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.

China Considers Tightening Control Over Rare Earth Minerals
China's State Council is considering a plan that would restrict the mining rights of rare earth minerals to a few state-controlled companies. Rare earth minerals have many important industrial uses. They are used to produce cell phones, fiber-optic cables and lasers and are also essential to "green" technologies such as wind-turbines and electric cars. This potential change in policy is of significant interest to industrial nations as China currently produces 97 percent of the global supply of rare earth minerals. Under the new policy, if approved, the Ministry of Land Resources will issue licenses to state-owned companies, and private enterprises can collaborate with the state-owned businesses only through shareholding. Some foreign observers see this new policy as another example of governmental intervention designed to support Chinese industries and to encourage local development of technologies at the expense of foreign-owned business. However, Chinese officials insist that the new policy is intended to combat environmental exploitation and to produce more ordered development of the resource. Ultimately, industry observers expect the new policy to raise prices of rare earth minerals in the short term but also to spur development of mines located outside of China.

CBP Publishes Notice of Intent to Distribute Assessed Antidumping and Countervailing Duties ("Byrd Money")
On June 2, 2010, U.S. Customs and Border Protection (CBP) issued a notice of intent to distribute assessed antidumping or countervailing duties. The Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) provides that antidumping and countervailing duties collected by CBP will be distributed to affected domestic producers upon the liquidation of the entry. Affected domestic producers include any party that was a petitioner or interested party in support of the original antidumping or countervailing duty order or any party that remains in operation and continues to produce the product covered by the order. To receive a distribution, an affected producer must submit a certification to CBP by August 2, 2010. A certification form and list of affected domestic producers eligible to receive subsidies is available at http://edocket.access.gpo.gov/2010/pdf/2010-13053.pdf. It is worth noting that the section of the CDSOA that provided for the distribution of subsidies to affected domestic producers was repealed in 2005. However, under the new law, duties collected on entries filed before October 1, 2007 will continue to be distributed as if the old law were still in effect.

United States Organizes Green Energy Trade Mission to Mexico City
The U.S. Department of Commerce (DOC) is organizing a trade mission to Mexico City that will begin

on September 27, 2010. The goal of the mission is to help U.S. providers of "Green Information & Communications Technology (ICT)" enter the Mexican market. Green ICT provides monitoring, supervision and automation capabilities that help industries become more energy efficient. The DOC sees Mexico as a potential target for US Green ICT because of Mexican green initiatives such as President Felipe Calderon's National Strategy on Climate Change and green projects funded by the World Bank already underway. The mission will focus on business opportunities within the Mexican government, public utility and construction sectors. Those interested in attending must submit an application to the DOC. Recruitment for the mission begins immediately and will conclude no later than August 2.

Members of Congress Prod Administration to Act on TPAs
Members of both houses of Congress recently sent letters to President Obama urging him to support the enactment of several Trade Promotion Agreements (TPAs) that have been signed by the United States but not yet approved by Congress. A group of 16 Senators sent President Obama a letter requesting that the Administration provide the governments of Korea, Colombia and Panama "a well-defined and finite list" of outstanding issues that need to be addressed before the Administration will support approval of the agreements. Meanwhile, a group of 39 members of the House of Representatives sent a letter urging the President to support approval of the U.S.-Colombia TPA. Both of the letters argue that U.S. exporters are at a competitive disadvantage in these markets because they must pay duties that are not imposed on competitors from some other countries. Moreover, the authors point out that approval of the TPAs would open markets to U.S. exporters and help achieve the national goal of doubling exports within 5 years. However, the Administration has not yet indicated when it will act on the TPAs, and many within the U.S. remain opposed to entering into more trade agreements. Stay tuned to *HIGHLIGHTS* for further developments.

ITC to Investigate Eliminating Tariffs on 700 Pharmaceutical Products
At the request of the Administration, the U.S. International Trade Commission (ITC) has begun an investigation to provide advice about the addition of over 700 pharmaceutical products and chemical intermediaries to the Pharmaceutical Appendix of the Harmonized Tariff Schedule (HTS). Under the Uruguay Round Agreements, products listed on the Pharmaceutical Appendix receive duty free treatment. There are currently 9,500 products on the list, and the Administration is now considering whether to add to it. The ITC must conclude its investigation by September 1, and comments are due to the ITC by July 14.

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

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

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