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LIVINGSTON
Simplify Trade

UNTANGLING GLOBAL TRADE

Global trade continues to evolve, and with its growth the complexities of doing business internationally get further intertwined – this results in a tangled web of rules and regulations. With our global team of experts, Livingston simplifies trade by providing guidance and advice through this "tangled web" ensuring optimization of tax and supply chain management.

With compliance experts in twenty-four countries, Livingston is positioned to offer solutions into every corner of the world. We understand the cultural diversity of doing business globally, and we have the knowledge and experts to simplify the added layer of complexities this can sometimes offer.

We are proud to share with you the interesting content in our second edition of Livingston Global Perspectives. With our teams of experts from Global Trade Management and Regulatory Affairs, we have compiled an interesting set of articles. We hope you will enjoy this second edition and we look forward to your feedback so we can continue to grow and improve in future editions. We are interested in hearing from you, and ask you to share with us your comments by sending us an e-mail to **LivingstonGlobalPerspectives@Livingstonintl.com**.

If you enjoyed the content in this edition of the Livingston Global Perspectives and would like to subscribe to additional trade news please email us at **LivingstonGlobalPerspectives@Livingstonintl.com** and type '**Subscribe**' into the subject line.

Happy reading!

Peter Bulters, Vice President, GTM Governance
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MAKE SURE YOU'RE ACE-READY!

The U.S. Automated Commercial Environment (ACE) initiative is changing how we import and export by streamlining trade processing in the United States. By the end of 2016, it's expected that ACE will be the Single Window for trade processing.

U.S. Customs and Border Protection (CBP) has announced that all electronic cargo releases for most entry types, and their related entry summaries must be submitted through the ACE system starting February 28, 2016. At that time, the Automated Commercial System (ACS) will be retired and ACE will be the only way to file release information.

Take advantage of the ACE transition period

CBP originally expected to launch mandatory ACE filing on November 1, 2015, before pushing the date back to February. Starting November 1, 2015, CBP began a "transition period" to allow both you and participating government agencies more time to test their ACE readiness. CBP is encouraging users to submit electronic entry and corresponding entry summary filings for entry types 01, 03, 11, 51, and 52 with or without Partner Government Agencies (PGA) data.

Understanding your requirements under ACE

As part of the mandatory ACE rollout, CBP has worked with 47 PGAs to ensure their participation. This means that PGA-specific data elements must be submitted through ACE to ensure release.

Many of these PGAs have not accepted electronic filing in the past, and many will require additional data fields as part of the ACE program.

Requirements for the following PGAs will be mandatory as of February 28, 2016:

- Food and Drug Administration (FDA)
- Animal and Plant Health Inspection Service (APHIS) (Lacey Act)
- National Highway Traffic Safety Administration (NHTSA)

Requirements for the following PGAs will be mandatory as of July, 2016:

- Agricultural Marketing Service (AMS)
- Animal and Plant Health Inspection Service (APHIS) (Core/ non-Lacey Act)
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Centers for Disease Control and Prevention (CDC)
- Defense Contracts Management Agency (DCMA)
- Directorate of Defense Trade Controls (DDTC)
- Drug Enforcement Administration (DEA)
- Environmental Protection Agency (EPA)
- Food Safety and Inspection Service (FSIS)
- Fish and Wildlife Service (FWS)
- National Marine Fisheries Service (NMFS)

Supporting our clients' needs

As part our ACE preparations, we're migrating to a new operating system that, in addition to being ACE-compliant, will help us modernize and simplify our interfaces and further streamline the exchange of information.

Find out the latest details on this important U.S. government initiative, including the latest on new food and drug, animal and plant product, and vehicle/vehicle parts requirements by visiting our website, at **www.livingstonintl.com/ace**

MEXICO MOVES TO PROTECT TRADEMARKS AND INDUSTRIAL PROPERTY

By Tania Ordaz, GTM Governance Latin America

Mexico has taken steps to protect Intellectual Property (IP). As of July 2015, the corresponding trademarks must be declared by entering the information on the customs documents. The declaration of trademarks allows the Mexican Institute of Industrial Property to distinguish between similar products and identify possible fraudulent transactions.

In a globalized world, obtaining legal protection on innovation and technological development is a growing priority; a necessity in order to avoid possible piracy and misuse of technological developments.

Intellectual Property (IP) is one of the essential elements of influence in promoting technology, development and innovation that reflects the efforts of enterprises to modernize, and the competitiveness of the economy of a country. IP combines a set of exclusive rights that protect both innovative activities demonstrated in new products and procedures or designs as market activity by identifying exclusive products and services offered in the market.

Free trade enables international business across borders and helps to stimulate economies, but comes with the associated risk of intellectual property infringement. This is why it's important for the owners of technology to obtain legal protection for all new developments that will be exploited commercially abroad.

Legal reforms for protecting trademarks in customs operations.

Mexico's Industrial Property Act is in place to protect the creators and producers of goods and services. This law is monitored by the Mexican Institute of Industrial Property (IMPI), the administrative authority responsible for the protection, prevention and combat of acts against Intellectual Property and unfair competition.

Effective July 4th, 2015, corresponding trademarks must be declared in Customs documents for goods entering Mexico, proving the legal status of the goods in the country of origin. Declarations are monitored by the Tax Administration Service (SAT) through the 49 Customs offices across Mexico. This allows for early detection of dubious products or those that may be infringing on intellectual property rights related to the brands/trademarks, based on the Marcanet master database provided by the Mexican Institute of Industrial Property.

The declaration of trademarks allows the Mexican Institute of Industrial Property to distinguish between similar products and identify possible fraudulent transactions, preventing acts against intellectual property and unfair competition. Consequences for fraudulent transactions can include administrative sanctions and the seizure of products as a precautionary measure while legal procedures are undertaken.

U.S. AND MEXICO KICK OFF A JOINT CUSTOMS CLEARANCE PROCESS

By Carlos Pérez, GTM Governance, Latin America

In October 2015, Mexico and the United States finalized a bilateral strategic plan with the signing of a Pre-Customs Clearance Memorandum and by kicking-off a joint Customs clearance pilot project. The project covers three consecutive six-month milestones. An evaluation upon completion of the project will determine if the program will become permanent.

Mexico and the United States have created a solid business and foreign trade relationship based on collaboration and trust. A proof of this collaboration is the Declaration of Principles for a Bilateral Strategic Plan, signed in March 2014 in an effort to improve North American competitiveness, specifically to these two big trading partners.

On October 15th 2015, in Mexico City, the U.S. and Mexico formalized the bilateral strategic plan, made official with the signing of a Pre-Customs Clearance Memorandum, by kicking off a joint Customs clearance pilot project.

This project is integrated on three key milestones:

1. **Air cargo at the Laredo Texas Airport focused on the automotive, electronics and aerospace industries, shipped to eight Mexican airports authorized to promote the importation and exportation of foreign trade goods.** These Mexican airports are: Guadalajara, Toluca, Hermosillo, Chihuahua, Guanajuato, Querétaro, Ramos Arizpe, and San Luis Potosi.
2. **Shipments of Mexican agricultural products to be exported to the United States at Tijuana Customs** (Mesa de Otay offices).
3. **Computers and electronic products assembled in the Foxconn Company facilities, in San Jerónimo, Chihuahua** – situated less than a mile from the international border crossing point Jerónimo - Santa Teresa and ten miles from Ciudad Juarez, to be exported to the United States.

Each pilot project milestone will be in effect for a six-month period. At the end, results will be evaluated to determine whether to extend the pilot project to other sectors of the industry, or to make the program permanent and implement it at other border crossing points or airports.
The first phase is currently active and the second step is scheduled to begin in February 2016. Commencement date for the third phase has not yet been announced.

How does it work?

A single customs inspection is performed by Mexican Customs and U.S. Customs and Border Protection (CBP) personnel for shipments coming from or going into the United States. This procedure includes a review of the documents and physical goods, and will reduce the time spent at customs and associated logistics costs.

Technology and skillsets vary between U.S. and Mexico Customs, which may cause some challenges to the success of this project pilot. Both nations need to make a joint effort to obtain the same level of professionalism on both ends in order to ensure the success of this project.

For more information, please visit: **www.dhs.gov/news/2015/10/15/readout-secretary-johnsons-trip-mexico** and **blogs.law.unc.edu/ncilj/2015/11/08/cargo-preinspection-aims-to-facilitate-trade-between-mexico-us/**.

PLAN AHEAD FOR THE 2017 WCO HARMONIZED SYSTEM UPDATES

By Philip Sutter, GTM

Every five years, the World Customs Organization (WCO) makes a major update to the Harmonized Commodity Description and Coding System. The next major update is scheduled for January 01, 2017. Whether your company is a big or a small international trader, you should be aware of changes, and start to make plans in 2016 to prepare for the changes.

The World Customs Organization (WCO) updates the Harmonized Commodity Description and Coding System, or Harmonized System (HS), every five years. The next update is coming up soon, on January 1, 2017. There are 153 contracting parties to the HS[1] each with their own country specific tariff. The Harmonized System is used by 206 countries – all will require updates and translation. It's a big deal!

The HS is a multipurpose international product nomenclature that countries use to assess Customs tariffs, collect international trade statistics, designate preferential trade program rules of origin, track quotas, and many other purposes.

The HS is organized into 21 sections and 96 chapters. To ensure harmonization, the contracting parties must employ the HS six-digit provisions and international rules and notes. Each country is free to adopt additional subcategories and notes, usually up to eight or ten-digits. Chapter 77 is reserved for future international use only. Chapters 98 and 99 are reserved for national use.

The 2017 HS changes encompass 233 sets of amendments relating to a wide range of products and product groups, including: fish and fishery products; forestry products; antimalarial products; substances controlled under the Chemical Weapons Convention; hazardous chemicals controlled under the Rotterdam Convention; persistent organic pollutants controlled under the Stockholm Convention; ceramic tiles; newsprint; light-emitting diode lamps; monopods, bipods, and tripods; multi-component integrated circuits; and hybrid, plug-in hybrid, and all-electric vehicles.

Whether your company is a big or small international trader, you should be aware of changes, and make plans to prepare in 2016 as appropriate. The place to start is with your product classification database. On 1 January 2017, or such other date the country you import to or export from designates to adopt the changes, your product numbers will need to have the latest HS code.

The WCO provides a six-digit correlation table showing the expiring classification and the one or more new classifications to be considered for that product. This is available now[2]. Also, subject to further refinement, the U.S. has already published a 10-digit correlation[3]. Other countries may wait until very close to the deadline.

By comparing the product database to the correlation table, you can assess the degree of difficulty to make the necessary changes. Typically, it involves obtaining some

new piece of information. This information may or may not be evident in the description or audit trail for the existing records so you may need to review material specifications, engineering drawings, product bills of material, or other information to make an accurate update. If possible, segregate out obsolete product numbers for archiving. Be careful to collect any new part numbers classified between now and the adoption date. Each of these will require a new classification as well.

It is necessary to study and take in the details in the correlation table. Also, there are critical section and chapter note changes that require close scrutiny. Finally work closely with your classification subject matter experts to ensure accuracy. Once your analysis is complete, you can stage the changes for the adoption date. Having taken these proactive steps, you will be glad that you planned ahead!

1. Interestingly, only 118 of the 153 have made the 2012 HS updates as of 8 October 2015. http://www.wcoomd.org/en/topics/nomenclature/overview/~/media/18E06EB6930C4F1FB0CFE39CF10571EC.ashx
2. http://www.wcoomd.org/en/topics/nomenclature/instrument-and-tools/hs-nomenclature-2017-edition.aspx
3. http://www.usitc.gov/documents/1205-11.pdf

SPAIN TO IMPLEMENT ELECTRONIC TAX FILING

By Eva Poyatos, GTM Governance, EMEA

The Spanish Tax Agency, Agencia Estatal de Administración Tributaria (AEAT), is working to expedite a new tax process as part of a national strategy to avoid tax fraud. While the implementation date is set for January 2017 the government is working to bring this date forward. Importers and Exporters will be able to provide their transactional information immediately, on an ongoing basis, through a web service or for those who have very few transactions by filling a web form.

The Spanish Tax Agency, Agencia Estatal de Administración Tributaria (AEAT), is working to expedite a new tax process as part of a national strategy to avoid tax fraud. The AEAT is planning to implement a system by January 2017 to electronically handle their Value Added Tax (VAT). This new system will require that invoices issued and received be registered.

While the implementation date is set for January 2017 the government is working to bring this date forward. A Royal Decree has been drafted for the modernization, improvement and boost of the use of electronic means in the VAT management, which modifies the current Regulation 1624/1992 on VAT management.

Under the new process, all invoices issued and received by those companies falling under the scope of the Royal Decree will be required to be report the invoices through the Sede Electrónica of AEAT Web page. This electronic reporting will be mandatory for companies that report a monthly VAT return, in accordance with article 71.3 of the Spanish VAT Regulation 1624/1992. However, it will also be an option for those companies who report a quarterly VAT return.

Those who report their invoices electronically to the Tax Agency will be exempt from filing further VAT forms. These are form 347 (Operations with third persons), form 340 (Informative declaration for exporter, based in article 36 of the Regulation 1624/1992 on VAT management) and form 349 (Intra-EU operations declaration).

Importers and exporters will be able to provide their transactional information immediately, on an ongoing basis, through a web service or for those who have very few transactions by filling a web form. The information to be provided will be the date of issue, date of the operation, VAT registration number of the consignee, VAT base, quota, etc. to the import and export SAD number and date of acceptance. Information that goes beyond the standard invoice will be collected by the AEAT. In terms of delivery dates, intervals are short so it will require coordination between various departments and will also require some companies to complete some IT development as the information will be required by the AEAT within 4 days from the invoice issue or received date.

The information reported electronically by a company will be visible to its suppliers and clients where there is a declared VAT book and a cross-check VAT book. The information provided by two related operators (supplier/client) included in this new process will be matched, allowing the AEAT to find discrepancies, improve the information and detect fraud.

Some aspects of the new system will mean a complete change in business practices for many companies and a potential change in the relationship with their clients and suppliers. It will be interesting to see how this develops once it is implemented. In general, the impression is that more and more companies will opt to provide this information electronically and use this new process, but at the moment there is much to consider in order to get the new requirements implemented.

AUTHORIZED ECONOMIC OPERATOR IN MEXICO

Working to build safe customs networks

By Nancy Torres, GTM Governance Latin America

Mexico has implemented the Authorized Economic Operator (AEO) program as part of its commitment to the World Trade Organization (WTO) SAFE framework model. To address the statements of the framework, Mexico has put into action a new certification procedure initially called NEEC (New Scheme of Certified Companies) - The Authorized Economic Operation for Mexico. In order to be eligible for NEEC Certification, companies must provide evidence of a clean record regarding their tax obligations.

Countries around the world are making efforts to promote the implementation of safety standards for their import and export operations and Mexico is not an exception. Mexico has adopted and implemented an Authorized Economic Operator (AEO) program, as part of its commitment to the World Trade Organization (WTO) SAFE framework model. To address the statements of the framework, Mexico has put into action a new certification procedure initially called NEEC (New Scheme of Certified Companies) - the Authorized Economic Operation for Mexico.

The NEEC Certification aims to strengthen security on the supply chain through implementing internationally recognized safety standards and bringing benefits to subscribers. It's mainly focused on export operations and certification is available to manufacturers, traders, carriers and brokers.

In order to be eligible for NEEC Certification, companies must: provide evidence of a clean record regarding their tax obligations, be in operation for at least three years before applying for the certification, provide proof that they maintain a transparent customs operation.

Additionally, applicants must demonstrate they can effectively implement the following safety standards:

- Physical safety on site.
- Access control on site.
- Verifiable procedures to select and hire commercial partners who must also implement the minimum safety requirements stated by NEEC Certification.
- Safety on cargo vehicles, containers and all transportation units used.
- Personnel safety and training.
- Information safety controls.

The companies that obtain this certification have access to a total of 46 benefits, which include:

- Exclusive lanes at Customs.
- Expedited clearance processes.
- Facilitation of administrative procedures.
- Mutual recognition with other countries.

The SAFE Framework states that countries should work together in order to create a more efficient Customs policy and eliminate unnecessary regulations, plus avoid discriminatory and protectionist practices. This can only be achieved through mutual recognition between Mexican Customs and Customs authorities in other countries, as well as Mexican Customs with companies doing business in Mexico.

Mexico has reached an agreement with the U.S., to mutually recognize NEEC Certification and C-TPAT programs and with South Korea, by recognizing their AEO programs. There are also eight Mutual Recognition Agreements signed between companies and public agencies and published by the Secretariat of Economy in Mexico.

Mexico's achievements on the adoption of the SAFE Framework seem to be encouraging the participation of more companies. The more solid the procedures, the more attention they receive from other countries; therefore, Mexico appears to be on the right path to make its customs operation much more secure to strengthen a trust relationship with all parties involved with customs transactions.

THE CANADA – U.S. SOFTWOOD LUMBER DISPUTE

By John Moccia, Canada Regulatory Affairs

The Softwood Lumber Agreement (SLA) between Canada and the United States of America officially expired on October 12th, 2015. Although the SLA expired, thereby eliminating the export measures and quotas as described above, regulatory amendments to Canada's Export Control List and Export Permits Regulations (Softwood Lumber Products 2006) occurred to allow for the continuation of the export permit requirement on softwood lumber products.

On October 12, 2015, the Softwood Lumber Agreement (SLA) between Canada and the United States of America officially expired. While in effect, the agreement oversaw the most notorious trade dispute in the history of Canadian-American relations.

The long-running dispute began in 1982 over allegations by the United States that the Canadian government unfairly subsidized the growing of Canadian softwood timber, transformed it into lumber, and exported it to the United States. In a nutshell, the two countries have different timber ownership systems. In the United States, some 70% of forest lands are privately owned, while in Canada 94% of forests are on provincial or federally owned lands.

The 2006 Softwood Lumber Agreement (SLA) established a mechanism in limiting the volume of logs exported from Canada. Under the SLA, Canada was required to impose export charges and export volume limitations (quotas) on shipments of softwood lumber products to the United States. Through the use of a lumber price trigger, Canadian softwood lumber producers who exported lumber manufactured in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario or Quebec to the United States, paid an export charge when the price of lumber was US$355 or less per thousand board feet (MBF). Furthermore, the SLA required Canada to establish an export permit system for all exports of softwood lumber products (SLP) to the United States, as set out in Annex 1A of the SLA.

Although the SLA expired, thereby eliminating the export measures and quotas as described above, regulatory amendments to Canada's Export Control List and Export Permits Regulations (Softwood Lumber Products 2006) occurred to allow for the continuation of the export permit requirement on softwood lumber products.

By continuing to require a permit for softwood lumber products exported to the United States, the Government of Canada and the softwood lumber industry will have access to reliable, accurate data on the province or territory of origin, the volume and the pricing for exports of SLP to the United States from all Canadian provinces and territories.

The 2006 SLA contains one lasting provision still in effect today. The provision known as the "12-month standstill period" prevents either country from taking any kind of trade action against the other. Thereby, allowing both sides a one-year window to structure a new agreement.

However, as is so often the case, history tends to repeat itself and we may well find ourselves in another round of trade litigation over softwood lumber in the not-so-distant future.

THE MANY FACES OF CANADIAN COMPLIANCE

By Suzanne Perkins, Regulatory Affairs Canada

In recent years, there has been an increase in compliance verifications in Canada, not only from CBSA but also from Other Government Departments (OGD). Although their respective legislation has been in place for many years, the focus on compliance has gained importance. One of the methods used by CBSA to manage trade compliance is through post-release verifications which are designed to measure compliance rates and revenue loss. The results of these verifications may be used for many purposes including: risk assessments, revenue assessments and to promote voluntary compliance.

Typically, when a Canadian importer or exporter thinks about compliance they think about Customs compliance. After all, goods must be reported to Canada Border Services Agency (CBSA) in order to enter Canada. One of the methods used by CBSA to manage trade compliance is through post-release verifications which are designed to measure compliance rates and revenue loss. The results of these verifications may be used for many purposes including: risk assessments, revenue assessments and to promote voluntary compliance.

CBSA plays an important role in assisting other federal government departments and agencies by administering and enforcing legislation and regulations on their behalf, to help ensure that prohibited and controlled goods are not illegally exported from, or imported into, Canada. However, a number of Other Government Departments (OGD) are responsible for enforcing their respective legislation.

In recent years, there has been an increase in compliance verifications not only from CBSA but also from OGDs. Although their respective legislation has been in place for many years, the focus on compliance has gained importance.

Examples of some OGD compliance verifications:

- Environment Canada may request import and product information pertaining to scrap batteries. For example there is a requirement for an import permit for hazardous recyclable material under the Canadian Environmental Protection Act, 1999.
- Health Canada may request specific information pertaining to pesticides. For example, pesticides are regulated under the Pest Control Products Act (PCPA), as they must meet Canadian standards, such as: be registered or scheduled under the PCPA and bear the Canadian label.
- The Explosives Division of Natural Resources Canada (NRCAN) may request information/documentation pertaining to explosives as there are import permit requirements for importations of certain explosives.
- Global Affairs Canada is responsible for issuing export permits, while Global Affairs looks to CBSA to ensure proper permit usage. Global Affairs Canada, is responsible to oversee an exporter management of the export permit.

As you can see, many goods are subject to the requirements of other government departments and agencies and may require permits, certificates, and/or inspection. It should be noted that more than one government department may have a role to play in the requirements and regulations pertaining to the importation of certain goods; it is therefore beneficial to contact those that may play a role.

THE EVOLUTION OF TRADE AGREEMENTS

By Angela Parkin, GTM Governance

Globalization has meant countries and regions have initiated a number of bilateral and multilateral trade agreements to expand their global markets. While new trade agreements are good for the new economy, they cause a wave of undertakings for governments, businesses and service providers to consider. Governments are required to look at their regulations and implement new legislation to accommodate a new agreement.

The recent signing of the Trans-Pacific Partnership (TPP) agreement by twelve member countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam) highlighted the fact trade agreements are evolving – and fast!

The World Trade Organization (WTO) reported that, as of April 2015, there were some 612 notifications of Regional Trade Agreements (RTAs) with over 400 of these being in force today. It's not surprising that, despite the existence of the WTO and its work to liberalize global trade, there has been an increase in the number of bilateral and multilateral trade agreements. The WTO agreements have become very lengthy and difficult to conclude, as an example the Uruguay round lasted eight years. With globalization, countries and regions have moved to negotiate free trade agreements, which in comparison to the WTO negotiations conclude a lot faster.

As countries look to expand their markets, they understand they must initiate, or at least participate in, agreements to support their economy. While new trade agreements are good for the new economy, they cause a wave of undertakings for governments, businesses and service providers to consider. Governments are required to look at their regulations, implement new legislation to accommodate a new agreement. Frequently, an agreement will include terms for when a country has to comply with legislative and regulatory rules and also when these changes must be transparent to other member countries.

Businesses must plan their supply chains to ensure they capture the benefits of a new trade agreement. Trade agreements also mean new markets, this means small and medium-sized businesses have the opportunity to grow into international suppliers and suddenly find themselves having to understand the obligations of being exporters.

Service providers, such as Livingston, look for opportunities to better serve clients. Employees are trained, and opportunities to automate some of the new regulations are reviewed. As clients look for opportunities to expand their markets, service providers must adapt by keeping up with new and changing regulations, and sometimes this means supporting clients as they move into the complexities of international exporting.

New trade agreements also offer a complexity of overlapping agreements. While agriculture was covered in the recent Canada-EU agreement (CETA) and the Trans-Pacific Partnership (TPP), it was not covered in the North American Free Trade Agreement (NAFTA) as Canada, Mexico and the U.S. could not agree on the terms for the agriculture trilateral text. As an alternative three separate bilateral agreements were signed – one between the U.S. and Canada, one between the U.S. and Mexico, and one between Canada and Mexico. This, of course, adds a layer of complexity to the arrangements between the three countries.

With multinational agreements getting bigger the complexities are also growing, as shown in the recently agreed upon TPP, which has many side letters (one-on-one agreement). While some are concerned that certain developing countries are signing up for agreements and terms they cannot fulfill in the long-term, it's clear trade agreements will continue to evolve.

TRANS-PACIFIC PARTNERSHIP

By Angela Parkin and Brad Lehigh, GTM Governance

TPP is the biggest trade agreement since the creation of the World Trade Organization (WTO) and following seven years of negotiations, twelve countries making up the Trans-Pacific Partnership (TPP) concluded their negotiations and inked a free trade deal. The twelve countries that make up the TPP are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam.

On October 5, 2015 after seven years of negotiations, the twelve countries making up the Trans-Pacific Partnership (TPP) concluded their negotiations for a free trade deal. The twelve countries that make up the TPP are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam. The TPP agreement covers 40% of the global trade with a market of nearly 800 million people and a gross domestic product (GDP) of $28.5 trillion.

The TPP is the biggest trade agreement since the creation of the World Trade Organization (WTO). Although it still has some major steps ahead of it such as being legally scrubbed, translated and ratified by each country. Implementation is expected to take place in eighteen months to two years. While it is unlikely any country will fail to ratify the agreement, the ratification process in some countries will be challenging.

According to the text of the TPP, there are three options for how the agreement may come into force:

1) All parties complete necessary domestic procedures within two years after the initial signing. Once complete, the agreement is in force 60-days afterward.
2) At least six of the original parties, accounting for 85% of the region's gross domestic product (GDP) in 2013, complete their domestic process for implementation. Once complete, the agreement is in force 26 months after the initial signing of the TPP.
3) Assuming the agreement did not come into force under the first two options – no set timeline, but when at least six countries meet the 85% regional GDP, then the agreement is in force 60-days afterward.

Six nations that account for 85% of the 12-member nations' GDP are required to ratify the agreement in order to move TPP into force. With these requirements, it means that the United States and Japan – which make up a combined 77% of the GDP of the 12 signatories – must ratify the agreement along with at least four others that make up the required remaining 8% GDP.

With the release of the text, some information has become available, for example:

- The U.S. stated that the 12 parties have agreed on a single set of rules of origin that define whether a particular good is "originating" and therefore eligible to receive the TPP preferential tariff benefits. The product-specific rules of origin are attached to the text of the Agreement. The TPP provides for "accumulation" so that, in general, inputs from one TPP party are treated the same as materials from any other TPP party, if used to produce a product in any TPP party.
- Canada stated that 45% of a vehicle's content must be of Canadian-origin in order to qualify under the TPP. This is a change from the North American free-trade agreement (NAFTA), which established that 62.5% of a vehicle's content must be originating. Canada also stated that the current 6.1% duty rate will be phased out over 5 years, whereas the current U.S. 2.5% duty rate will be

phased out over a 25-year period for originating goods. Some seafood will be immediately duty free, with some processed seafood having a 10-year phase out.
- Japan is a key opportunity for TPP members as they will immediately eliminate the 32% duty rate on 90% of their agricultural products. Canadian beef and pork producers are among the big winners under the TPP deal as within 10 years, Japan is promising to eliminate its tariffs on a wide range of pork products, while the current 50% tariffs on beef will be reduced to 9% within 15 years. Vietnam will move quicker, eliminating tariffs of up to 31% on fresh and frozen beef within two years.

Once ratified, the TPP will coexist with the North America Free trade Agreement (NAFTA) for a few years as the NAFTA agreement may offer greater benefits over the TPP. However, the benefits for TPP cannot be under estimated for its members as new export markets open up.

YES, THEY *ARE* SERIOUS

By George Reed, GTM Governance

Export Control Reform (ECR) has been unfolding over the past few years. ECR brings together two very distinct camps in U.S. export controls; International Traffic in Arms Regulations (ITAR) versus, Export Administration Regulations (EAR). For decades, the Munitions List was very different from the Commerce Control List (CCL). Yet, with the advent of reform, this cultural divide has been diminishing.

For those who have been in the "export compliance world" for a long period of time, a strange phenomenon has been unfolding over the last few years: Export Control Reform. "ECR", as it has been labeled, has been in the trade news during the Obama administration and featured at each Commerce Department Annual Update Conference. It has been the topic of weekly industry briefings hosted by the Bureau of Industry and Security. This regulatory reform initiative was justifiably greeted with a certain degree of skepticism, especially at the outset. After all, there was a decades-long history of dividing the U.S. export control world into two very distinct camps: International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). On one side, there was the State Department Directorate of Defense Trade Controls(DDTC), closely linked to the Defense Technology Security Administration(DTSA), dealing with military and space. On the other side there was the Commerce Department Bureau of Industry and Security (BIS) regulating dual-use commercial commodities. These two separate camps even extended into the export compliance community, often having industry compliance managers who were experts in navigating the ITAR environment or the domain of the EAR, but not equally conversant in both tongues.

For decades, the Munitions List was very different from the Commerce Control List (CCL). It was brief and described commodities and technology at a high level; less specific, inclusive in its control language, broad in scope whereas the CCL was much lengthier, providing detailed technical descriptions, key parameters and extensive notes to guide the reader. The ITAR was relatively short, and required much interpretation. In comparison, the EAR was clearer, lengthy and very detailed. Years ago, no one would have dreamed that the CCL would include purely military items once found on the Munitions List. Yet, with the advent of reform, this cultural divide has been diminishing.

At a recent Bureau of Industry and Security (BIS) Annual Update Conference, in November 2015, a status report on ECR activity was presented, as it has in recent years. Interagency work on revising the Munitions List moves closer to completion. The majority of Munitions List categories have already been updated and made more specific. The industry is getting used to the idea of "600-series" less-sensitive military commodities finding their place on the CCL. Export Compliance managers have been gradually getting used to the idea that they cannot abide in the ITAR camp exclusively, and must learn the language of the EAR. Interacting with BIS as well as DDTC has become a part of work life, even if it is not equally comfortable. In Government, the reform initiative has brought these two camps, ITAR and EAR, towards greater cooperation in finding middle ground in lieu of coexistence. DDTC, DTSA and BIS appear together at public forums with greater frequency. When observed by long-term export compliance managers, it still seems out of the norm. We remember the long-standing tradition.

This time around, in November, the conversation at the BIS Conference went beyond revamping the two control lists. It moved into dialog around creating one single export licensing organization, using one portal for electronic submissions from exporters and one set of application templates. Efforts to agree on common definitions for key terms in both the ITAR and EAR will be addressed in the near term. Beyond this, we have finally heard mention of the idea of collaborating upon creation of one singular set of U.S. export regulations. This would be the crowning touch upon ECR. Yes, this is real, and it looks to be possible. They are serious!

TRANS-PACIFIC PARTNERSHIP AGREEMENT COUNTRY FOCUS: JAPAN

The Trans-Pacific Partnership is made up of twelve countries. In this edition of the quarterly newsletter, we would like to feature Japan, a country with a fascinatingly rich, multifaceted culture that is both infused in deep traditions and apt at shifting and evolving. In this article, we share some tips should you be visiting and doing business in Japan.

Japan's an archipelago of more than 6,000 islands located in Northeastern Asia, nestled between the North Pacific Ocean and the Sea of Japan. With an estimated population of 127 million, more than 99 percent of the population speaks Japanese as their first language.

The nation has a fascinatingly rich, multifaceted culture that's both infused in deep traditions and apt at shifting and evolving. As such, when doing business in Japan you should be familiar with some of its cultural norms. Following are some tips and insights to help you understand and participate in some of these customs.

1. Don't be offended by the many questions a Japanese person may ask, and be prepared to answer questions regarding your title, your responsibilities, the number of employees that report to you, and so on. There are many forms to address a foreigner and the Japanese may ask many questions in order to determine the most appropriate form of address.

2. While the Japanese recognize that shaking hands is a western greeting, the Japanese traditional greeting is to bow. If you're greeted with a bow, you should observe carefully and not bow lower but bow to the same depth as the person greeting you. Your hands should be flat and placed against your thighs with your eyes looking down.

3. Business cards are usually presented after the bow, and are also important to the Japanese. When doing business in Japan, it's important to have a business card that's up to date with all your credentials. It's also recommended to have the card printed in Japanese on the reverse side. Cards should be handled with care, never put a card in your back pocket or write information on the card itself.

4. While some companies have moved to a five-day work week, a typical work week in Japan is 48 hours and five-and-a-half days (includes Saturday morning). Office hours are usually 9 a.m. to 5 p.m. Few managers take work home with them and instead prefer to go to dinner and return to the office until 9 or 10 p.m. Japan is 9 hours ahead of Greenwich Mean Time (GMT + 9 hours) or 14 hours ahead of Eastern Standard Time (EST +14 hours).

5. Japan's a constitutional monarchy whereby the Emperor's the Chief of State with limited powers. The current emperor is Emperor Akihito, he's been the emperor since 1989. Shinzō Abe is the Prime Minister and head of the government, he was re-elected to the position in December 2012.

6. Japan has the world's third-largest economy with a GDP of $4.7 trillion and the world's fourth-largest economy by purchasing power parity. It's also the world's fifth-largest exporter and fifth-largest importer. International trade is very important to Japan. Its main exports are transportation equipment, motor vehicles, iron and steel products, semiconductors and auto parts. Its main imports are machinery and equipment, fossil fuels, foodstuffs (in particular beef), chemicals, textiles and raw materials for its industries.

Japan currently has 15 free trade agreements and economic partnership agreements in place and eight under negotiation. For more information about Japan's foreign policy visit: **www.mofa.go.jp/policy/economy/fta/index.html**.

LIST OF SOME OF THE TRADE AGREEMENTS IN NEGOTIATION

Trans-Pacific Partnership Agreement (TPP)

On October 5, 2015 after seven years of negotiations, the twelve countries making up the Trans-Pacific Partnership (TPP) concluded their negotiations for a free trade deal. The twelve countries that make up the TPP are Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam. Even though there are three options for how the TPP will come into force, the United States and Japan make up a combined 77% of the GDP of the 12 signatories. These two nations must to ratify the agreement along with at least four others that that make up the remaining 8% GDP required – six nations that account for 85% of the 12 member nations GDP are required to ratify the agreement in order to move TPP into force.

/www.international.gc.ca/media/comm/news-communiques/2015/10/02a.aspx?lang=eng

Canada-European Union: Comprehensive Economic and Trade Agreement (CETA)

Canada's new government is pushing the EU to finalize the delayed trade deal. While Canada and the EU concluded their negotiations in September 2014, controversy over the so-called investor state dispute settlement (ISDS) mechanism has delayed the ratification. With the new Liberal government in Canada there is hope for more flexibility to amend the agreement via legal scrubbing, while not officially reopening. Steve Verheul, the chief negotiator for Canada has said that the target is to get final details sorted out fast to launch the treaty's ratification in late spring next year. The deal needs to win the approval of the Council and get a green light from the European Parliament, plus most likely all 28 national parliaments. If this is the case, it will take longer to complete the ratification in the EU.

www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/index.aspx?lang=eng
http://ec.europa.eu/trade/policy/in-focus/ceta/

Transatlantic Trade Investment Partnership (TTIP)

The EU is negotiating a trade and investment deal with the U.S. - the Transatlantic Trade and Investment Partnership (TTIP). The eleventh round of negotiations took place in October 2015. The next round of talks is expected in late January or early February 2016. While there has been significant progress, there is still some work to be completed and both the U.S. and the EU will have to speed up talks to finish before President Barack Obama leaves office in January 2017. A controversy during the talks has been the lack of transparency to the TTIP negotiations. In December 2015, all 751 Members of the European Parliament were given access to all categories of the confidential documents relating to the TTIP talks with the U.S., under a European Parliament/European Commission agreement approved by the College of Commissioners. The accessible documents will also include the so-called "consolidated texts", which reflect the U.S. position. However, national MPs in the EU still cannot access TTIP texts as plans for national 'reading rooms' for TTIP are part of this agreement in an effort to ensure TTIP information does not leak to the public.

http://ec.europa.eu/trade/policy/in-focus/ttip/
https://ustr.gov/ttip

China – Australia FTA (ChAFTA)

Despite a very tight timeframe, the China-Australia FTA (ChAFTA) became operational before the end of 2015, with the first round of tariff cuts occurring on December 20, 2015 followed by a second round on January 1, 2016. On entry into force, more than 86% of Australia's goods exports to China (worth more than $86 billion in 2014) will enter duty free.

http://dfat.gov.au/trade/agreements/chafta/Pages/australia-china-fta.aspx

Australia-India (CECA)

The ninth round of Australia-India Comprehensive Economic Cooperation Agreement (CECA) negotiations took place in New Delhi on September 21-23, 2015. Both sides agreed on the importance of making progress towards a balanced and mutually beneficial agreement. Australia Trade and Investment Minister Andrew Robb, visited India on October24-29 for the fourth time in 2015 to advance the negotiations towards an early conclusion. Bilateral trade between the countries is pegged at around AUD$15 billion, which is just 10% of the value of Australia's trade with its largest trading partner, China.

http://dfat.gov.au/trade/agreements/aifta/Pages/australia-india-comprehensive-economic-cooperation-agreement.aspx

Trade Facilitation Agreement (TFA)

Representatives from the WTO's 162 members met in the Kenyan capital, Nairobi, on December 15-18 for the organization's 10th Ministerial conference. Kenya is the 57th WTO member and sixth African nation to ratify the TFA. The TFA will enter into force once two-thirds of the WTO membership have formally accepted the Agreement. The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between Customs and other appropriate authorities on trade facilitation and Customs compliance issues. It further contains provisions for technical assistance and capacity building in this area.

https://www.wto.org/english/news_e/news15_e/fac_10dec15_e.htm

Canada-Ukraine FTA (CUFTA)

On July 14, 2015, a free trade agreement was announced between Canada and Ukraine. The government expects Canada's exports to Ukraine to increase by $41.2 million and Ukraine exports to Canada to increase by $23.7 million, mostly in textile, apparel and metal products. The agreement still requires legal vetting and ratification by the parliaments in both countries before it can be implemented.

http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ukraine/index.aspx?lang=eng

Additional websites

Europe
European Commission link that provides additional information on Free Trade Agreements
http://ec.europa.eu/trade/policy/countries-and-regions/agreements/

Canada
Canada's link that provides additional information on Free Trade Agreements
http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fta-ale.aspx?lang=eng

United States
United States link that provides additional information on Free Trade Agreements
https://ustr.gov/trade-agreements/free-trade-agreements

Asia
Asia link that provides additional information on Free Trade Agreements
http://aric.adb.org/fta

World Custom Organization
WTO Link to National Customs websites
http://www.wcoomd.org/en/about-us/wco-members/customs-websites.aspx

PUBLIC HOLIDAYS

Country	Date	Weekday	Holiday name
United States	01-Jan	Friday	New Year's Day
United States	18-Jan	Monday	Martin Luther King Day
United States	15-Feb	Monday	Presidents' Day
United States	30-May	Monday	Memorial Day
United States	04-Jul	Monday	Independence Day
United States	05-Sep	Monday	Labor Day
United States	10-Oct	Monday	Columbus Day
United States	11-Nov	Friday	Veterans Day
United States	24-Nov	Thursday	Thanksgiving Day
United States	25-Dec	Sunday	Christmas Day
United States	26-Dec	Monday	Christmas Day observed
Canada	01-Jan	Thursday	New Year's Day
Canada	03-Apr	Friday	Good Friday
Canada	01-Jul	Wednesday	Canada Day
Canada	07-Sep	Monday	Labour Day
Canada	12-Oct	Monday	Thanksgiving Day
Canada	11-Nov	Wednesday	Remembrance Day
Canada	25-Dec	Friday	Christmas
Belgium	01-Jan	Thursday	New Year's Day
Belgium	05-Apr	Sunday	Easter Day
Belgium	06-Apr	Monday	Easter Monday
Belgium	01-May	Friday	Labor Day / May Day
Belgium	14-May	Thursday	Ascension Day
Belgium	24-May	Sunday	Whit Sunday
Belgium	25-May	Monday	Whit Monday
Belgium	21-Jul	Tuesday	Belgian National Day
Belgium	15-Aug	Saturday	Assumption of Mary
Belgium	01-Nov	Sunday	All Saints' Day
Belgium	11-Nov	Wednesday	Armistice Day
Belgium	25-Dec	Friday	Christmas Day
China	01-Jan	Thursday	New Year's Day
China	02-Jan	Friday	New Year's weekend
China	03-Jan	Saturday	New Year's weekend
China	18-Feb	Wednesday	Spring Festival Eve
China	19-Feb	Thursday	Chinese New Year
China	20-Feb	Friday	Spring Festival Golden Week holiday

For a complete list of holidays visit **www.livingstonintl.com/2016-global-holiday-dates**.

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