

CUBAN CIGAR UPDATE

Recent changes to the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "Regulations"), administered and enforced by the Office of Foreign Assets Control ("OFAC"), have prompted OFAC to revise the Cuban Cigar Update previously issued on June 19, 1998. This notice provides important information to the public on Cuban-origin tobacco products.

Importation of Cuban-Origin Cigars Into the United States

There is now an across the board ban on the importation into the United States of Cuban-origin cigars and other Cuban-origin tobacco products, as well as most other products of Cuban origin. This prohibition extends to such products acquired in Cuba, irrespective of whether a traveler is licensed by OFAC to engage in Cuba travel-related transactions, and to such products acquired in third countries by any U.S. traveler, including purchases at duty free shops. Importation of these Cuban goods is prohibited whether the goods are purchased directly by the importer or given to the importer as a gift. Similarly, the import ban extends to Cuban-origin tobacco products offered for sale over the Internet or through the catalog mail purchases. Prior to August 1, 2004, persons returning to the United States who were licensed under the Regulations to engage in Cuba travel-related transactions were authorized by general license to import up to \$100 worth of Cuban merchandise as accompanied baggage. Cuban tobacco and alcohol products were included in that general license. That general license was removed from the Regulations.

Transactions Involving Cuban-Origin Goods in Third Countries

The question is often asked whether United States citizens or permanent resident aliens of the United States may legally purchase Cuban origin goods, including tobacco and alcohol products, in a third country for personal use outside the United States. The answer is no. The Regulations prohibit persons subject to the jurisdiction of the United States from purchasing, transporting, importing, or otherwise dealing in or engaging in any transactions with respect to any merchandise outside the United States if such merchandise (1) is of Cuban origin; or (2) is or

has been located in or transported from or through Cuba; or (3) is made or derived in whole or in part of any article which is the growth, produce or manufacture of Cuba. Thus, in the case of cigars, the prohibition extends to cigars manufactured in Cuba and sold in a third country and to cigars manufactured in a third country from tobacco grown in Cuba.

Cigars Produced from Cuban Tobacco Seed OFAC does not consider cigars produced from tobacco grown and harvested in a third country from Cuban seeds to constitute a growth or product of Cuba. Therefore, the Regulations do not prevent transactions or dealing in those products by persons subject to the jurisdiction of the United States, as long as there is no interest of Cuba or a Cuban national, direct or indirect, in the sale of such cigars.

Criminal penalties for violation of the Regulations range up to \$1,000,000 in fines for corporations, \$250,000 for individuals and up to 10 years in prison. Civil penalties of up to \$65,000 per violation may be imposed by OFAC.

Suspected embargo violations may be reported telephonically to OFAC's Enforcement Division at (202)622-2430 or via facsimile at 202 622-1657.

Date 09/30/2004