



## Highlights in International Trade and Commerce

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The International Law Section of Williams Mullen prepared the following brief descriptions of selected issues in international trade and commerce for general information purposes and use by clients and friends of the firm.

### **Other Government Agencies Will Follow CPSC and Issue Their Own Detention Notices**

According to a Consumer Product Safety Commission ("CPSC") official, other government agencies will follow in the CPSC's footsteps and begin issuing their own detention notices. The CPSC began issuing its detention notices in June. These CPSC notices are generally in lieu of notices issued by U.S. Customs and Border Protection ("CBP"). They contain a point of contact at CPSC, information about the violation, instructions for the importer, and information about conditional release. The same CPSC official also commented on several other recent developments involving the Consumer Product Safety Improvement Act ("CPSIA"). The CPSC is seeing some common problems with the testing and certification requirements of the CPSIA, particularly that testing and certification are not always sufficiently thorough and that manufacturers and importers are not testifying and certifying for all the rules affecting a given product. In addition, the CPSIA requirement regarding conformity certificates does not mean that an importer must place a paper certificate in the box of a shipment. It suffices simply to have these documents available if CPSC asks for them; electronic form is preferable. The official also noted that the trade has been slow to comply with the CPSIA tracking label requirements for children's products and warned that the products could be stopped at the port of entry if they do not comply. Several new CPSC requirements apply to products manufactured on or after December 1, 2010, including: new standards for infant bath seats, new standards for infant walkers and requirements for consumer product registration cards to be included with additional durable infant and toddler products (children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant swings). In addition, the CPSC should finalize by the end of 2010 the rulemakings to establish new mandatory standards for cribs and to designate certain children's wear with drawstrings and hairdryers without immersion protection to be substantial product hazards and, therefore, refused entry. Finally, the CPSC's stay of enforcement on the testing and certification requirements for lead in children's products is due to be lifted in February of 2011.

### **Commerce Seeks Comments on Potential Change to Antidumping Respondent Selection Process**

The Commerce Department is considering amending the methodology it uses to select respondents in antidumping proceedings. The United States levies antidumping duties on imports priced at less than their fair or "normal value" when they have caused, or threaten to cause, injury to the U.S. domestic industry. In some antidumping investigations or reviews, the number of foreign producers or exporters is so large that it is impracticable for Commerce to examine each company individually. By statute, Commerce can limit its examination either to a statistically valid sample of exporters, producers or types of products or to the exporters and producers accounting for the largest volume of subject merchandise from the exporting country. To date, Commerce has almost always relied on the second option. This means that smaller importers typically have not been selected for individual examination. To remedy this problem, Commerce has proposed a new sampling methodology. It involves sorting the relevant companies from largest to smallest based on import volumes. Then, the companies would be divided into groups or strata, with each group accounting for roughly the same share of import volume. Finally, one respondent from each stratum would be selected for examination. Commerce is accepting comments on its proposed methodology until January 18, 2011.

### **Irish Economy's Restructuring Offers Potential Investment Opportunities**

The restructuring of the Irish economy is presenting, and will continue to present, a number of acquisition opportunities for value funds and investors as the Irish State privatizes a series of State-owned companies. Areas of focus include the energy, health insurance, air transport and gaming sectors. The National Asset Management Agency, the State-owned toxic debt vehicle, is preparing to dispose of its \$100 billion asset portfolio, much of which is located in the United States and United Kingdom. Despite reports in the press, the Irish economy, outside the banking sector, is generally solid.

### **ITC Issues Report on IPR Infringement and Indigenous Innovation Policies in China**

The U.S. International Trade Commission (ITC) issued the first of two reports on intellectual property rights (IPR) infringement in China and Chinese indigenous innovation policies. The report concludes that IPR infringement continues to be a problem for U.S. firms in China, reducing market opportunities and undermining their profitability. Moreover, China's indigenous innovation policies, which promote the development, commercialization and purchase of Chinese products and technologies, may create new barriers to U.S. foreign direct investment and exports to China, according to the report. The report also outlines a framework for analyzing the effects of IPR infringement and indigenous innovation policies on the US economy and jobs, which will be used in the second report.

If you have any questions concerning the subject matter addressed above, please feel free to contact any of the attorneys listed on the left.

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For comments or suggestions, please contact the publication editor, Jimmie V. Reyna, Esq.

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