



PLG

International Trade Practice

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Daanish Hamid

dhamid@potomaclaw.com

Roger Banks

rbanks@potomaclaw.com

Michael Mendelson

mmendelson@potomaclaw.com

This presentation is provided for informational purposes only and does not constitute legal advice.

Overview

- Key International Trade Practice Areas
- Impact of Current Administration
- How We Can Help
- Clients that typically seek our support
- Questions

International Trade Practice Areas

- **Import Law**
 - Tariffs and Customs Compliance
- **Sanctions**
- **Export Controls**
- **CFIUS/National Security Review**
- **FCPA/Anti-Corruption Compliance**
- **Other Topics:**
 - Anti-Money Laundering/Anti-Terrorist Financing Compliance
 - Anti-Boycott Compliance
 - Foreign Agents Registration Act
 - Buy American Act / Trade Agreements Act Compliance

Import Law: Overview

- Laws governing imports into the United States
- Administered by U.S. Customs and Border Protection (CBP)
- Implement U.S. trade law and policy; revenue collection
- Impose tariffs, quotas, product marking, other restrictions
- Affect U.S. importers, foreign producers, domestic industries, et al.

Import Law: Assessing Tariffs, Other Treatment

- Product Classification under HTSUS
 - Examples:
 - Auto Part or Textile
 - Camera or Computer
 - Aluminum products
- Country of Origin
 - Examples:
 - Hand-Tools
 - Aluminum
- Declared Value

Import Law: Other Restrictions

- Product Marking (origin)
- Quantitative Restrictions (quotas)
- Enforcing Non-CBP Regulations (e.g. FDA)
- Executive Orders (e.g., remedial tariffs)

Import Law : Compliance and Enforcement

- Standard of “Reasonable Care”
 - Opinion Memoranda
 - Corporate Compliance Plan

Tariffs and Customs: Current Issues

- New Remedial Tariffs by E.O. (e.g., imports from China, Canada, Mexico)
- Reciprocal Trade Policy
 - Potential for significant change in tariff code
 - Public comment period open at the USTR
- CBP enforcement priorities:
 - incorrect country of origin
 - incorrect classification

Import Law: How We Can Help

- More advantageous tariff treatment
- Product Marking
- Developing Compliance Plan and Training
- Enforcement actions
- Administrative challenge to CBP actions
- Litigation in federal court: CIT (trial *de novo*) and CAFC
- Public Comment and Lobbying
- Unfair Trade Litigation

Sanctions Overview

- Restrictive measures to protect national security and achieve economic and foreign policy objectives
- Administered by Office of Foreign Assets Control (OFAC) at Dept. of the Treasury
- Blocking or freezing of assets
- Targeted Transactions
- Country-Based Sanctions
- List-Based Sanctions
- Secondary Sanctions
- Licenses and Exceptions

Sanctions: Impact of New Administration

- **Iran:** Presidential EO seeks to apply “maximum pressure”
- **Russia:** AG disbanded Task Force KleptoCapture which was responsible for sanctions enforcement against Russia
- **China:** Potential increased scrutiny and enforcement.

U.S. Export Controls Overview

- Restrictions on the export, reexport, temporary import, or transfer of defense articles and services, dual-use goods and technology, and certain other articles
- Export control jurisdiction and commodity classifications
- Overlap with sanctions
- General license and specific license requests
- Primary export control agencies:
 - **Bureau of Industry and Security (BIS)** of the Department of Commerce
 - Administers the Export Administration Regulations (EAR)
 - **Directorate of Defense Trade Controls (DDTC)** of the Department of State
 - Administers the International Traffic in Arms Regulations (ITAR)

U.S. Export Controls: Impact of New Administration

- Presidential Executive Orders in January and Feb require export control regime review and modification proposals
- Licenses were paused without public announcement but now have resumed
- Export control oversight and enforcement expected increase with respect to China, Iran, and countries viewed to be supporting them
- Emphasis on reviewing reexports of U.S. articles from one foreign country to another
- Senior career export control specialists departing from government – greater uncertainty with re to implementation

Export Controls: How We Can Help

- Commodity Jurisdiction and Classification
- Licensing
- Developing Compliance Plan, Technology Control Plan, and Checklists
- Employee and Contractor Training
- Voluntary Self-Disclosure Reporting
- Compliance Program and License Auditing
- Public Comment and Lobbying

CFIUS Overview

- Interagency Committee led by Treasury Department.
- Responsible for national security reviews of certain investments or acquisitions of U.S. businesses or real estate.
- President can block or unwind transactions.
- Mandatory and Voluntary Filings.
- Applies to both controlling as well as certain minority or non-controlling investments.
- No statute of limitations apply to CFIUS reviewing non-notified transactions.

CFIUS: Impact of New Administration

- Is the CFIUS process going to become more political and will that make it more unpredictable?
- Nippon Steel – U.S. Steel Acquisition Review
- Presidential Executive Order in Feb 2025:
 - Restrict Chinese investments in certain areas
 - Greenfield Investment Restrictions
 - AI and other Emerging and Foundational Tech. Restrictions

“Outbound CFIUS”

- New Outbound Investment Security Program went into effect in January 2025.
- Restricts U.S. investments in certain Chinese-related businesses involved with the semiconductor/microelectronics, quantum tech. and AI.
- Focus on China, Hong Kong and Macau.
- Two-Tier System: (i) blanket ban or (ii) prior notification.
- New Executive Order: Requires Treasury Secretary to propose modifications.

Foreign Corrupt Practices Act (FCPA)

Overview

- Criminal statute consisting of anti-bribery and accounting provisions.
- Prohibits provision, offering, promising or authorizing bribes to foreign officials, political parties, and candidates to achieve a business purpose.
- Covers direct and indirect bribery through **third parties**.
- Prohibited bribes can take form of cash or anything of value (gifts, hospitalities, entertainment, travel benefits, donations)
- Applies to businesses as well as individuals.
- Non-U.S. parties can also be held liable in certain cases.
- Accounting provisions apply to public companies and other issuers:
(i) books and records and (ii) internal accounting controls.
- Violations result in fines, penalties and imprisonment.

FCPA: Impact of New Administration

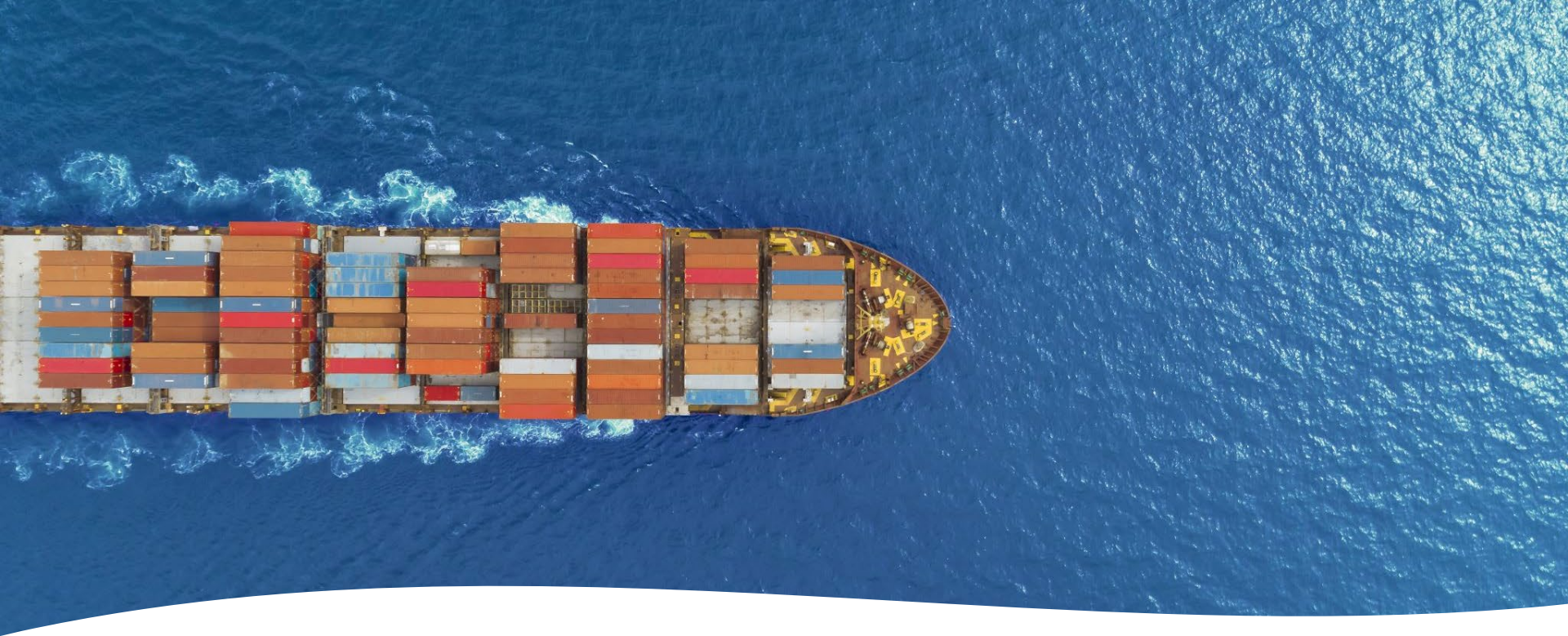
- Feb. 10, 2025 Executive Order
- FCPA enforcement paused for 180 days
- AG to issue revised and “reasonable” FCPA enforcement guidelines
- Current FCPA cases are under review
- New FCPA to resume subject to new guidance and AG approval
- FCPA still remains law of land
- 5 year statute of limitations that can be tolled for up to 8 years
- Businesses may still face risk

How we help clients address sanctions, export controls, CFIUS, and FCPA risk

- Risk Assessments
- Compliance Programs
- Third Party Due Diligence
- M&A Due Diligence
- Contract Reps and Warranties
- Licenses and other Filings
- Legal Opinions
- Internal Investigations
- Self-Disclosures

Types of clients that typically seek our counsel

- Financial Institutions
- Aerospace/Defense
- Energy/Renewables
- Mining/Extractive Industries
- Manufacturing
- Automotive
- Technology (Hardware/Software)
- PE/VC Investors
- Real Estate/Public REITs



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Questions?

Team



DAANISH HAMID is a partner in PLG's Washington, DC office. He focuses on global investigations, regulatory compliance, and commercial transactions. He advises clients on the Foreign Corrupt Practices Act (FCPA), economic sanctions, anti-money laundering restrictions, export controls, and national security filings with the Committee on Foreign Investment in the United States (CFIUS).



MICHAEL MENDELSON is a partner in PLG's Washington, DC office. He focuses on government contracts, international trade, and corporate and commercial transactions. In his regulatory practice, he develops and audits compliance programs, and advises clients on export control licensing and compliance, economic sanctions, national security, and FOCI compliance.



ROGER BANKS is a consulting counsel. He has significant experience litigating unfair trade cases (antidumping, countervailing duty, "safeguards," and others) and challenging rulings by the U.S. Customs and Border Protection and other agencies. He advocates on behalf of importers and exporters subject to enforcement actions and advises them on compliance with import and export regulations.