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Sanofi Pays $25 Million to Settle SEC Bribery Charges

French pharmaceutical company Sanofi agreed Sept. 4 to pay more than $25 million to resolve Securities and Exchange Commission (SEC) charges that it violated the Foreign Corrupt Practices Act (FCPA) when its subsidiaries made corrupt payments to foreign officials to win business.

> From at least 2011 to 2015, employees and agents of Sanofi's subsidiaries in Kazakhstan, Levant (which includes Jordan, Lebanon, Syria and Palestine), and the Gulf (which includes Bahrain, Kuwait, Qatar, Yemen, Oman and the United Arab Emirates) "acted to provide things of value to foreign officials, including healthcare professionals (HCPs), in order to improperly influence them and increase sales of Sanofi products," the SEC order noted.

"The funds used for the illicit payments were generated through fake expenses for purportedly legitimate travel and entertainment expense, clinical trial and consulting fees, product samples, round table meeting expenses, distributor discounts, and credit notes to distributors which were improperly recorded as legitimate expenses in Sanofi's books and records," it added.

Sanofi neither admitted nor denied the charges. The firm agreed to pay $17.5 million in disgorgement, $2.7 million in prejudgment interest, and a $5 million civil penalty. Justice "has also completed its related investigation and has declined to pursue any action," Sanofi said in a statement. "We have worked diligently to strengthen our compliance program worldwide and we are pleased the DOJ and SEC recognized these efforts and our close cooperation," said Sanofi CEO Olivier Brandicourt.

USTR Hears Thousands of Arguments Against Additional Tariffs

As the president threatens yet another tranche of additional tariffs on Chinese goods, which could cover all trade with Beijing, the U.S. Trade Representative's (USTR) office

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received thousands of comments, mostly opposed to the 25% additional tariff that the administration has already proposed on $16 billion worth of imports from China. In all, USTR received more than 5900 comments, posting 4800 of them at press time.

In a joint comment, 150 organizations, led by the National Retail Federation (NRF) and including every sector from soup to nuts, home furnishings, chemicals, toys and motorcycles, urged the administration to suspend further tariff action. Tariffs "are counterproductive and so far have only produced increased costs" for U.S. businesses and consumers, the groups wrote.

> "Even for larger companies, a new 25% tax on finished products, ingredients, components or other products on the proposed list will lead to significant disruption and constrain growth and hiring. As these new tariffs hit small and large businesses alike, some or all of the additional 10% or 25% costs will certainly be passed on to consumers," the groups noted.

The agency received more than 800 identical negative comments that read: "Tariffs are a tax on consumers. Already we see the effects tariffs are having on cars and washing machines prices have increased. Slapping more trade taxes on products from China doesn't support hard-working Americans who want more choices at lower prices. Foreign governments don't pay tariffs, American citizens do. There has to be a better way to support American trade. Stop taxing the American people and promote free trade policies that don't cause economic harm to people's pocketbooks."

Another 300 identical comments cited popular technology. "Some of the tech products that I use every day such as a router, set-top box, smartwatch/fitness tracker and Bluetooth speakers are in jeopardy of being hit with an additional 10-25% tariff. This tariff is really an additional tax on me - an American consumer. I am writing in hopes that you will stop the use of tariffs that cost American consumers, not China."

Other comments targeted specific products, asking for exemption from any new tariffs. United Steelworkers (USW), generally a supporter of protection for U.S. industry, offered their support specifically to an additional 25% duty on imports of glass container products, echoing the comments from the Glass Packaging Institute (GPI). "China has explicitly encouraged investment in and expansion of its glass container industry through industrial policies and subsidies. GPI also notes that the Chinese glass container industry has been increasing its production capacity and its exports to the U.S., which have had a negative impact on the U.S. glass container industry and its workers," USW wrote.

Some comments opposed to the tariffs explained the supply chain more generally. "While there is a belief that items on the tariff list can be sourced from other countries or even produced domestically, this approach completely discounts the complexity of the global supply chain. Items central to the semiconductor manufacturing process are not available, in terms of quality or cost, from domestic sources or foreign, non-Chinese sources. Further, a fundamental revamp of supply chains is simply not feasible. This would be expensive, time-consuming, and resource intensive," SEMI wrote in its comments, in addition to signing on to the NRF joint comment.

NAFTA Talks Continue, No Deal Yet

Once the first deadline is broken, it's easier to extend it even further. As another week of NAFTA negotiations ended Sept. 7 without a deal, Congress and the president seemed to disagree on the role of Congress in making or breaking trade agreements. At press time, Canadian and U.S. negotiators reportedly agreed to continue talks later in the month.

> When an Aug. 31 deadline passed without a trilateral deal and the president notified Congress of a bilateral agreement, that gave both sides a bit of breathing room (see **WTTL**, Sept. 3, page 1). The next "drop dead" date that Canada can join and still give Congress time to approve the deal is now Sept. 30. It also gave lawmakers and the president room to issue statements full of political bluster.

"The president doesn't have a deal, he doesn't have a plan, and he doesn't even have the power to follow through on his empty threats. The president needs to take a look at the Constitution – it gives Congress authority over trade. The president cannot pull America out of NAFTA without Congress's permission," Sen. Ron. Wyden (D-Ore.) said in a statement Sept. 4.

Wyden was responding to a provocative presidential tweet three days before. "There is no political necessity to keep Canada in the new NAFTA deal. If we don't make a fair deal for the U.S. after decades of abuse, Canada will be out. Congress should not interfere w/ these negotiations or I will simply terminate NAFTA entirely & we will be far better off," he said on Twitter Sept. 1.

Ag Groups Push for Cuba Trade in Farm Bill

As a conference committee started work on reconciling the mammoth 2018 Farm Bill (H.R. 2), a bipartisan group of over 60 agriculture associations, businesses and elected officials from 17 states urged the leadership of the House and Senate agriculture committees to preserve an amendment that would allow farmers to use trade promotion funds to finance certain agricultural exports to Cuba.

"Your support in removing outdated financing barriers on agricultural sales to our island neighbor could significantly strengthen an industry that supports 17 million jobs across the United States, while providing the Cuban people with high-quality, American-grown food," the groups wrote in a letter Sept. 5. "Hardworking U.S. farmers can and should be Cuba's number one supplier of commodities like rice, poultry, dairy, soy, wheat, and corn," they added.

Sens. Heidi Heitkamp (D-N.D.) and John Boozman (R-Ark.) introduced a bipartisan amendment in June to authorize U.S. trade promotion funds to be used to increase market access in Cuba for American-grown agricultural products. The amendment was adapted from the Cuba Agricultural Exports Act (H.R. 525) that Rep. Rick Crawford (R-Ark.) introduced in January 2017 (see **WTTL**, March 13, 2017, page 3).

The bill would remove the prohibition on U.S. assistance and financing for certain agricultural exports to Cuba. The bill would also exempt from prohibitions against U.S. assistance to Cuba any exports under the market access program, the export credit guarantee program, and the foreign market development cooperator program, including any federal commodity promotion program obligations or expenditures of funds.

Trade Officials Release "Agreed Outcomes" from Korea-U.S. Deal

In a perfect kind of press release for Labor Day when no one is watching, USTR and its Korean counterpart Sept. 3 released the "agreed outcomes" from an agreement in principle on an updated U.S.-Korea Free Trade Agreement (KORUS), which the White House announced in March (see **WTTL**, April 2, page 1). While that agreement was hailed as a major renegotiation, the agreed outcomes seem like minor tweaks to the six-year-old trade deal, changing paragraph numbers and replacing line references.

> At the time of the agreement, terms were still being finalized, but the White House hailed concessions on autos, trucks and steel. It also said Treasury was finalizing an understanding with Korea on currency on a "separate track", but that language is not included in the agreed outcomes.

"The deal with Korea announced in the spring doesn't actually have any commitments on currency, despite what was promised at the time. Trump's trade negotiations aren't tough, they're tissue-paper soft," Sen. Ron Wyden (D-Ore.) said in a statement Sept. 4.

Within days of the release, KORUS was front-page news and the president took credit for the changes. "It was a horrible deal. I terminated the deal. I made a new deal. It's a great deal....Now it's a great deal. It went from a bad deal to a — really, a good deal. I did that not because of Gary Cohn, I did that because of me," he told reporters on Air Force One Sept. 7. Excerpts from an upcoming Bob Woodward book revealed Cohn's plan to prevent the president from withdrawing from KORUS.

The deal has a few steps to take before it comes final. "Once complete and translations are certified by both governments, the documents may then be finalized for signature, to be followed by further procedures in both countries as needed to bring the outcomes into force," USTR said.

The Korean Trade Ministry was more specific on its website. "As the first step in its domestic procedure, the Ministry will gather public comments on the Korean translations of the two protocols from September 3 to 10. The submitted comments will be reviewed for possible inclusion before finalizing the Korean version," it said. "The Korean government will consult with the U.S. counterpart to set an official signing date and request the National Assembly for approval of the signed agreement," the ministry added.

* * * Briefs * * *

TRADE FIGURES: Merchandise exports in July jumped 9.6% from year ago to $140.8 billion, Commerce reported Sept. 5. Services exports gained 5.4% to $70.3 billion from July 2017. Goods imports increased 10.3% from July 2017 to $213.9 billion, as services imports gained 3.9% to $47.2 billion.

ROLLER BEARINGS: In 5-0 "sunset" vote Sept. 7, ITC said revoking antidumping duty order on imports of tapered roller bearings from China would renew injury to U.S. industry.

STRONTIUM CHROMATE: Lumimove Inc. dba WPC Technologies filed antidumping duty petition Sept. 5 with ITA and ITC against strontium chromate from Austria and France. Alleged average dumping margins are 82.6% from Austria and 53.1% from France.

STEEL FITTINGS: In 5-0 final vote Aug. 31, ITC found U.S. industry is materially injured by dumped imports of forged steel fittings from Taiwan.

TRADE PEOPLE: David Laufman, former chief of counterintelligence and export control section (CES) in Justice's national security division, opened new law firm in Washington, Laufman announced Sept. 5. Practice will "include the representation of parties in export control and sanctions investigations, as well as providing compliance counseling," he wrote in email to WTTL. Contact firm at (202) 650-6901 or www.davidlaufmanlaw.com. Laufman left Justice post in February (see **WTTL**, Feb. 12, page 6).

TRADE AGREEMENTS: Same day as president notified Congress of U.S.-Mexico trade deal, USTR Aug. 31 requested ITC prepare report on likely impact of trade agreement on U.S. economy and specific industry sectors (see **WTTL**, Sept. 3, page 1). "President notified Congress of his intent to enter into a trade agreement with Mexico — and with Canada if it is willing, in a timely manner, to meet the high standards for free, fair, and reciprocal trade contained therein," USTR Robert Lighthizer wrote. "I am providing the Commission with the details of the agreement as it exists at this time and will continue to keep the Commission current with respect to the details of the agreement," he added.

EXPORT ENFORCEMENT: Katherine O'Neal, former member of U.S. Army stationed at Fort Carson, Colo., was sentenced Aug. 30 in Denver U.S. District Court to 36 months in prison and three years' supervised release for illegally exporting firearms to Dominican Republic (DR) in 2015. Jury found O'Neal guilty of smuggling goods in March 2018. She flew to DR in June 2015 with 9 new Glock model 19 handguns, two used handguns and 200 rounds of ammunition in checked luggage without State license.

MORE EXPORT ENFORCEMENT: Ferdi Murat Gul, aka "Fred Gul," of Turkey, owner of N.J. defense contracting business, was indicted Sept. 5 in Newark U.S. District Court on charges of conspiring to export ITAR-controlled military technical drawings to Turkey without State license. He is believed to be at large in Turkey. "Members of the conspiracy could use the technical data to manufacture, at facilities located abroad, including in Turkey, certain military parts and defense hardware items that appeared to conform to DoD-approved specifications and sell them to the DoD while fraudulently passing them off as Domestic End Product," indictment noted.

MTB: House Sept. 4 passed Senate-amended version of Miscellaneous Tariff Bill (MTB) Act of 2017 (H.R. 4318) by voice vote. MTB allows domestic industry to petition ITC for tariff relief. Senate passed its version in July by voice vote (see **WTTL**, July 30, page 12). "Manufacturers will now be better equipped to compete and win against companies in China, Europe and elsewhere," National Association of Manufacturers (NAM) President Jay Timmons said in statement. "This bill will end the $1 million a day tax that manufacturers and other American businesses have endured just for buying parts and supplies they need," he added.

FCPA: Joo Hyun Bahn, aka Dennis Bahn, of Tenafly, N.J., was sentenced Sept. 6 in Manhattan U.S. District Court to six months in prison for violating Foreign Corrupt Practices Act (FCPA) for his role in scheme to bribe foreign official in Middle East to land real estate deal. Bahn, broker for Colliers International Group, also must pay$500,000 in restitution and $225,000 in forfeiture. He agreed same day to settle related SEC charges. Bahn pleaded guilty in January (see **WTTL**, Jan. 15, page 7). Indictment was unsealed in January 2017 against Bahn, his father Ban Ki Sang of South Korea and middleman Malcolm Harris. Father and son allegedly conspired to pay $2.5 million in bribes to close $800 million skyscraper deal in Vietnam. Harris was sentenced in October 2017 to 42 months in prison for wire fraud and money laundering. Ban is awaiting trial.