committed to reaching a mutual agreeable contract as soon as possible."

Port of Oakland press release (11/20/12)



U.S. Posts Information on Plans for Trade Facilitation Agreement with ASEAN

President Obama and the leaders of the 10 member states of the Association of Southeast Asian Nations (ASEAN) unveiled a new U.S.-ASEAN initiative to expand trade and investment ties at a recent meeting in Cambodia. The White House reports the "U.S.-ASEAN Expanded Economic Engagement" (E3) initiative identifies specific cooperative activities to facilitate trade and investment, increase efficiency and competitiveness of trade flows and supply chains throughout ASEAN, and build greater awareness of the commercial opportunities of the U.S.-ASEAN economic relationship.

Furthermore, the initiative will lay the groundwork for ASEAN countries to join the Trans-Pacific Partnership (TPP). Joint activities to be undertaken between the U.S. and ASEAN include:

- Trade facilitation agreement;
- ICT principles;
- Investment principles; and
- Standards development

The White House also reported following the 11/19/12 ASEAN meeting, President Obama attended the East Asia Summit, where Asia-Pacific leaders discussed energy cooperation, maritime security, and non-proliferation. ASEAN members include Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Burma (Myanmar), Cambodia, Laos, and Vietnam.

Fact sheet on the E3 initiative:

<http://www.whitehouse.gov/the-press-office/2012/11/19/fact-sheet-us-asean-expanded-economic-engagement-e3-initiative>

Joint statement of the 4th ASEAN-U.S. Leaders' Meeting:

<http://www.asean.org/news/asean-statement-communicues/item/joint-statement-of-the-4th-asean-us-leaders-meeting>

Fact sheet of the 4th ASEAN-U.S. Leaders' Meeting: <http://www.whitehouse.gov/the-press-office/2012/11/19/fact-sheet-us-asean-leaders-meeting>

Fact sheet on the East Asia Summit:

<http://www.whitehouse.gov/the-press-office/2012/11/20/fact-sheet-east-asia-summit-outcomes>

President Lifts Import Ban on Products from Burma/Myanmar

Ending a prohibition that has been in place since 2003, the Obama administration lifted the ban on imports from Burma (Myanmar) on 11/16/12. The Treasury Department issued General License No. 18, authorizing importation of any products of Burma, subject to certain limitations. Imports of jadeite and rubies mined or extracted in Burma are still prohibited pursuant to the JADE Act of 2008. The general license also does not authorize transactions with persons blocked under the Burma sanctions program. According to a joint press release, the actions of State and Treasury "are intended to support the Burmese government's ongoing reform efforts and to encourage further change, as well as to offer new opportunities for Burmese and American businesses."

As reported, the relaxation of the ban was in response to "significant reforms" that have taken place in the country over the past year, such as the release of hundreds of political prisoners, removal of press censorship requirements, cease fire agreements with 10 armed ethnic groups, and "largely free and fair" parliamentary by-elections in April 2012. The Burmese government has also passed a new foreign investment law, and is making efforts to join the Extractive Industries Transparency Initiative. Treasury will make use of the Specially Designated Persons (SDN) list to exclude those who continue to perpetrate violence, oppression, and corrupt practices from participating in the thaw of the U.S.-Burmese economic relationship.

Relaxation of the ban came a day after human rights and labor organizations, including Freedom House and AFL-CIO, sent a letter to several U.S. government officials. The letter voiced concern about ongoing human rights abuses in Burma, and encouraged caution in lifting the ban.

Letter from human rights and labor organizations:

<http://www.freedomhouse.org/article/letter-president-obama-regarding-burmas-import-ban>

Press release:

<http://www.state.gov/r/pa/prs/ps/2012/11/200639.htm>

USTR Issues FR Notice Seeking Comments on Compliance with Telecommunications Trade Agreement

The Office of the U.S. Trade Representative (USTR) wants input on the operation, effectiveness and implementation of, and compliance with, the following agreements regarding telecommunications products and services of the U.S.:

- *The World Trade Organization General Agreement on Trade in Services;
- *North American Free Trade Agreement (NAFTA);
- *U.S. free trade agreements with Australia, Bahrain, Chile, Colombia, Korea, Morocco, Oman, Panama, Peru and Singapore;
- *Dominican Republic-Central America-U.S. Free Trade Agreement (CAFTA); and
- *Any other telecom trade agreements, such as mutual recognition agreements (MRUs) for conformity assessment of telecommunications equipment.

USTR advises Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires an annual review how all U.S. trade agreements regarding telecom products and services are operating and whether they're effective. The purpose of the review is to determine whether any act, policy or practice of a country that has a trade agreement with the U.S. is inconsistent with the terms of the pact or denies U.S. firms mutually advantageous market opportunities for telecom services and products.

A detail of the feedback which USTR is seeking has been posted.

Comments should be submitted by 12/17/12 to: <http://www.regulations.gov>

USTR contact: Yvonne Jamison, 202-395-3475.

USTR FR Notice:
http://www.ofr.gov/OFRUpload/OFRData/2012-28505_PI.pdf

ASEAN Expansion Would Create World's Largest Trade Bloc

The Journal of Commerce (JOC) reported that the proposed ASEAN Regional Comprehensive Economic Partnership (ARCEP) would form a single market linking the 10 nations of the Association of Southeast Asian Nations with Australia, China, India, Japan, New Zealand and South Korea. The market would cover three billion people and boast a combined gross domestic product of \$15 trillion, \$2 billion larger than the EU's.

With cooperation expected to cover trade, investment, technology and infrastructure, ARCEP would build on existing FTAs between the ASEAN bloc and the six dialogue partners. ARCEP negotiations will take place in parallel with efforts to complete preparations for the launch of the ASEAN Economic Community in 2015.

The Association of Southeast Asian Nations website: <http://www.asean.org/>
www.joc.com (11/19/12)

-SPECIAL SECTION-

BIS Proposes Time Limit for Completing Voluntary Self- Disclosures

Braumiller Schulz, LLP
www.globaltradelaw.net

BIS is proposing a rule that would require that the final, comprehensive narrative account required in voluntary self-disclosures (VSDs) of violations of the Export Administration Regulations (EAR) be submitted to the Office of Export Enforcement within 180 days of the initial VSD notification, and is presently accepting public comment on the proposal. The Bureau of Industry and Security (BIS), Office of Export Enforcement (OEE), is charged with investigating possible violations of the Export Administration Regulations (EAR).

(Continued below)

These investigations can result in allegations of violations that may be settled, adjudicated in an administrative enforcement proceeding, or referred to the Department of Justice for possible criminal prosecution.

Section 764.5 of the EAR allows potential violators to voluntarily disclose the facts of the potential violations to OEE, and these disclosures can have a significant mitigating effect on the ultimate sanctions imposed. Section 764.5 requires an initial notification, which needs only to set forth a description of the general nature and extent of the suspected violations. The initial notification must then be followed at a later date by a detailed review and narrative account of the suspected violations, including all relevant supporting documentation.

If the person making the initial notification subsequently completes the disclosure, including the narrative account, the disclosure is deemed to have been submitted to OEE on the date of the initial notification. This retroactivity can be critical in cases where the OEE is able to develop the facts of the alleged violation from another source prior to the perfection of the disclosure.

Presently there is no specific time limit for submitting the narrative account to perfect the disclosure. Citing the fact that too often initial notifications are not promptly followed by comprehensive narrative accounts causing excessive administrative burdens and delays, BIS is proposing to set a 180 day extendable deadline for persons to complete the final narrative portion of a disclosure once the initial notification has been submitted.

Failure to meet the 180-day deadline would not constitute an additional violation of the EAR, however that failure may serve to disallow the crediting of information contained in the subsequent narrative account as being considered a voluntary disclosure as of the date of the initial notification.

The Director of OEE could extend this 180-day time deadline at his or her discretion if "U.S. Government interests would be served" by an extension or upon a showing by the party making the disclosure that more time is reasonably necessary to complete the narrative account.

(Continued above)

Some examples set forth of circumstances qualifying for an extension include situations where records must be gathered from multiple entities or jurisdictions, bankruptcy or major reorganization of the disclosing company, or when a Government determination such as a commodity jurisdiction or classification request is pending. Also conditions could be placed on an extension such as the party agreeing to toll the statute of limitations if a tolling agreement has not already been obtained.

Please click [here](#) (PDF) for the full text of the BIS proposal, which also includes proposed changes to the way notice of the issuance of a charging letter may be provided and changes to certain language relating to determining the date of service of notice of a charging letter's issuance. Interested parties may submit comments on the proposed rulemaking no later than January 7, 2013.

Clearly the submission of a voluntary disclosure is an effective way to mitigate potential sanctions that might result from violations of the EAR, and the proposed changes heighten the need to perform all necessary internal reviews and submit the narrative account in a timely manner. It is also important to remember that there is no substitute for having a sound, comprehensive compliance program in place that will not only serve as an additional mitigating factor in the event of a potential violation, but will also help assure that exporters understand and properly execute their compliance responsibilities in the first place.

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