



## 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.

### **First Sanctions Under New Iran Sanctions Act**

The State Department has issued its first sanctions under the Iran Sanctions Act ("ISA"). The sanctions are aimed at cutting off foreign investment in Iran's energy sector in an effort to persuade Iran to institute limits on its nuclear program. The Secretary of State determined that Naftiran Intertrade Company ("NICO"), a Swiss energy affiliate of the Iranian National Oil Company, had engaged in a sanctionable investment under the ISA. The sanctions prevent NICO from receiving loans greater than \$10 million from a U.S. bank and prohibit it from receiving certain benefits from the U.S. government. The sanctions could also make other companies leery of doing business with NICO, fearing that they could also be hit with penalties. Notably, the U.S. did not sanction Russian and Chinese companies engaged in similar activities, likely to prevent potential diplomatic fallout. The U.S. granted waivers to four large European energy companies after those companies agreed to cut back on their Iranian trade. Coupled with the Administration's expressed intention to increase the pressure on Iran to cease development of nuclear weapons, State's new sanctions are a stern warning to companies doing business, directly or indirectly, with Iran.

### **Additional Requirements for Government Contractors under Iran Sanctions Act**

In a separate, but related action, the Department of Defense amended the Federal Acquisition Regulation ("FAR") to implement the ISA. The new regulation requires government contractors and prospective government contractors to certify that neither they nor any entity owned or controlled by them is engaged in activity sanctionable under the ISA. The certification requirement applies to all procurement contracts with the U.S. government. False certifications could lead to contract termination, contractor suspension, or debarment of the contractor for up to three years. There is an exception for the procurement of eligible products, as defined under the Trade Agreements Act (the "Act"), from a country designated under the Act.

### **ITC Investigating Impact of Duty Free Treatment for Certain Countries**

The International Trade Commission ("ITC") is investigating the economic impact of providing duty free

treatment for imports from the countries currently negotiating the Trans-Pacific Partnership Agreement (Australia, Brunei, Chile, New Zealand, Singapore, Peru, and Vietnam) as well as Malaysia. The ITC will look at the probable economic effects of duty-free treatment for imports from TPP members on industries in the United States. ITC's report will include an assessment of the probably economic effect of eliminating tariffs on imports of certain agricultural products both on U.S. producers and with respect to the U.S. economy as a whole. Two of the current focal points of the negotiations are how the agreement will relate to other free trade agreements and how new countries will be able to accede to the agreement. Thailand, the Philippines, and Japan also reportedly want to join the negotiations. Hearings are scheduled for November 17.

### **U.S. Investigates China's Policies & Practices Affecting Trade in Green Technologies**

The U.S. Trade Representative has launched a Section 301 investigation into China's acts, policies and practices affecting trade and investment in green technologies. The United Steelworkers ("USW") filed a petition, alleging that China is acting contrary to its WTO obligations by unfairly protecting and supporting domestic producers in a number of green technology sectors. Among the practices alleged are export restraints, prohibited subsidies, discrimination against foreign companies and imported goods, technology transfer requirements, and domestic subsidies causing serious prejudice to U.S. interests. The USW further alleged that China's policies and practices have contributed to the substantial increase in the U.S. trade deficit with China in green technology goods. USTR is accepting comments on China's practices until November 15.

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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