



EIB World Trade Headlines

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State Department Announces Implementation of Defense Trade Treaty with United Kingdom

The State Department announced the U.S. implemented Defense Trade Cooperation Treaties with the United Kingdom. State provided information to support the users of the exemptions to the International Traffic in Arms Regulations (ITAR) created pursuant to the Treaties. The U.S. and U.K. exchanged diplomatic notes April 13 bringing that treaty (Treaty Doc. 110--7) into force. Therefore, the rule published on March 21, 2012 (77 FR 16592) implementing the treaty and making other updates to the ITAR is now effective. A rule document will also be published in the Federal Register announcing 04/13/12, as the effective date of this rule.

Further information is available from the Response Team at (202) 663-1282. In addition, the treaty between the U.S. and Australia is expected to take effect later in 2012, and until then there is no ITAR exemption for transactions involving Australian entities. Section 126.5, the Canadian Exemption, was also updated to reference the new Supplement No. 1 to part 126, the State Department announced. But it noted, no substantive changes were made to the controls imposed under Section 126.5; the changes made to this section are in format only.

State Department notice: <http://pmdtc.state.gov/treaties/index.html>

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USTR Issues Notice on Colombia FTA (Effective May 5, 2012)

The U.S. Trade Representative (USTR) office announced the U.S.- Colombia Trade Promotion Agreement will take effect on 05/15/12. That follows completion of work by the U.S. and Colombia to review each other's laws and regulations related to the implementation of the Agreement, as well as Colombia's important steps to fulfill the Action Plan Related to Labor Rights. USTR Ron Kirk exchanged letters with officials from the government of Colombia in which each country confirmed that it had completed its applicable legal requirements. Effective May 15, more than 80 percent of U.S. exports of consumer and industrial products to Colombia will become duty-free, including agricultural and construction equipment, building products, aircraft and parts, fertilizers, information technology equipment, medical scientific equipment, and wood.

Also, immediately more than half of U.S. exports of agricultural commodities to Colombia will become duty-free, including wheat, barley, soybeans, high-quality beef, bacon, and almost all fruit and vegetable products. As reported, U.S. goods exports to Colombia in 2011 were \$14.3 billion. The U.S. International Trade Commission (ITC) estimates the Agreement will lead to an increase in U.S. GDP of \$2.5 billion. The Agreement provides for improved standards for the protection and enforcement of a broad range of intellectual property rights (IPRs), consistent with U.S. and emerging international standards of protection and enforcement. Both parties commit to effectively enforce their own domestic environmental laws and adopt, maintain and implement laws, regulations, and all other measures to fulfill obligations under covered multilateral environmental agreements.

U.S. suppliers are granted rights to non-discriminatory treatment in bidding on procurement opportunities offered by a broad range of Colombian government agencies. The U.S. Chamber of Commerce hailed the agreement, saying U.S. exports to Colombia have risen four-fold over the past decade. Given the Colombian economy's rapid growth, the agreement's elimination of trade barriers is projected to spur significant business opportunities and job creation.

US Chamber of Commerce press release:
<http://www.uschamber.com/press/releases/2012/april/us-chamber-hails-announcement-us-colombia-trade-agreement-entry-force>

USTR notice: <http://www.ustr.gov/about-us/press-office/press-releases/2012/april/united-states-colombia-set-date-entry-force-us-colom>

CBP Issues FR Notice Extending Comment Period on Trademark and Copyright Information Collection

U.S. Customs and Border Protection (CBP) are now requesting comments by 05/17/12 on an existing information collection on the regulations relating to recordation and enforcement of trademarks and copyrights. CBP is proposing to extend, without change, the expiration date of the information collection for 30 days. Trademark and trade name owners and those claiming copyright protection may submit information to CBP to enable CBP officers to identify violating articles at the borders.

Parties seeking to have merchandise excluded from entry must provide proof to CBP of the validity of the rights they seek to protect. The information collected by CBP is used to identify infringing goods at the borders and determine if such goods infringe on intellectual property rights (IPR) for which federal law provides import protection. Respondents may submit their information to CBP electronically at <https://apps.cbp.gov/e-recordations/> or they may submit their information on paper in accordance with 19 CFR 133.2 and 19 CFR 133.3 for trademarks or 19 CFR 133.32 and 133.33 for copyrights.

CBP Contact – Tracey Denning (202) 325-0265

CBP FR notice:
http://www.ofr.gov/OFRUpload/OFRData/2012-09163_PI.pdf

State Department Posts Secretary Clinton's Discussion about Easing Trade Restrictions with Burma

Secretary of State Hillary Clinton recently advised that the U.S. is prepared to begin easing trade and other restrictions between the U.S. and Burma. Saying the April 1 parliamentary elections were "an important step in the country's transformation." Clinton also cited the release of political prisoners, "new legislation broadening the rights of political and civic association, and fledgling process in internal dialogue between the government and ethnic minority groups." According to Clinton, the U.S. is ready to begin moving toward:

- *a fully accredited ambassador in Rangoon.
- *establishing an in-country USAID mission and supporting a normal country program for the United Nations Development Program.
- *enabling private organizations in the U.S. to pursue nonprofit activities from democracy building to health and education.
- *facilitating travel to the U.S. for select government officials and parliamentarians.
- *beginning the process of a targeted easing of our ban on the export of U.S. financial services and investment.

A senior State Department official also reported State is working with the Department of the Treasury's Office of Foreign Asset Control (OFAC) to create an expanded general license that will authorize a wider spectrum of activities. There will be "a step-by-step process" for easing the ban on exportation of financial services to Burma and U.S. investment in the country. There's no specific timetable for easing the rules; the speed will depend on continuing improvements within Burma.

State Department Notice:

<http://www.state.gov/secretary/rm/2012/04/187439.htm>

ITC Issues Notice on Finding of Injury in China Stainless Steel Sink AD/CVD Investigations

The International Trade Commission (ITC) recently determined that there is a reasonable indication that a U.S. industry is materially injured by reason of imports of drawn stainless steel sinks from China that are allegedly subsidized and sold in the U.S. at less than fair value. As a result, the ITA will continue to conduct its countervailing and antidumping (CV/AD) duty investigations on imports of this product from China, with its preliminary CV duty determination due on or about 05/25/12, and its preliminary AD duty determination due on or about 08/08/12.

ITC notice:

http://www.usitc.gov/press_room/news_release/2012/er0413kk1.htm

FDA Posts Update and Chart on Orange Juice Imports and Carbendazim

The Food and Drug Administration (FDA) issued a monthly update to the trade on its sampling of imported orange juice products that may be contaminated with the fungicide carbendazim. This update, as well as prior updates, is in the form of an addendum to a 01/09/12 letter to the Juice Products Association. FDA is no longer sampling imported juice from domestic manufacturers.

FDA reports it has to date collected samples from 144 imported shipments of orange juice or orange juice concentrate. Of these, 103 shipments tested negative for carbendazim and all of these shipments have already been released. FDA found 30 samples that tested positive, and detained and/or refused all of these shipments. Of these 30 samples, 14 were from Brazil shipments, 12 were from Canada shipments, and one each was from a Dominican Republic shipment and a Poland shipment.

Updated FDA chart detailing status of samples (updated 04/05/12)

<http://www.fda.gov/downloads/Food/FoodSafety/Product-SpecificInformation/FruitsVegetablesJuices/UCM299043.pdf>

FDA notice:

<http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/FruitsVegetablesJuices/ucm287783.htm>

EPA Issues FR Notice Updating Chemical Substances under TSCA

The Environmental Protection Agency (EPA) is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 17 chemical substances that were the subject of premanufacture notices (PMNs). This action requires persons who intend to manufacture, import, or process any of the 17 chemicals for a significant new use by this rule to notify EPA at least 90 days before beginning, giving the EPA a chance to evaluate it and possibly to prohibit or limit that activity. The rules take effect 06/04/12.

Comments, identified by docket identification (ID) number EPA--HQ--OPPT--2011--0942, can be submitted to <http://www.regulations.gov>

or by mail to:
Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

EPA contact: Kenneth Moss, Chemical Control Division (7405M) -- 202-564-9232 or moss.kenneth@epa.gov

EPA Fr notice:
<http://www.gpo.gov/fdsys/pkg/FR-2012-04-04/pdf/2012-8092.pdf>

EPA Issues Notice Proposing Electronic Reporting for TSCA

The U.S. Environmental Protection Agency proposed a rule to require electronic reporting for information submitted to the agency under the Toxic Substances Control Act (TSCA). According to EPA, the action is part of the agency's effort to increase transparency and public access to chemical information. Electronic reporting will increase the speed with which EPA can make information publicly available and increase accuracy. The proposed rule would require electronic reporting for such TSCA actions as submission of information relating to chemical testing, health and safety studies, and other information.

When final, EPA will only accept reports submitted through EPA's Central Data Exchange, a centralized portal that enables streamlined, electronic submission of data via the Internet. The agency will accept comments on the proposed rule for 60 days. EPA plans an initial webinar to introduce the web-based electronic reporting tool, follow-up webinars and testing of specific applications, and opportunities for submitters and others to provide feedback to the agency on their experiences using the tool before its release.

EPA notice:
<http://www.epa.gov/oppt/chemtest/>

Nothing astonishes men so much as common sense and plain dealing.

-- *Ralph Waldo Emerson*

BIS Issues FR Notice Seeking Comments on Notification Requirement to Export Under Authorization VEU

The Bureau of Industry and Security (BIS) is seeking comments on a proposed rule that would amend the Export Administration Regulations (EAR) by:

- *adding a requirement for persons shipping under Authorization Validated End-User (VEU) to send written notice of such shipments to the recipient VEU;

- *saying that item-specific conditions under Authorization VEU no longer apply when such items no longer require licenses or become eligible under a license exception; and

- *for such items, VEUs are still subject to the recordkeeping requirements for items shipped before removal of the license requirement or addition of the license exception.

BIS proposes to amend the EAR at 15 CFR 748.15 (Authorization Validated End-User) by adding a paragraph that would require persons exporting, reexporting, or transferring (in-country) under Authorization VEU to send written notification to the recipient VEU with details about their shipment within 7 days of the shipment. Details of the shipment that would be required in the notification include:

- *a list of the contents of the shipment

- *the quantity of items that have been or will be shipped to the respective VEUs under Authorization VEU

- *a list of the applicable Export Control Classification Numbers (ECCNs)

Full details are posted for review. Comments are due by 06/18/12.

BIS FR Notice: <http://www.gpo.gov/fdsys/pkg/FR-2012-04-17/pdf/2012-9237.pdf>

Secretary of Treasury Calls China Currency Reforms Significant and Promising

According to Treasury Secretary Timothy Geithner, the cumulative effect of China's recent exchange rate reforms is very significant and very promising. Geithner reported that China has allowed the Renmenbi (RMB) to appreciate by 15% against the dollar in real terms since June 2010; and since 2005 the real appreciation has been closer to 45%. Geithner noted Chinese monetary authorities have also been intervening significantly less in currency markets in the past six months.

China has also begun to loosen the comprehensive set of controls it has placed on the RMB and the ability of people to use and borrow in RMB. As a result, China's current account surplus has fallen dramatically, and its expected current account surplus has come down significantly as well. Geithner commented, these actions signal a continued commitment by Chinese authorities toward a growth strategy less focused on foreign demand and more focused on domestic demand. China's move comes amid a push to increase RMB convertibility and make the RMB more attractive as a global currency.

The official news agency Xinhua reported that China has officially begun a program of reforms to increase the convertibility of the RMB to expand the use of the RMB in cross-border trade and gradually increase the channel for capital outflows. Xinhua reported, as part of China's convertibility scheme, China's central bank has announced a new system to settle cross-border payments in RMB, to be established in one to two years. According to the report, the new scheme will make RMB settlement safer and more efficient for cross-border traders and investors.

(Continued below)

Additionally, according to a report in the Wall Street Journal (WSJ), China lifted a 6.5 year old ban on bets on RMB appreciation against foreign currencies in the Chinese foreign exchange market. According to the WSJ, the ban had helped China fight speculation over RMB appreciation. Xinhua reported the reception of China's large export sector to the widened currency band has been mixed.

Geithner's remarks at the Brookings Institution (04/18/12)
http://www.brookings.edu/events/2012/0418_geithner.aspx

Chinese government press release (04/14/12) on widening the RMB trading band:
http://english.gov.cn/2012-04/14/content_2113584.htm

Xinhua report on making RMB convertible (04/10/12)
http://news.xinhuanet.com/english/business/2012-04/10/c_131518234.htm

WSJ report on repeal of ban on net long bets on the RMB (04/16/12)
<http://online.wsj.com/article/BT-CO-20120416-716636.html>

Xinhua report on Chinese exporters' reaction to widening of RMB trading band (04/16/12)
http://news.xinhuanet.com/english/indepth/2012-04/17/c_131532767.htm

Warehouse Operations Being Targeted by Cargo Thieves

An expert in cargo theft advised warehouse operators and motor carriers to spare no expense when it comes to securing their assets because thieves are becoming ever more sophisticated in carrying out their trade. Gerardo Pachuca, a detective with the Los Angeles County Sheriff Department's Cargo Cats unit, advised the Harbor Transportation Club of Southern California, that cargo thieves are career criminals who can disable a warehouse alarm system in 20 seconds or hot-wire a truck and drive off in 30 seconds. Cargo theft is a national problem that totals more than \$25 billion a year. Most of the thefts occur without any physical violence toward individuals, so criminal penalties tend to be light.

(Continued above)

Since cargo theft is normally treated as a minor felony, practitioners remain in the business for many years. When they are caught, they drop out for a while but then return to the same type of crimes. Pachuca advised the first step warehouse operators should take to protect their facilities is to secure the perimeter with fencing and adequate lighting. Special attention should be paid to those locations in the warehouse where cargo must exit when stolen.

Therefore, one camera providing a panoramic view of the facility will most likely not be sufficient. High-value cargo should be further secured within the facility. "Cargo thieves do their homework," Pachuca noted. They invariably case the facility, knowing when it is open and closed, where the security weaknesses are and what the operating procedures are. When stealing trailers or containers in the parking lot, they can usually zero in immediately on the specific unit they want. Many truck thefts occur because of carelessness by the driver, who may leave the truck unattended at a truck stop or overnight in an unsecured area.

Thieves occasionally pay off a driver and then stage a hijacking, or hire former drivers to carry out fraudulent pickups at warehouses because the drivers know the routine and the documentation that is needed. Currently the hot trend is internet fraud theft. Experienced thieves can secure all of the information they need from the websites of the retailers and logistics firms before carrying out the crime.

Persons responsible for handing over cargo must gather as much information as possible from the trucker that picks up the load. Pachuca advised, ONLY use the phone number listed on the website of the motor carrier; thieves today use throw-away cell phones for such crimes.

www.joc.com (4/20/12)

CBP Issues Interim Rule on Seizing Potentially Counterfeit Trademarked Items -Comments Due by June 25, 2012-

U.S. Customs and Border Protection (CBP) is seeking comments on an interim rule that amends CBP's regulations on importing merchandise bearing recorded trademarks or recorded trade names. The interim rule is effective upon publication in the Federal Register, scheduled for 04/24/12. As reported, the interim rule allows CBP to disclose to an intellectual property right (IPR) holder information appearing on merchandise or its retail packaging that may comprise information otherwise protected by the Trade Secrets Act, for the purpose of assisting CBP in determining whether the merchandise bears a counterfeit mark. The information will be provided to the right holder as photographs or a sample of the goods and/or their retail packaging. The information will include serial numbers, universal product codes, and stock keeping unit (SKU) numbers appearing on the imported merchandise and its retail packaging.

According to CBP, the changes provide a pre-seizure procedure for disclosing information about imported merchandise suspected of bearing a counterfeit mark for the limited purpose of obtaining the right holder's assistance in determining whether the mark is counterfeit. The interim regulation includes a procedure that allows an importer, prior to release of the information, the opportunity to establish, within seven days (excluding weekends and holidays) of a notice of detention, that the marks are not counterfeit. Only absent such a demonstration by the importer will the disclosure be made to the right holder. CBP is adding to the regulation a 30-day period (and an extension, if requested by the importer for good cause) to a determination with respect to admissibility.

CBP is also making a clarifying amendment to the definition of "counterfeit trademark."

See notice for details. CBP advises comments are due by 06/25/12, and may be submitted to:

<http://www.regulations.gov> via docket number USCBP 2012-0011, or by mail to: Trade and Commercial Regulations Branch, Office of International Trade, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, N.W. (Mint Annex), Washington, D.C. 20229-1179.

CBP FR notice:

http://www.ofr.gov/OFRUpload/OFRData/2012-09762_PI.pdf

USTR Posts Thoughts on TPP as Key to Increase World Trade

The U.S. "is aiming high with our Asia-Pacific partners once again to advance objectives that address 21st century trade challenges," U.S. Trade Representative Ron Kirk recently announced at Singapore Management University. "With global supply chains clustered around the Pacific Rim, trade barriers around the region now affect not only the United States and Singapore but all economies worldwide."

As reported, Kirk called Singapore "an established leader on trade in the Asia-Pacific and globally," citing the U.S.-Singapore trade agreement signed almost ten years ago, and negotiations toward the Trans-Pacific Partnership (TPP). "We are approaching a seminal moment in the construction of a more robust and responsive trade model for the next generation."

He cited "new and cross-cutting trade issues with significant implications for enhancing regional trade integration and economic growth". The U.S. is pushing to expand the World Trade Organization Information Technology Agreement (ITA) by eliminating tariffs on additional ICT goods. Kirk commented, "we must work together to frame an ITA negotiation carefully, in such a way that allows for rapid progress, and tangible deliverables, so that it can garner consensus by all ITA Participants."

USTR press release: <http://www.ustr.gov/about-us/press-office/press-releases/2011/april/remarks-us-trade-representative-ron-kirk-singapore-m>

FDA Issues Notice on Qualified Importer Program Final Rule for PN

The Food and Drug Administration's (FDA) Director of Import Operations, Domenic Veneziano went into detail in describing the plans for the voluntary qualified importer program (VQIP) while speaking at the National Customs Brokers and Forwarders Association of America conference. According to Veneziano the plans are still in development. The VQIP was required as part of the Food Safety Modernization Act (FSMA). Eligibility requirements for the VQIP will include:

- Must be importer with a record.
- Must be in good standing with U.S. Customs and Border Protection.

-Will need to have Tier 2 status with CBP's C-TPAT.

-Foreign Supplier Verification Program (FSVP) importers must be in compliance with provisions of FSVP.

Under the VQIP, there will be two levels of participants. Level 1 participants will have an adjusted risk score that reduces probability for products to be sampled. Level 2 participants will also have an adjusted risk profile which also reduces the likelihood of products being sampled. Those members will have received expedited lab analysis by FDA. The processes for revocation are still being worked on, as are user fees.

In addition FDA director of the prior notice center Tony Taube, reported a final rule on the requirements of prior notice of imported food is being prepared for issuance soon. A new Question and Answer guidance is also expected to be released shortly.

FDA also reported the Food and Drug Administration's Foods and Veterinary Medicine Program issued the final version its 2012-2016 Strategic Plan, which identifies key goals and objectives to advance food safety, nutrition, and animal health. The Plan includes 7 program goals.

The FDA also reported that the Food Safety Modernization Act of 2011 (FSMA) directs it to build a new food safety system based on comprehensive prevention, an enhanced focus on risk-based resource allocation, and partnership across the public and private sectors.

(Continued above)

According to the FDA, this Strategic Plan reflects the FDA's current thinking about the activities that will be key to building this food safety system. Trade-related highlights of the plan include:

- Prioritize and target import safety activities, including foreign inspections and border intervention;
- Engage industry, when necessary, to obtain data that can inform risk-based decision making;
- Enforce importer accountability through implementation of the foreign supplier verification program (FSVP) requirement;
- Implement an accredited third-party certification program that ensures the rigor, objectivity, and credibility of certifications from third-party audits;
- Implement the voluntary qualified importer program (VQIP);
- Leverage international partners and increase work on joint regulatory programs with foreign counterparts to improve assurance of food and feed safety;
- Establish a process to determine appropriate foreign inspection targets based on risk and resource availability;
- Improve communication with food and feed importers to provide rapid notification of test results;
- Update the nutrition facts label in light of the most current information about nutrition and health, including potentially giving greater prominence to calorie declarations;
- Implement standards for animal feed ingredients; and
- Publish a final rule defining and permitting use of the term "gluten free" in the labeling of foods.

FDA notice:

<http://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofFoods/UCM273732.pdf>

BIS Fines Exporter for Exporting Controlled Carbon Fiber to China

The Bureau of Industry and Security (BIS) recently announced that Ping Cheng and Prime Technology Corporation, both of New York State, have agreed to \$125,000 fines and two-year denial of export privileges for each to settle allegations that they conspired to violate the Export Administration Regulations (EAR). According to BIS, the violations involve attempts to export carbon fiber to China for use by the China Academy of Space Technology (CAST) without the required U.S. government authorizations.

As reported, the carbon fiber materials involved are controlled by BIS for nuclear nonproliferation (NP) and national security (NS) reasons and are valued at about \$315,000. BIS alleged that from February 2007 through at least April 2008, Cheng and Prime Technology Corporation conspired with others to export two types of this material to CAST in China, via Hong Kong and Singapore, without the required Department of Commerce (DOC) export licenses. As reported, Cheng traveled to Minnesota to inspect the carbon fiber and prepared reports regarding the authenticity of the material. During the inspection, Cheng was provided a letter from BIS which said "[T]his [material] has been classified under Export Control Classification Number (ECCN) 1C210.a. and is controlled for export for Nuclear Non-Proliferation and Anti-Terrorism reasons.

As such, a license would be required to export the item to most destinations, including China and Singapore." BIS reported, despite those warnings, Cheng, acting on the instructions of a co-conspirator, attempted to export the unlicensed carbon fiber to Hong Kong and Singapore, for ultimate shipment to CAST. The items were stopped prior to being exported, and Cheng was arrested by special agents from the BIS Office of Export Enforcement and the Department of Homeland Security. The two-year denial period, as well as \$75,000 in fines for each, will be suspended as long as neither commits additional export control violations during the two year period.

Court Case and Settlement available at:
<http://efoia.bis.doc.gov/exportcontrolviolations/e2257.pdf>

World Shipping Council Testifies before House Subcommittee on the Need to Weigh Containers

The World Shipping Council's (WSC) CEO Christopher Koch recently testified before the House Subcommittee on Coast Guard and Maritime Transportation. Koch focused on four areas:

-ballast water treatment technology regulations;

-NO_x, SO_x and particulate matter air emissions and the North American Emission Control Area that will become effective 08/01/12;

-carbon emissions; and

-a maritime safety initiative to obtain verified container weights.

Koch advised that ballast water treatment technology would cost \$2 billion. He called that "a very large capital commitment that a ship can reasonably be expected to make once. The idea that different U.S. agencies under different statutes might apply different standards, or that the various States might apply different standards, is an anathema." The EPA and Coast Guard need to coordinate their rules, according to Koch.

On the development of new rules on NO_x, SO_x and PM, one potential path for consideration could be assessing how to improve vessel efficiency even further, Koch noted. But how that could be done for the existing fleet "presents significant challenges." The issue of misdeclared container weights "has been a safety concern for years," according to Koch. The industry believes containers' declared weights should be verified via weighing before being loaded onto a ship for export. The U.S. requires weighing, but other countries don't. Koch testified he hopes the Coast Guard "will be a strong supporter of this initiative at the IMO."

WSC testimony:

http://www.worldshipping.org/public-statements/WSC_Testimony_Before_House_TI_on_Maritime_Environmental_and_Safety_Regs_April_2012.pdf

White House Authorizes Additional Steps to Prevent Evasion of Syria/Iran Sanctions - Treasury Posts FAQ

The White House has authorized additional steps to prevent "activities intended to evade U.S. economic and financial sanctions with respect to Iran and Syria," according to a recent letter from President Barack Obama to the Speaker of the House. The President advised the steps are pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA). This latest executive order (EO) authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to impose specified measures on a foreign person upon determining that the foreign person:

1. has violated or conspired to violate any license, order, regulation, or prohibition related to Executive Order 12957 or 13338 of May 11, 2004.
2. has violated or conspired to violate any license, order, regulation, or prohibition related to U.S. sanctions concerning Iran or Syria, Executive Order 13382 or 13224.
3. has facilitated deceptive transactions for or on behalf of any person subject to U.S. sanctions concerning Iran or Syria.
4. is owned or controlled by, or is acting or purporting to act for or on behalf of, directly or indirectly, any person determined to meet the criteria set forth above.

The new measures to be imposed on anyone meeting any of these criteria are prohibitions on all transactions or dealings, whether direct or indirect. The order also suspends entry into the U.S. of the foreign persons meeting the criteria.

White House notice: <http://www.whitehouse.gov/the-press-office/2012/05/01/letter-prohibiting-certain-transactions-and-suspending-entry-united-stat>

The Treasury Department provided more details about President Obama's 05/01/12 EO on foreign sanctions evaders, in a FAQ sheet: http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#

President issues Executive Order for Agencies to Consider Trade when Setting Regulations

President Obama signed an Executive Order (EO) on Promoting International Regulatory Cooperation designed to promote American exports by helping eliminate unnecessary regulatory differences between the U.S. and other countries. The order says domestic regulatory needs must still be met, but agencies must consider the international regulatory environment in developing any rules. The White House noted different regulatory requirements in different countries can significantly increase costs for companies doing business abroad.

The EO sets up an interagency working group, chaired by OMB's Office of Information and Regulatory Affairs, to provide a forum to foster regulatory transparency, sound regulatory practices, and U.S. regulatory approaches abroad. It requires Federal agencies to consider regulatory reforms that eliminate unnecessary differences between the U.S. and its major trading partners. Each agency shall develop and submit a preliminary plan within 120 days.

According to Sean Heather, vice president of the U.S. Chamber's Center for Global Regulatory Cooperation, the order is "a paradigm shift for U.S. regulators by directing them to take the international implications of their work into account in a consistent and comprehensive way." Heather noted the order "supports good trade policy. Dialogue between U.S. regulators and their foreign counterparts can avert unnecessary divergences in regulation that become 'behind the border' barriers to commerce."

Heather's comments:

<http://www.uschamber.com/press/releases/2012/may/us-chamber-welcomes-executive-order-international-regulatory-cooperation>

White House press release:

<http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order>

State Department Posts Information on China Talks about Customs and Other Trade Issues

After the U.S.-China Strategic and Economic Dialogue (S&ED) recently held in Beijing, the two countries released an official joint statement claiming progress. As reported, they decided to continue to implement the Memorandum of Understanding (MOU) between the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) and the General Administration of Customs of the People's Republic of China Concerning Bilateral Cooperation on Supply Chain Security and Facilitation and the Action Plan.

Three Customs-Trade Partnership Against Terrorism (C-TPAT) joint validations are to be conducted this year in China, which will further U.S.-China Customs cooperation on supply chain security and facilitation. Also, comparative studies of "Authorized Economic Operator (AEO)" systems will be carried out in conjunction with the joint validations in order to achieve the goal of mutual recognition of AEO as early as possible, according to the statement.

The U.S. and China also agreed to sign the Letter of Intent between CBP and the General Administration of Customs of the People's Republic of China and on a Joint Training Program designed to facilitate the exchange of information and personnel, undertake joint operational exercises, and strengthen customs-to-customs cooperation to identify and interdict illegitimate and illicit materials traveling via air and maritime cargo. Other developments cited in the State Department press release or the joint statement were:

*The Strategic Security Dialogue (SSD) portion of the talks provided a forum to discuss issues such as cyber-security and maritime security.

*The Nuclear Regulatory Commission and the U.S. National Nuclear Security Administration worked with their Chinese counterparts to support radiological material threat reduction and improve port and border security.

*The U.S.-China Aviation Cooperation Program has promoted safer aviation operations.

(Continued above)

*They endorsed the establishment of the U.S.-China Maritime Safety Dialogue Mechanism between the U.S. Coast Guard and the China Maritime Safety Administration.

*The two countries will hold specific talks on the issuance of five-year multiple entry visas for businessmen, tourists, students, and other agreed-upon visa classes.

*The joint statement "welcomed the furthering of bilateral cooperation on clean energy," including the extension of the U.S.-China Clean Energy Exchange Program, under the action plan between the U.S. Trade and Development Agency (USTDA) and the National Energy Administration.

*The U.S. and China decided to jointly support wildlife enforcement efforts to combat illegal trafficking of endangered and protected wildlife.

State Department press release:

<http://www.state.gov/r/pa/prs/ps/2012/05/189288.htm>

State Department Issues FR Notice Amending ITAR for Temporary Exports of Chemical Gear

The State Department announced it was amending the International Traffic in Arms Regulations (ITAR) to add an exemption for the temporary export of chemical agent protective gear for personal use. The exemption for body armor is amended to also cover helmets when they are included with the body armor. It also clarified an exemption for firearms and ammunition by removing some extraneous language that does not change the meaning of the exemption, and by standardizing the language among the exemptions in this section of the regulations. The change is effective 06/01/12.

State Department contact: Candace Goforth, 202-663-2792 or

DDTCResponseTeam@state.gov

FR Notice:

http://www.ofr.gov/OFRUpload/OFRData/2012-10455_PI.pdf

Census Posts May 2012 AES Newsletter (Includes Compliance Rate Information)

The Census Bureau posted the May 2012 AES Newsletter to its website. The newsletter contains articles that provide guidance on:

- *1. the new Automated Export System (AES), Compliance Rate for filers;
- *2. its report on importing and exporting companies for 2009-10;
- *3. how to report the NVOCC "booking number";
- *4. the DSP-5 Foreign End User as Ultimate Consignee for AES;
- *5. new features available in USA Trade Online; and
- *6. AES Broadcast messages.

According to Census, beginning with the April 2012 AES Compliance Report, a new Compliance Rate was implemented and filers received additional information regarding any unresolved AES Fatal Errors. This modification will provide AES filers with a complete Compliance Rate that reflects a filer's effort to maintain compliance with the Foreign Trade Regulations (FTRs). Additions to the AES Compliance Report include:

- Identifying the last three digits of your Filer ID.
- Fatal Error information, including the number of unresolved Fatal Errors, the Shipment Reference Number, AES Response Code, and AES Response Narrative for any unresolved Fatal Errors.
- Most frequent unresolved Fatal Errors during the reporting period, with a description of the reason for the error, as well as a suggested method for resolving the error.

Census advises a complete listing of all AES Filing Response Messages, are available in Appendix A of the AESTIR. Census notes, if your AES Compliance Rate is lower than before, please review your Fatal Errors and take steps to resolve them as soon as possible.

Census notice: <http://www.census.gov/foreign-trade/aes/aesnewslettermay2012en.pdf>

USTR Posts Information on Section 301 Watch List for Countries that May Violate IPR

The office of U.S. Trade Representative (USTR) released its annual 2012 Special 301 review process based on compliance with intellectual property rights (IPR), and IPR enforcement in 77 trading partners. The Special 301 Report provides a means for the United States to promote the protection and enforcement of IPR. For companies on the list, the U.S. Government could initiate dispute settlement proceedings (DSP) at the World Trade Organization (WTO) or other trade bodies, or eliminate tariff preferences.

*Priority Watch List as published: Algeria, Argentina, Canada, Chile, China, India, Indonesia, Israel, Pakistan, Russia, Thailand, Ukraine, Venezuela.

*Watch List as published: Belarus, Bolivia, Brazil, Brunei Darussalam, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Italy, Jamaica, Kuwait, Lebanon, Mexico, Norway, Peru, Philippines, Romania, Tajikistan, Turkey, Turkmenistan, Uzbekistan, Vietnam.

*Section 306 Monitoring: Paraguay.

USTR notice:

<http://www.ustr.gov/sites/default/files/2012%20Special%20301%20Report.pdf>

WTO Announces Montenegro as 154th Member - Samoa Joins on May 10, 2012-

The World Trade Organization announced on 04/29/12, it welcomed Montenegro as its 154th member, and will welcome Samoa as its 155th member on 05/10/12. According to the WTO, the terms of membership, including the Working Party Reports for both Montenegro's and Samoa's Accession, the Protocols of Accession, and the Schedules of commitments on Market Access for Goods and Services, were adopted by the WTO at the eighth Ministerial Conference in 2011. Under WTO rules, a country becomes a member 30 days after national ratification.

WTO notice:

http://www.wto.org/english/news_e/pres12_e/pr660_e.htm

State Department and BIS Issues Proposed Rules to Revise US Munitions List and CCL for Explosives

The State Department issued a proposed rule to revise USML Category V to remove catchall categories, narrow the articles controlled on the USML, to make this list of items more positive, and address multilateral obligations. At the same time, the Bureau of Industry and Security (BIS) is proposing the creation of four new 600 series ECCNs to control articles removed from Category V that would instead be controlled by the CCL. The State Department also advised it is not proposing any tiering at this time. Written comments on both proposed rules are due by 06/18/12.

*Proposed Rules Do Not Reflect Tiering - In their December 2010 advanced notices of proposed rulemaking, the State Department and BIS described the Administration's plan to make the U.S. Munitions List (USML) and the Commodity Control List (CCL) positive, tiered, and aligned so eventually they can be combined into a single control list. State reports these remain the Administration's ultimate Export Control Reform objectives, but their concurrent implementation would be problematic in the near term. As a result, the Administration decided, as an interim step, to propose and implement revisions to both the USML and the CCL that are more positive, but not yet tiered.

*Proposed Revision of USML Category V - The State Department's proposed rule would revise USML Category V, covering explosives and energetic materials, propellants, incendiary agents, and their constituents. The proposed revision would remove broad catchalls, replacing them with a listing of specific materials that warrant International Traffic in Arms Regulations (ITAR) control caught by current catchalls, address U.S. obligations to multinational regimes, and add materials that are significant to the military but have little commercial application.

(Continued above)

Proposed Revisions to the CCL - BIS' proposed rule describes how energetic materials and related articles that the President determines no longer warrant control under Category V (Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents) of the USML would be controlled under the CCL, as follows:

*The BIS proposed rule would create four new "600 series" Export Control Classification Numbers (1B608, 1C608, 1D608, and 1E608) for the CCL that the President determines no longer warrant control under USML Category V.

*BIS advises, consistent with the regulatory construct identified in the 07/15/12 proposed rule, this rule would move equipment for the production of explosives and solid propellants currently classified under ECCN 1B018.a, and related software currently classified under ECCN 1D018, to new ECCNs 1B608 and 1D608, respectively.

*The BIS proposed rule would move commercial charges and devices containing energetic materials, which are currently classified under ECCN 1C018, to new ECCN 1C608 (except chlorine trifluoride, which will be controlled under ECCN 1C111.a.3.f. and not under current ECCN 1C238).

*The BIS proposed rule would amend current ECCN 1C111 to describe the EAR controls that would apply to aluminum powder and hydrazine and derivatives thereof the President determines no longer warrant control under USML Category V.

State proposed rule (FR Pub 05/02/12)
<http://www.gpo.gov/fdsys/pkg/FR-2012-05-02/pdf/2012-10455.pdf>

BIS proposed rule (FR Pub 05/02/12)
<http://www.gpo.gov/fdsys/pkg/FR-2012-05-02/pdf/2012-10456.pdf>

ECHA Posts Information on Importer Notification Changes and REACH-IT System Changes

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

*The European Chemicals Agency (ECHA) published an updated version of the Guidance on registration. The Guidance is now available in the 'Guidance on REACH' section of the ECHA website.

http://echa.europa.eu/web/guest/view-article/-/journal_content/041ca561-7fb4-40a0-91c1-4d0a1b934a03

*The ECHA will begin accepting group notification to the Classification and Labeling Inventory for companies who are not themselves manufacturers or importers. Group notification can be done via the REACH-IT system. The relevant changes will be implemented for summer 2012. If the C&L notification is submitted by a third party on behalf of a group of manufacturers/importers, the submitting company will need to document it has been mandated to act on behalf and in the name of the manufacturers/importers that are part of the group.

http://echa.europa.eu/view-article/-/journal_content/75169683-efce-4bbe-b3a8-e4e2b39a332b

WTO Updates Information on Complaints of Argentina Import License Regime

At a recent meeting of the World Trade Organization's Import Licensing Committee some delegates commented that Argentina's non-automatic licenses and other measures on a range of imports continued to cause concern, many complained that their countries' exports to Argentina have suffered. The WTO reports that Argentina countered that the statistics show imports from most of these countries continue to rise. According to the WTO, Argentina referred Committee members to its previous explanations that the licensing requirements conform to the WTO's Import Licensing Agreement and are legitimate for promoting economic development at a time of international economic crisis. In addition, committee members also questioned Vietnam about its import licensing regime, India about its licensing for boric acid and for marble and similar stones, and Indonesia about its licensing for animals, animal products and fruit and vegetables.

WTO notice:

http://www.wto.org/english/news_e/news12_e/impl_27apr12_e.htm

Commerce Official Speaks on Growing Exports Due to Korea FTA

Importers, exporters and investors in Southern California recently learned that they should soon begin to realize benefits from the U.S.-Korea Free Trade Agreement (KFTA) as tariffs on many products are phased out and non-tariff barriers on goods and services are eliminated. As reported, South Korea is the 7th largest trading partner of the U.S. and also the 7th largest market for U.S. exports. The U.S. last year exported \$43.5 billion in goods and \$17 billion in services to South Korea.

Erik Sohn, international trade specialist, Office of Japan and Korea, at the U.S. Department of Commerce, told the Foreign Trade Association of Southern California, more than 95 percent of the trade in consumer and industrial products will be duty-free within five years, including the immediate elimination of Korean tariffs on many machinery manufactures from the U.S. Korea will also eliminate immediately its tariffs on many computer and electronics products.

Those tariffs were as high as 13 percent before the KFTA took effect on 03/15/12. Sohn advised there will also be an immediate elimination of tariffs on many food products from the U.S., with most other food tariffs eliminated within five years. As a result of these benefits, as well as the elimination of many other non-tariff barriers, exports to Korea are expected to increase \$10 billion to \$12 billion a year.

www.joc.com (5/2/12)

Japan Amends Chemical Labeling Regulations to Conform to Globally Harmonized System

Japan's Ministry of Economy, Trade and Industry (METI) recently announced that it revised ordinances regarding the provision of information about harmful chemicals and their handling to:

- conform to the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS), and
- reconcile the standards regarding indications about hazardous and harmful chemical products.

These revisions are effective 06/01/12, for notification of chemical substances, and 04/01/15, for mixtures. METI also revised its guidance on Measures to Be Taken by Business Operators Handling Designated Chemical Substances for Class I and II chemical substances. According to METI, it revised its requirements on Provision of Information on the Properties and Handling of Designated Chemical Substances, etc. (Ordinance of the Ministry of International Trade and Industry No. 401 of 2000). Changes are posted for review and further reference.

METI notice:

http://www.meti.go.jp/english/press/2012/0420_01.html

DDTC Posts Updated Information on U.K. Intermediate List

The State Department Directorate of Defense Trade Controls (DDTC) posted an updated list of U.K. Intermediate Consignees that reflects the impact of the Defense Trade Cooperation Treaties the U.S. has signed with the United Kingdom and Australia. The posting also included a link to functional highlights of the treaty, as well as Regulations, Lists to Check, and Other Supporting Documentation.

The list is available

http://www.pmddtc.state.gov/treaties/documents/UK_IC_List.pdf

U.S. treaty signed with the United Kingdom and Australia:

<http://www.pmddtc.state.gov/treaties/index.html#BMRD>

A full list of treaty-related information:

<http://www.pmddtc.state.gov/treaties/index.html>

DDTC also separately posted a notice of its policy on material changes in registration information.

http://www.pmddtc.state.gov/licensing/guidelines_instructions.html