ISSN 0276-8275

WTTLonline.com

A Weekly Report for Business Executives on U.S. Trade Policies, Negotiations, Legislation, Trade Laws and Export Controls

# Washington Tariff & Trade Letter®

Editor & Publisher: Samuel M. Gilston • P.O. Box 5325, Rockville, MD 20848-5325 • Phone: 301.570.4544 Fax: 301.570.4545

**Vol. 34, No. 43** **November 3, 2014**

## Judge in Fokker Case Still Deciding on Settlement

D.C. U.S. District Court Judge Richard Leon is still debating whether to accept or reject the government's deferred prosecution agreement (DPA) with Fokker Services B.V. on charges of exporting aircraft parts to Iran. At an Oct. 29 hearing on the case, he said he will make a final decision "soon." Leon, however, raised new concerns about whether the level of penalty imposed on the company as part of the DPA was large enough.

> Before the hearing, Justice had submitted briefs defending its DPA decision based on what it claimed was Fokker's voluntary self-disclosure (VSD) (see **WTTL**, Oct. 6, page 1). "It appears you've reached a conclusion; I don't have any quarrel with it," Leon said at the hearing in his courtroom. Justice has "run this issue to the ground," he said.

Leon, however, said his concerns haven't gone away. "I think you made too good a deal," he said. Now his focus is on whether he is comfortable with the settlement. It's "not a slam dunk," he said. If he decides to reject the settlement, he told the court he would write an opinion, and the parties could appeal his decision.

In oral arguments, Edward O'Callaghan of Clifford Chance, lawyers for Fokker, raised the issue of the company's "serious financial distress," saying it was in a "mode of restructuring." Leon responded by noting that the DPA requires the company simply to repay ill-gotten gains, with no fine above that.

Justice attorneys questioned the judicial authority to reject the settlement. There's "no question in my mind that a district judge has the authority to reject a deferred prosecution agreement," Leon said. A Justice lawyer also noted that the VSD was not the sole determining factor in coming to the settlement. Other factors included the Fokker's economic distress, as well as its continued cooperation with the investigation. Leon asked whether contracts that Fokker's parent company had with the U.S. military was also a factor. "That wasn't a factor," Assistant U.S. Attorney Maia Miller replied.

## TPP Ministers Play Hot Potato on Difficult Issues

After several years of negotiating a Trans-Pacific Partnership (TPP) agreement and dozens of negotiating rounds, all negotiators are telling the public are buzzwords and



WTTL is published weekly 50 times a year except last week in August and December. Subscriptions are $697 a year. Additional subscriptions with full-priced subscriptions are $100 each. Site and corporate licenses also available.

generalities. The say difficult issues are still difficult, and no deadlines have been met. After the latest meeting round of talks in Sydney, Australia, Oct. 27, ministers from the 12 countries participating in the talks said, "We consider that the shape of an ambitious, comprehensive, high standard and balanced deal is crystallizing."

> Observers are asking, after all this time, why is the shape still crystallizing? And what shape is it? A triangle, cube, or something only a scientist and a 3-D printer could produce? What happened to the landing zones?

"Over the past weeks, we have made significant progress on both component parts of the TPP Agreement: the market access negotiations and negotiations on the trade and investment rules, which will define, shape and integrate the TPP region once the agreement comes into force," the joint statement continued. The ministers said they will "now pass the baton back to Chief Negotiators to carry out instructions we have given. We will continue to build on the progress we made at this meeting and will meet again in the coming weeks" (see **WTTL**, Oct. 20, page 7).

Officials and observers had long hoped a preliminary TPP deal would be announced at the leaders' meeting of the Asia-Pacific Economic Cooperation (APEC) Nov. 10-11 in Beijing. At an event in Washington Oct. 30, U.S. Trade Representative (USTR) Michael Froman dashed those ambitions. "We do not expect to have a final agreement at APEC," he said. TPP trade ministers will meet again on the sidelines of the APEC summit.

House Ways and Means Committee Ranking Member Sander Levin (D-Mich.), who was in Sydney for the ministerial meetings, offered little additional information on the status of the talks or the timing for a deal. "With substantial work having been done, going forward there needs to be a sharp focus on the what, not the when. It is the substance of a TPP agreement that matters," he said in a statement.

## Justice Opposes Sale of Wind Farm Project Blocked by CFIUS

Although President Obama issued an order blocking Ralls Corp.'s investment in an Oregon wind farm in 2012 for national security reasons after a finding by the Committee on Foreign Investment in the U.S. (CFIUS), Justice now opposes the company's proposed sale of the project because it didn't submit the sale to CFIUS for review and approval. The department raised its objections in a brief in the D.C. U.S. District Court Oct. 24 after Ralls asked the court to dismiss for mootness a government suit seeking to enforce the president's order.

> Justice argued that in addition to ordering the divestment of the project the president's order said Ralls would have to submit any proposed sale to CFIUS in advance for review and approval. It said the order also said Ralls shall not complete a sale or transfer of the Project Companies or their assets to any third party until among other conditions Ralls "notifies CFIUS in writing of the intended recipient or buyer" and "has not received a provisional or final objection from CFIUS to the intended recipient or buyer within 10 business days of the notification."

"Ralls has not complied with this transfer restriction in the Presidential Order. It never submitted notice of the proposed transaction to CFIUS, and CFIUS (out of an abundance

of caution) has in any event provided Ralls with its provisional objection to the transaction. Ralls, indeed, does not even contend that it has complied with the Presidential Order. Instead, Ralls asserts that 'the unconstitutional presidential order [does not] provide a basis' for the Government to object to its proposed transaction," Justice argued.

> In 2012, Ralls, which is owned by two Chinese nationals, purchased from Terna Energy USA Holding Corporation four American-owned limited liability companies that owned assets to develop four small wind farms in Oregon. CFIUS reviewed the purchase and ruled that it posed a risk to U.S. national security because the project was near U.S. military facilities.

In its motion to dismiss the case, Ralls said it has been in discussions to divest the project companies and to sell its interests to Dr. Xuexin Tang, an American citizen and resident of Georgia. "There is no legal basis for the government to prohibit, obstruct, or restrict the sale of the Project Companies to Dr. Tang. CFIUS only has jurisdiction over transactions 'which could result in foreign control of any person'," it asserted.

Tang "has no prior relationship with Ralls and no current relationship aside from these recent discussions," the motion said. "After months of negotiations with Dr. Tang, Ralls has agreed to sell all interests in the Project Companies to Dr. Tang for $50,000.00. This amount will be paid entirely from Dr. Tang's personal funds," it added. "The $50,000.00 purchase price is a significant reduction from the approximately $6 million that Ralls paid when purchasing the Project Companies from Terna in March 2012," it claimed.

Without the advance notice from Ralls, Justice said CFIUS only learned about the proposed sale when it received notice that Ralls had asked the court to dismiss the government suit. "On October 20, 2014 – that is, within ten business days of Ralls's filing in this Court, if such filing were to be treated as a notice under the Presidential Order – Stephen Hanson, the Staff Chair of CFIUS, sent a letter to Ralls's counsel, which stated CFIUS's provisional objection to the proposed transaction under paragraph 2(f)(iii) of the Presidential Order," the Justice brief reported.

"To facilitate CFIUS's further review of the proposed transaction, the letter requests Ralls to provide personal information of Dr. Tang of the type specified in CFIUS's regulations," it noted. The letter also asked Ralls to provide information on the sale and the turbines to be used on the project. It also wanted an explanation of how Tang will finance the acquisition of the Sany turbines, if the cost of their acquisition is not included in the proposed purchase price of the Project Companies. The letter said CFIUS won't consider the proposed transaction until it receives this information.

In a separate lawsuit in the D.C. District Court, Ralls sued to block the president's order, claiming it violated its constitutional right to due process. The court rejected the claim, but on appeal the U.S. Circuit Court for D.C. in July 2014 reversed that ruling and remanded the case to the district saying the firm's due process rights had been violated.

Even though the CFIUS law bars court review of presidential orders stemming from national security reviews, the appellate court said that provision could not bar constitutional claims. The remand mandate, which was just filed Oct. 2, is still pending in the district court. In its motion, Ralls said it would withdraw its constitutional challenge if the court grants its motion to dismiss the government's suit to enforce the order.

## Display Technology Firms Caught in CJ Dispute

Firms that make electronic display system used in viewfinders from camcorders and projectors to heads-up displays in cockpits on the F-35 Joint Strike Fighter and helmet-mounted night vision goggles are caught in a Commodity Jurisdiction (CJ) dispute pitting Commerce against State and Defense. A decision on a long-pending CJ has been held up because the Pentagon and State want the display technology to be considered a military product subject to the International Traffic in Arms Regulations (ITAR), while Commerce contends the technology is dual-use and should be covered by the Export Administration Regulations (EAR).

> Because the U.S. considers display technology to be military, U.S. companies are at a disadvantage to foreign competitors whose products are not restricted, executives from two display firms, eMagin and Kopin Corp., told the Bureau of Industry and Security's (BIS) Sensors and Instrumentation Technical Advisory Committee (SITAC) Oct. 28. They said their products alone pose no national security threat and the same technology used in military products is also used in commercial products.

The two firms want display technology to be considered EAR99 and to come under ITAR only when it is specially designed and configured for military use. The technology now being reviewed under the CJ is actually older technology that has been overtaken by new versions. Pentagon contracts for these products usually require suppliers to screen production runs to select only units that meet the highest standards for such performance criteria as brightness and resolution.

This so-called "pick-of-the-litter" acquisition policy was an issue that came up during the drafting of regulations for radiation hardened microelectronics, BIS Assistant Secretary Kevin Wolf told SITAC. The solution in the rewrite for U.S. Munitions List (USML) Category 15 was to add criteria for specially designed and design-rated certified products, he noted. While this solution doesn't relate directly to display technology, it was one way to deal with the issue, he suggested. Wolf said he appreciated the presentation by the executives but said their real audience should be State and Defense.

Commercial uses of display technology or near-eye viewing far exceed military uses, the executives told SITAC. Civil uses are expected to expand with the introduction of such products as Goggle glasses, which use the technology, and in games and medical devices. The technology also is being used in see-through augmented reality products that project images over actual scenes. This includes street directions on Goggle glasses and plans for a product for use at the Gettysburg Battlefield that will allow tourists to view images of the battle in their glasses as they walk along the battlefield.

## Wolf Defends Developmental Research Language in New Rules

BIS Assistant Secretary Kevin Wolf defended the developmental research restrictions being added to U.S. Munitions List (USML) chapters against academic and research community complaints that the new wording is limiting work that should be exempt from control under the fundamental research exclusion. "You have a contract issue; not a export control issue," Wolf said at the Oct. 28 meeting of the BIS Sensors and Instrumentation Technical Advisory Committee (SITAC), which heard presentations from

university and research representatives who complained about the new language. The wording that has already been added to some revised USML categories controls development of items under those categories "funded by the Department of Defense via contract or other funding authorization." A note to the entry excludes items in production, subject to Export Administration Regulations via a commodity jurisdiction determination or "identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications."

> Jennifer Douiris, a lobbyist for SPIE, formerly known as the Society for Photographic Instrumentation Engineers, told SITAC that universities and researchers feel they don't have the leverage to request changes to contracts to have wording included explicitly saying the work is for both civilian and military applications. "This is especially true if they are working as a subcontractor on a contract," she said.

SITAC members also noted problems they have had getting contract language changed because Pentagon contracting officers don't want to have to go through the clearance process again to get changes approved. Without the specific contract language the new rules brings the research under ITAR control by default, they complained.

"We're not asking anybody to make a jurisdictional determination. We're not asking anybody to decide whether something should or shouldn't be ITAR controlled as a matter of law or is or isn't on the ITAR," Wolf argued. "All it says is, if the contract identifies something for both miliary and civilian application or just civilian or just non-military application, then as a matter of law that catch-all developmental control provision doesn't apply," he said.

"We're not asking anybody to make a subjective judgment. It's just a statement of fact," he claimed. "If the statement of work is exclusively military, then it's going to be caught if the Department of Defense is paying for it," Wolf explained. "If to the extent that it is fundamental research or public domain, none of this developmental text applies," he added.

"You have to ask yourself if it is really the result of fundamental research, then it's not a controlled event," he asserted. "You only get to developmental research controls if what you are dealing with is not in the public domain; it's not published; it's not the result of fundamental research," Wolf stated. The regulation doesn't ask anyone at Defense to make an ITAR determination. "It's hard to believe you would have a contract that wouldn't describe what the purpose of the work is," he said.

## Draft Suspension Agreement on Mexican Sugar: Trick or Treat?

As expected, proposed suspension agreements between Commerce and Mexican sugar producers to put aside the antidumping and countervailing duty (CVD) cases against imports from Mexico brought mixed responses from U.S. sugar farmers and sweetener users. The agreements that would suspend ongoing investigations were announced Oct. 27 at the same time Commerce released its preliminary dumping margins. The suspension agreements would reimpose quotas on Mexican sugar during parts of the year and set minimum prices for the imports. "The CVD agreement contains provisions to ensure there is not an oversupply of sugar in the U.S. market," a Commerce fact sheet on the

deals said. "The CVD agreement will also prevent imports from being concentrated during certain times of the year, and limit the amount of refined sugar that may enter the U.S. market from Mexico," it added.

> The AD agreement "establishes minimum, or floor, prices to guard against undercutting or suppression of U.S. prices," Commerce explained. Those prices are $0.2357/pound for refined sugar and $0.2075/pound for all other sugar, it noted. "The agreements do not change the USDA sugar program or U.S. obligations under the WTO regarding sugar quotas," the department claimed. Public comments on both agreements are due by Nov. 10.

Separately, mandatory respondents in the case, Fondo de Empresas Expropiadas del Sector Azucarero (FEESA) and Ingenio Tala S.A. de C.V. and certain affiliated companies of Grupo Azucarero Mexico S.A. de C.V. (collectively, the GAM Group), received preliminary dumping margins of 39.54% and 47.26%, respectively. All other producers/exporters in Mexico received a preliminary dumping margin of 40.76%, Commerce said. Those duties would be suspended if the agreements are finalized.

The Sweetener Users Association (SUA), which had expressed concern about the agreements before they were announced, criticized the proposed deals (see **WTTL**, Oct. 27, page 6). "We are deeply concerned about the implications of the proposed suspension agreements for the U.S. sugar market, American consumers and manufacturers," SUA said in a statement. "While we are reviewing the details of the agreements to evaluate their full impact, at this stage we caution all parties and both governments to consider the ramifications of entering into a managed trade agreement on sugar," it added.

The U.S. sugar industry also responded as expected, commending Commerce officials for their hard work and diligence in reaching a proposed agreement. "We believe that U.S. sugar producers and consumers alike will benefit if an agreement is finalized," Phillip Hayes, a spokesman for the American Sugar Alliance, a coalition of U.S. sugarcane and sugar beet producers, said in a statement.

## LDCs Raise Concerns About Direction of WTO

Least developed country (LDC) members of the World Trade Organization (WTO) are concerned the deadlock over the trade facilitation agreement reached at the Bali ministerial is not only blocking movement on other Bali agreements but also undermining the multilateral approach to trade negotiations. The LDCs and many African countries say they are afraid the impasse will encourage the shift toward plurilateral and sectoral agreements to which they are not party and reduce their already weak negotiating strength, particularly in the dormant talks on the Doha Development Agenda (DDA).

These concerns were voiced in a statement to the WTO Trade Negotiations Committee (TNC) Oct. 16 in a statement read by a representative of Lesotho on behalf of the African Group. "The African Group strongly believes in a strong multilateral trading system, a system that gives a voice to the marginalized members of the global community," the official said. "Going back to pre-Uruguay Round negotiating environment would be unacceptable to the African Group," the official's prepared remarks said. The roadblock over trade facilitation has also put on hold implementation of other Bali agreements aimed at helping LDCs, including a waiver of the General Agreement on Trade in

Services (GATS) and duty-free-quota free access to developed countries. "The African Group is acutely concerned by the turn of events since July," the Lesotho delegate said. "In the first instance, the political linkages that have been drawn between the current gridlock and other Bali Decisions do not enjoy support of the Group particularly because nothing in Bali outcomes created any hierarchy or legal linkages concerning the implementation of Bali outcome decisions," the official said.

> The LDCs and Africans also question whether WTO discussions on a post-Bali agenda might steer away from the multilateral approach to negotiations. "For the African Group, it would seem premature for members to turn away negotiations from the substance of the DDA to a new agenda in a form of a procedural question as to whether consensus based approach to negotiating outcomes still holds relevant. We must therefore not allow the system that has been carefully constructed with safeguards that ensure full participation of weak members to collapse under our watch," the delegate declared.

## Wassenaar Agreement on Machine Tools Still Up in Air

An experts group meeting of Wassenaar Arrangement members in September apparently failed to reach consensus on a proposal to revise the control requirements for certain machine tools. Under a standard Wassenaar procedure that allows members to object to proposals that will go to the regime's plenary meeting in December, a proposal to adopt the changes has been left open for any member to veto. Whether the main country blocking the deal, which reportedly is Russia, will invoke that option won't be known until the plenary, U.S. sources say (see **WTTL**, Aug. 11, page 2).

> Wassenaar members have been struggling for over two years on a proposal that would change the control metric for machine tools to a measure of unidirectional repeatability instead of the precision accuracy requirement in the current rules. In addition to changing methodology for controls, members have also been debating what specific control levels to impose for a repeatability rule. The text proposed by the experts group includes new numbers for those controls.

Because of differences in the interpretation of the current rules, at least one Wassenaar member reportedly has been exporting some machine tools to China. The main concern of Wassenaar members is the potential use of these machines to produce sensitive parts, such as those used in missiles and in stealth aircraft production. The use of unidirectional repeatability would prevent circumvention of controls, supporters of the proposal con-tend. U.S. officials have said they have aimed to set those new controls in a way that would not impose new restriction on U.S. exporters.

A tight-lipped BIS official declined to give details on the status of the proposal during the open public portion of the TAC meeting. "We continued our discussion of unidirectional positioning repeatability," Mike Rithmier, the BIS delegate to the experts group, acknowledged. "In general there's wide understanding that that's a much more reliable metric. It is far less susceptible to changes that can be done through compensation," he told the committee. When asked whether the change might be held over until the 2015 Wassenaar list review, Rithmier only said, "Maybe or maybe not." If the issue isn't resolved at the plenary, which will be held Dec. 1-3, "I don't think I have the

appetite to do a whole lot unless you see something really catastrophic when we go over it in the closed session. I've had enough drama this year on that topic," Rithmier said.

## Agencies Remain Divided on New Cybersecurity Controls

An interagency decision on how to control cybersecurity software, which was supposed to be issued in September, may be getting close but is still being debated. "I suspect it will be out relatively soon because we are getting closer to an agreement," BIS Assistant Secretary Kevin Wolf told the agency's Materials Processing Equipment Technical Advisory Committee Oct. 29. "We are still trying to work through it," he said.

> When BIS proposed revisions to the Commerce Control List in the Aug. 4 Federal Register to implement changes the Wassenaar Arrangement adopted to its control list in December 2013, it left out provisions the regime added to cover cybersecurity software. The notice promised to issue those rules in September. "Obviously we failed" to meet that deadline, Wolf conceded.

The interagency disagreement is based on State's concerns about the misuse of the software in human rights abuse and the hacking of commercial and banking data. It wants a policy that would require licenses for all destinations, including Canada and NATO countries. State is worried about how governments such as Turkey and Hungary might use such technology to monitor or interfere with civil Internet traffic or social media, some sources have suggested (see **WTTL**, Aug. 11, page 1). The scope of the rule "will not be dramatic," Wolf said. "There are relatively few companies and relatively few products within the scope of that type of software," he said.

## IBM's Sale of Chip Unit Will Get CFIUS Review

IBM's proposed sale of its Microelectronics OEM semiconductor business and manufacturing operations to Global Foundries, which is partly owned by an Abu Dhabi sovereign fund, will likely get reviewed by the Committee on Foreign Investment in the U.S. (CFIUS) for national security reasons. "The agreement is subject to regulatory approval, including CFIUS," said Clint Roswell, IBM's director of external communications, in an email to WTTL. "We are not commenting on CFIUS specifics. The agreement will be finalized once all closing conditions, including regulatory reviews, are completed. Closing is targeted for 2015," he said.

> Global Foundries, a full-service chip foundry, was launched in March 2009 through a partnership between AMD and the Advanced Technology Investment Company (ATIC), an investment company formed by the government of Abu Dhabi. In addition, another Abu Dhabi investment fund, the Mubadala Development Company, owns a share of AMD.

ATIC reportedly underwent a CFIUS review when it formed Global Foundries. IBM also has faced CFIUS examination of its sale of its personal computer business to Lenovo and proposed new spinoffs to Lenovo. "IBM is a sophisticated company, so I'm sure they have considered CFIUS" before proposing the sale to Global Foundries, Tim Keeler, a former U.S. trade official who is now with Mayer Brown in Washington, told WTTL. Because of IBM's work with the government and concerns about supply chains, the sale

will get "a lot of scrutiny," Keeler said. IBM announced the sale as part of its annual earn-ings report Oct. 20. Rather than a sale, IBM is basically giving the microelectron-ics assets to Global Foundries and also will pay it $1.5 billion, with some adjustments, to take the operations off its hands. According to a Global Foundries release, it will acquire IBM's global commercial semiconductor technology business, including the unit's intellectual property, employees and technologies.

> Global Foundries will also become IBM's exclusive server processor semi-conductor technology provider for 22 nanometer (nm), 14nm and 10nm semiconductors for the next 10 years. Global Foundries "will have primary access to the research that results from this investment through joint collab-oration at the Colleges of Nanoscale Science and Engineering (CNSE), SUNY Polytechnic Institute, in Albany, N.Y.," it also reported.

"As part of this Agreement, Global Foundries will gain substantial intellectual property including thousands of patents, making Global Foundries the holder of one of the largest semiconductor patent portfolios in the world. Global Foundries also will benefit from an influx of one of the best technical teams in the semiconductor industry, which will solidify its path to advanced process geometries at 10nm and below. Additionally, the acquisition opens up business opportunities in industry-leading radio frequency (RF) and specialty technologies and ASIC design capabilities," it said. As part of the sale, it also will acquire and operate existing IBM semiconductor manufacturing operations and facilities in East Fishkill, New York, and Essex Junction, Vermont.

## BIS Reviewing EAR to Find "Stray" Country Groups

BIS has launched a review of the Export Administration Regulations (EAR) to find places where the rules have created "stray" country groups through years of writing exceptions and special conditions, BIS Assistant Secretary Kevin Wolf told the Materials Processing Equipment Technical Advisory Committee Oct. 29. The initial effort will just identify such provisions in the EAR but not make any decision about where or why coun-tries are placed in the groups even though some groups are out of date.

> Over the decades, the EAR "has accreted with exceptions, rules and excep-tions to the rules," he told the committee. In some cases, overlaps have been created because some countries are in more than one multilateral export control regime or in one but not another, he noted.

In addition, the exceptions sometimes resulted from interagency compromises. This has created complexity and made it difficult to determinine which country group applies. "We should be thinking more broadly about rationalization of the country groups," Wolf said. "When you start looking into the regs, you see that in particular quirky areas there are particular little stand-alone country groups," Wolf said. In some cases, the rules refer to Cold War relationships such as the designation of "cooperating country."

The review was prompted by questions BIS has received concerning the use of License Exception GOV for exports of items classified in the 600 series of the Commerce Con-trol List and the relationship between GOV-eligible countries and the 36 countries eligible for License Exception Strategic Trade Authorization (STA). "I've asked a couple of interns to put on a very large spreadsheet a list of all the countries and then

all the formal and informal country groups that have sprung up over the decade in the EAR in whatever context," Wolf reported. "My plan after that, when we see all that data actually visualized in front of us, is to go through to try – to the extent we can make policy calls – to reduce the total number of stray numerous country groups," he said. Because this is a very labor-intensive task, Wolf said he is asking for volunteers from the various agency TACs to help as well as other agencies.

## * * * Briefs * * *

GOVERNMENT PROCUREMENT: Montenegro and New Zealand were given green light Oct. 29 to join WTO Agreement on Government Procurement. Accession will be first since revised and expanded version of GPA entered into force in April 2014 (see **WTTL**, March 17, page 3).

OFAC: Florida-based Bupa Insurance Company, Bupa Worldwide Corporation and USA Medical Services Corporation agreed Oct. 29 to pay OFAC $128,704 to settle charges of violating Cuba sanctions between March 2008 and March 2011. Charges include providing insurance support services for healthcare policies for blocked persons and processing and paying reimbursement claims for medical treatments in Cuba. Companies "misinterpreted the scope and application of the regulations administered by OFAC and did not monitor or screen health insurance policyholders, dependents, or providers against the SDN List," OFAC said.

FCPA: Texas drilling and construction company Layne Christensen agreed Oct. 27 to pay $5.1 million to settle SEC charges of violating Foreign Corrupt Practices Act by bribing government officials in Mali, Guinea, Burkina Faso, Tanzania and Democratic Republic of Congo. Company was charged with paying more than $1 million to obtain favorable tax treatment, customs clearance for drilling equipment, work permits for expatriates, and relief from inspection by immigration and labor officials, SEC said. Layne neither admitted nor denied the charges.

EU: European Union notified WTO Dispute Settlement Body Oct. 31 it has requested consultations with Russia over tariffs Moscow has imposed on paper products, refrigerators and palm oil. EU claims Kremlin has violated tariff commitments it made when it joined WTO. At same time, EU asked DSB to form panel to hear its complaint against Brazilian tax policies which apply high internal taxes in several sectors, such as automobiles, information technologies, and machines used by industry and professionals. "Brazilian products, unlike imported ones, can however benefit from selective exemptions or reductions," EU said.

ITA: At meeting of countries negotiating expansion of Information Technology Agreement, chaiman reported "positive signals" but no specific changes in positions, specifically China's, that have kept negotiations suspended since November 2013. Chinese representative told group that even though negotiations were formally suspended, interaction among participants has not stopped. Official said China hopes deal can come before November meeting of APEC leaders.

BIS: Agency has installed new software for handling export license application. Use of Cuess software will conform to new servers it has installed and also help move toward adoption of USXports information technology system, staffers claim. With new software, license application approvals will no longer be written in all capital letters "as if we are shouting at you," said BIS Assistant Secretary Kevin Wolf. Change will force BISers to be sure they are using proper spelling and capitalization, he said.

FOURTH TIME'S A CHARM: CIT Judge Jane Restani sustained Commerce's fourth remand redetermination of ruling on administrative review of dumping order on bedroom furniture from China (slip op. 14-125). Parties agreed results "complied with the court's fourth remand order and the Fourth Remand Results are consistent with the opinion of the U.S. Court of Appeals for the Federal Circuit in *Lifestyle Enterprise, Inc. v. United States*," Restani ruled.