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Judge Allows More Time for Due Diligence in Fokker Case

After a federal judge questioned Justice's settlement with Fokker Services on charges of violating U.S. sanctions, the department is hustling to track down documents and ex-employees involved in the case to justify the agreement. At a status conference Aug. 21, D.C. U.S. District Court Judge Richard Leon granted Justice's request for six more weeks to gather the information. Due to those questions, Leon has delayed a ruling on the government's deferred prosecution agreement with the firm (see **WTTL**, July 28, page 1).

> Since the last hearing, Assistant U.S. Attorney Maia Luckner Miller explained, her office has been interviewing past and current employees of the four agencies involved in the original investigation. So far they have interviewed ten employees and have six more to go. It's possible that number could increase, she said.

Miller said she wants to confirm three representations at the heart of the settlement, which was based on a voluntary self-disclosure (VSD) Fokker had made. Justice wants to be sure no case or investigation had been opened; no substantive investigatory steps had been taken; and no agency had uncovered evidence to indicate that Fokker believed they were under investigation when they made the VSD. The D.C. U.S. Attorney's office has begun to review up to 14,000 documents, though probably less than 500 are relevant, she said.

The most significant information appears to fall into contemporaneous documents and databases at the time of the investigation, Miller said. Much of the personal conversations are opinions. "Opinions are what they are," she added.

In the end, Leon applauded the effort. "Take the time you need to get to the bottom of this," he said. The new status deadline is Sept. 30, and another hearing will be scheduled after that, probably in mid-October. Leon also offered to step in if Miller had any difficulty reaching former employees or getting them to cooperate. "If they're going to act that way, they can expect to come to this court and answer questions under oath," he said.

FTC Asked to Investigate "Safe Harbor" Data Privacy Violations

A non-profit consumer protection organization asked the Federal Trade Commission (FTC) Aug. 14 to investigate and sanction 30 companies that the group claimed have violated the

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"Safe Harbor" conditions that exempt them from European Union (EU) prohibitions on the export of private data on EU citizens. In its request, the Center for Digital Democracy (CDD) said it conducted its own investigation of the firms and found that they were using EU data to create marketing profiles of individual EU citizens in violation of the Safe Harbor principles the U.S. negotiated with the EU in 2000.

> Under the Safe Harbor Framework agreement, which was negotiated by Commerce during the Clinton administration, U.S. firms can use EU data if they adhere to certain controls on how the information is used and protected. Although the rules are voluntary, the FTC has authority to use Section 5 of the Federal Trade Commission Act to prosecute firms that claim to abide by them but don't for unfair and deceptive practices.

"CDD's research has revealed that these companies are potentially misleading EU consumers in violation of Safe Harbor commitments," the group said in its request. "In mandatory disclosures to consumers, these companies omit important information about the data practices under which personal information is processed," it said.

"Moreover, the companies mislead EU consumers by misstating their legal status and the legal status of data they process. Finally, a subset of these companies have merged with others without making clear to consumers how their already-collected data will be protected or deleted going forward," it added.

The U.S is in talks with the EU to amend the 2000 agreement to address 13 changes the European Commission recommended in November 2013 to increase transparency and enforcement (see **WTTL**, May 19, page 7). The U.S. is trying to find ways to address the concerns behind the recommendations but objects to at least one proposal that would require U.S. firms that are eligible to transfer data under the Safe-Harbor rules to publish the privacy provisions of contracts they have with third parties to which they transfer data.

The Software and Information Industry Association (SIIA) has objected to the CDD request, saying the Safe Harbor Framework is a valuable mechanism that allows data flows. "Part of what makes it valuable is meaningful enforcement that focuses on complying with the Framework, not criticizing legitimate contemporary business practices. SIIA supports the FTC's historically robust enforcement of the Safe Harbor program," said SIIA Vice President of Public Policy Mark MacCarthy in a statement. "Our initial view of today's action is that the CDD has taken an opportunity to mask its opposition to marketing through the vehicle of this complaint," he added. [**Editor's Note**: WTTL's publisher, Gilston-Kalin Communications, LLC, is a member of SIIA.]

The 30 companies cited in CDD's filing are: Acxiom, Adara Media, Adobe, Adometry, Alterian, AOL, AppNexus, Bizo, BlueKai, Criteo, Datalogix, DataXu, EveryScreen Media, ExactTarget, Gigya, HasOffers, Jumptap, Lithium, Lotame, Marketo, MediaMath, Merkle, Neustar, PubMatic, Salesforce.com, SDL, SpredFast, Sprinklr, Turn and Xaxis.

New York Hits Standard Chartered Bank Again with More Fines

The importance of complying with the requirements of a consent agreement was underscored by a new $300 million fine that New York State bank regulators imposed Aug. 19 on the U.S. operations of Standard Chartered Bank (SCB) for its failure to meet the

conditions of a 2012 settlement the bank reached with the state. New York's Department of Financial Services (DFS) claims SCB has failed to remediate anti-money laundering problems as required by the settlement (see **WTTL**, Aug. 20, 2012, page 1).

> The DFS' aggressive enforcement of anti-money laundering and trade sanction laws put federal regulators on the spot when DFS reached its agreement with SCB on money-laundering charges in 2012 and imposed a $340 million civil penalty on the bank. Four months later, not to be outdone, Justice, Treasury, the Federal Reserve and the Manhattan district attorney reached a separate global settlement with SCB aimed at separate trade sanctions violations and imposed another $327 million in penalties.

In announcing the new penalty, the DFS said "SCB's compliance remediation failures were uncovered by DFS' independent monitor, which the Department installed at Standard Chartered as part of the 2012 agreement." The monitor had reviewed the bank's transaction monitoring systems and "found that the bank failed to detect a large number of potentially high-risk transactions for further review." It said a significant amount of the potentially high-risk transactions originated from its Hong Kong subsidiary (SCB Hong Kong) and branches in the United Arab Emirates (UAE), among others.

In addition to the fine, the DFS ordered SCB to suspend dollar clearing through its New York Branch for high-risk retail business clients at its SCB Hong Kong subsidiary; exit high-risk client relationships within certain business lines at its branches in the UAE; not accept new dollar-clearing clients or accounts across its operations without prior approval from DFS; and take other remedial steps.

The SCB Group "accepts responsibility for and regrets the deficiencies in the anti-money laundering transaction surveillance system at its New York branch," the bank said in a statement. "The Group has already begun extensive remediation efforts and is committed to completing these with utmost urgency. More broadly, the Group is committed to enhancing its effectiveness in the fight against financial crime, and in this context, has committed substantial resources to a multi-year Financial Crime Risk Mitigation Program," it added. A board-level Financial Crime Risk Committee will oversee the program, it said.

PwC Settles Charges It Altered Bank of Tokyo Report

In another example of how New York is following its own path in the enforcement of money-laundering and trade sanctions, the state's Department of Financial Services (DFS) fined PricewaterhouseCoopers (PwC) Regulatory Advisory Services (RAS) $25 million and imposed other sanctions Aug. 18 as part of a settlement of charges against the consulting firm (see related story above). DFS charged RAS with improperly altering a report submitted to regulators in 2008 regarding sanctions and anti-money laundering compliance at Bank of Tokyo Mitsubishi (BTMU).

According to the settlement, PwC RAS "will not accept any new engagements that would require the Department to approve PwC RAS as an independent consultant or to authorize the disclosure of confidential information under New York Banking Law." In addition to the $25 million fine, it will implement a series of "procedures and safeguards" in their practices. DFS claimed PwC – at BTMU's request – had removed a statement in its draft historical transaction review (HTR) report about BTMU's written instructions to strip wire

messages. The statement said that if PwC had known about the practice from the outset of the HTR, it "would have recommended that BTMU undertake a forensic review of its wire transfers," the settlement said.

> "Now, having fully considered the evidence, the Department and PwC agree that PwC's work as a consultant for the Bank in this matter did not demonstrate the necessary objectivity, integrity, and autonomy that is now required of consultants performing regulatory compliance work for entities supervised by the Department," it added.

The HTR provided the "cornerstone" for a BTMU agreement in 2013 to pay DFS a $250 million fine for violating N.Y. banking law by handling transactions with countries and entities subject to sanctions on Iran, Sudan and Myanmar (see **WTTL**, June 24, 2013, page 1). Treasury's Office of Foreign Assets Control (OFAC) had previously imposed an $8.6 million fine on the bank to resolve charges that it violated trade sanctions on Burma, Iran, Sudan, and Cuba. "The Department has found no evidence that PwC unlawfully advanced or participated in the conduct by BTMU giving rise to the Consent Decree," DFS said.

"This matter relates to a single engagement completed more than six years ago in which PwC searched for and identified relevant transactions that were self-reported to regulators by PwC's client," said Miles Everson, PwC U.S. Advisory Leader, in an email to WTTL. "PwC's detailed report also disclosed the relevant facts that PwC learned subsequent to its search process, he added.

"PwC is proud of its long history of contributing to the safety and soundness of the financial system by serving as subject matter experts in banking regulatory and compliance matters and the firm is committed to improving continuously and meeting changes in regulatory expectations. This resolution reinforces that commitment," he wrote.

Samsung Pays $2.3 Million for "Made-in America" Violations

Samsung Electronics America will pay $2.3 million to settle charges that it violated "Made-in-America" rules by providing false information to firms that supply the General Services Administration (GSA), Justice announced Aug. 19. Samsung's U.S. operations in Ridgefield Park, N.J., provided inaccurate information to 19 resellers to the GSA regarding the country of origin of goods from January 2005 to August 2013, Justice claimed.

> The resellers held GSA Multiple Award Schedule contracts. Under the 1979 Trade Agreements Act (TAA), U.S. contractors are required to purchase products made in the U.S. or a country with which the U.S. has a trade agreement. Samsung allegedly told those resellers the specified products were made in TAA-designated countries, generally Korea or Mexico, when they were manufactured in China, which is not a TAA-designated country.

"Samsung Electronics fully cooperated with the DOJ's investigation, and the claims resolved by the settlement are allegations only," a Samsung spokesperson said in an email to WTTL. "There has been no determination of wrongdoing by the company. We are committed to working with the government, and abiding by its regulations," the email added. The charges were originally made in a lawsuit by Robert Simmons, a former Samsung employee, in Greenbelt, Md., U.S. District Court in 2011, under the False Claims Act's

whistleblower provisions. The act permits private parties to sue under the act and share in any monetary recovery. Simmons' share of the settlement, which was dated July 29, has not yet been determined, Justice said.

Ex-Im Needs to Monitor Dual-Use Exports, GAO Finds

The Export-Import Bank (Ex-Im) needs to strengthen its monitoring of dual-use exports, especially when borrowers do not submit required documents on time, the Government Accountability Office (GAO) found in a report (GAO-14-719) published Aug. 28. Ex-Im is permitted to finance only non-lethal dual-use exports.

> After a nine-year hiatus, Ex-Im financed three dual-use exports in fiscal year 2012, which ended Sept. 30, 2012, worth $1.03 billion. It backed sales of a satellite for French company Eutelsat, three satellites for the Mexican government, and construction equipment for Cameroon's military. Ex-Im did not finance any exports under its dual-use authority in fiscal year 2013.

As of July 31, Ex-Im had received most of the information required in its credit agreements for the three 2012 transactions, but some of it was late, the report noted. For example, Ex-Im received "some but not all of the progress reports required for the satellite transactions with Eutelsat and the Mexican government," the GAO reported. Some information from Mexico was more than a year late. Eutelsat provided a required technical operating report, but Mexico submitted only one of the two required reports. Also, the annual certification and reports Mexico and Cameroon were late, it noted.

"Ex-Im officials told GAO they made efforts to obtain missing documentation for all three transactions, and, because of their prior vetting of the transactions and the details they had received, they did not think the missing documentation risked the exports being used in a lethal manner or for primarily military purposes," the report noted.

USTR Tries to Salvage Guatemala Labor Pact

In an effort to forestall a decision that might force it to cutoff Guatemala's free trade agreement (FTA) benefits, the USTR's office has suspended for another month the dispute-settlement process against the Central American country's alleged unfair labor practices.

> The continued suspension announced Aug. 25 came nearly a month after USTR Michael Froman made a quick two-day visit to Guatemala to speak with government officials and labor leaders to assess the ongoing anti-union activities in the country and the country's compliance with a 2013 Labor Action Plan (LAP) that was supposed to preclude an arbitration panel's review of charges that Guatemala is violating the U.S.-Central America-Dominican Republic FTA (CAFTA-DR) (see **WTTL**, April 28, page 1).

The labor complaint, filed by U.S. and Guatemalan unions in 2011 under CAFTA-DR, "will remain suspended for an additional four weeks as the United States reviews information provided by Guatemala concerning legal reforms and actions to strengthen labor law enforcement in Guatemala and whether the reforms are leading to concrete improvements in Guatemalan workers' rights," the USTR's office said in a statement. Unstated in

the announcement is the Obama administration's dilemma over what to do about unaccompanied children from Central America trying to enter the U.S. illegally, including some 16,000 from Guatemala in the 10 months from October 2013 to July 2014.

> Investigation of labor conditions in Guatemala has dragged on for six years since the AFL-CIO and Guatemalan labor unions filed a complaint with the USTR's office under CAFTA-DR labor provisions. After five years of fruitless consultations and institution of an arbitration panel to review the complaints, the U.S. and Guatemala reached the LAP and suspended the panel's work. Since then, the U.S. has extended the deadline for implementation on the LAP twice and the most recent action is the third extension.

"The LAP has achieved only minimal formal changes with no real improvements for workers," said a joint statement by AFL-CIO President Richard Trumka and the heads of two Guatemalan labor federations after the USTR announcement.

"The scores of cases submitted under the complaint languish in legal limbo. Workers continue to be harassed for demanding their rights under the law, fired for joining unions, and murdered for daring to organize a union or demand collective bargaining. In fact, since the implementation of the LAP, Guatemala has been named the most dangerous country for freedom of association, as well as the deadliest country for trade unionists," the statement said. They urged both countries "to move as soon as possible to dispute settlement." House and Senate lawmakers issued similar statements.

At stake for Guatemala is some $4.2 billion in exports to the U.S. in 2013. Of that, about $1.3 billion were apparel products. Some $1.2 billion involved fruit, with bananas contributing about half of that. The banana sector has been the main source of complaints about labor conditions and violence, a problem that dates back almost a century.

WTO Panel Rules Against Argentine Import Restrictions

U.S. officials say they hope a World Trade Organization (WTO) ruling Aug. 22 against Argentina's import restrictions will send a signal to other nations not to impose such measures. "This is a big win," said USTR Michael Froman in a call with reporters after a WTO panel issued a report backing U.S., European Union (EU) and Japanese complaints against conditions Argentina requires importers to meet, including on local content.

> The ruling is "important to send a clear signal" to other countries, one official said, specifically mentioning New Zealand and Indonesia's horticultural requirements as two examples of ongoing disputes. In addition, the U.S. is currently waiting on panel decisions or in consultations with Argentina over two other important sectors, beef and citrus.

EU Trade Commissioner Karel De Gucht also welcomed the ruling. "I call on Argentina to move quickly to comply with the ruling of the WTO panel and remove these illegal measures, and open the way for EU goods to compete fairly on the Argentinian market," he said in a statement. Because Argentina is expected to appeal the decision to the WTO Appellate Body, a quick resolution of the dispute isn't likely. Under its rules, Argentina requires importers to offset the value of imports with, at least, an equivalent value of exports; to limit imports, either in volume or in value; to reach a certain level of local

content in domestic production; to make investments in Argentina; and to refrain from repatriating profits. The WTO panel found these restrictions to be inconsistent with Article XI of the General Agreement on Tariffs and Trade (GATT) because they have "limiting effects on the importation of goods into Argentina."

> The complaints against Argentina were aimed at its Advance Sworn Import Declaration requirements, known by their Spanish acronym as DJAI, and its Trade-Related Requirements (TRRs). "The DJAI procedure, irrespective of whether it constitutes an import licence, constitutes a restriction on the importation of goods and is thus inconsistent with Article XI:1 of the GATT 1994," the panel concluded.

"The TRRs measure, with respect to its local content requirement, modifies the conditions of competition in the Argentine market, so that imported products are granted less favourable treatment than like domestic products; accordingly, the TRRs measure, with respect to its local content requirement, is inconsistent with Article III:4 of the GATT 1994," it said.

U.S., Burma to Work on Labor Rights Agreement

U.S. officials can't seem to visit a foreign country without announcing a new initiative or at least announcing plans to develop one. USTR Michael Froman used a meeting in Burma of economic ministers of the Association of Southeast Asian Nations (ASEAN) to announce plans Aug. 28 "to begin a consultative process that is intended to culminate in the development" of a plan to promote labor rights in Burma, now known as Myanmar.

> In a joint statement, the U.S. and Myanmar said they intend to launch the initiative by November 2014. "The Initiative will build upon Myanmar's existing reform efforts, including on-going activities supported by the International Labor Organization," the statement said.

On a conference call with reporters from Burma, Froman acknowledged progress Myanmar has made in economic and political reforms but said "a number of further steps need to be taken." With the government already adopting several measures to improve labor conditions in the country, the planned initiative "is an opportunity for Myanmar to get it right the first time," he said. From the meetings he held with government officials, business and labor groups, Froman said he found they "all want the 'Made-in-Myanmar' brand to be a positive brand and connoting respect for fundamental labor rights."

The joint statement was filled mostly with generalities about the goals of the initiative. "Its main goals will be to develop a multi-year strategy for labor law reform and capacity building, to implement fundamental labor rights and decent working conditions on the ground, and to foster strong relations between businesses, workers, and the government of Myanmar," it said. "The strategy will serve as a blueprint to build upon Myanmar's existing labor market reform efforts and to prioritize the most critical needs as Myanmar increases its economic engagement with the world," it added.

With its low wages and untapped work force, the country has already begun attracting apparel production and other low-skill industries since the U.S. eased restrictions on it. Nonetheless, recent State Department reports on human trafficking and investment continue to cite problems in Myanmar with forced labor, child labor and sex trafficking. "The

Burmese military, and to a lesser extent, civilian officials, used various forms of coercion, including threats of financial and physical harm, to compel victims to provide forced labor," State's human trafficking report said.

> State's June 2014 report on investment in Myanmar noted the International Labor Organization's (ILO) lifting of sanctions against the country in 2012 based on progress it has made in adopting stronger labor laws, including on child labor. Since then, the government has adopted other labor laws, although many workers aren't aware of the new rules, it said. "There's a lot of work to do still ahead in terms of insuring the full implementation and enforcement of laws that have been adopted. There are further laws to be worked on going forward," Froman told reporters.

Antigua Makes New Offer to Settle Gambling Dispute

Despite continuing to get the cold shoulder from the U.S. in an attempt to uphold its WTO rights, Antigua and Barbuda has proposed another solution to its long-running dispute with Washington over U.S. restrictions on online gambling. At the WTO Dispute-Settlement Body meeting Aug. 29, a representative of the Caribbean island said its newly elected government has made a "comprehensive and realistic proposal" to the U.S. to settle the case.

> "Antigua and Barbuda would like our fellow WTO members to know that this latest proposal represents a significant concession to the United States from earlier proposals, and without going into details, in truth represents but the slightest fraction of the harm done to Antigua economy by the failure of the United States to observe its obligations under the GATS [General Agreement on Trade in Services] and to comply with the decision of the DSB in our dispute first rendered over a decade ago," the official's prepared statement said.

Antigua first complained about U.S. gambling restrictions to the WTO in 2003 and both a WTO dispute-settlement panel and the Appellate Body backed its complaints in rulings as far back to 2005. It had proposed to take compensation by not honoring U.S. copyrights and has tried to negotiate a deal with the U.S. for nearly a decade. "We have received no settlement proposal or any other communication from the United States that might be conducive to a settlement of our dispute," the representative said. "Nor, in fact, have we received any formal response to or critique of the settlement position outlined by the Antigua government to the USTR late last year," he said (see **WTTL**, Sept. 2, 2013, page 8).

* * * Briefs * * *

EXPORT ENFORCEMENT: Gatewick LLC, freight forwarder in Dubai, UAE, agreed Aug. 13 to pay BIS $40,000 civil penalty to be paid in two installments to settle three charges of conspiracy; causing, aiding or abetting unlicensed export; and acting contrary to terms of denial order. Company allegedly shipped approximately 2,300 computer motherboards designated as EAR99 and valued at approximately $130,000 to Mahan Airways, blocked entity in Iran, in February 2009. Ma Labs, Inc. and IT Express in San Jose, Calif., agreed to pay BIS $55,000 civil penalty in November 2013 to settle charge in same transaction (see **WTTL**, Nov. 25, 2013, page 9).

MORE EXPORT ENFORCEMENT: Marjorie Roxby Mascheroni, former contract employee at Los Alamos National Laboratory (LANL), was sentenced Aug. 20 in Albuquerque U.S. District Court to year and day in prison followed by three years' supervised release for conspiring to violate

Atomic Energy Act by giving classified nuclear weapons data to person believed to be Venezuelan government official between October 2007 and October 2009. Mascheroni and her husband Pedro Leonardo Mascheroni, naturalized U.S. citizen, pleaded guilty in July 2013, three years after indictment in September 2010. Pedro's sentencing is scheduled for Sept. 22.

KAZAKHSTAN: WTO reports substantive progress has been made in Kazakhstan's accession efforts in last month and "injected momentum" into negotiations. Draft Consolidated Services Schedule was circulated to members July 30 and Consolidated Draft Goods Schedule was circulated Aug. 26. Kazakhstan also provided more information at accession working party meeting July 21-23 on how Eurasian Economic Union (EAEU) Treaty with Russia and Belarus will differ from its customs union with those nations. Separately, Mark Linscott, assistant USTR for WTO and multilateral affairs, will participate in panel on Kazakhstan's accession and implications of EAEU for WTO Sept. 4 in Astana, Kazakhstan.

SHELVING: Edsal Manufacturing Co. Inc. filed antidumping and countervailing duty petitions Aug. 26 with ITA and ITC against imports of boltless steel shelving units from China.

SUDAN: Branch Banking & Trust Co. (BB&T), Winston-Salem, N.C. Aug. 27 agreed to pay OFAC $19,125 to settle one charge of violating Sudanese Sanctions Regulations in June 2011. BB&T allegedly processed $20,000 funds transfer for merchandise being shipped to Sudan. Bank did not voluntarily self-disclose apparent violation.

SEARCH OVERLOAD: OFAC posted technical notice on website Aug. 25: "In order to ensure that all users of the Sanctions List Search tool have a similar search experience, OFAC is now managing the number of searches that a user may conduct within a short period of time. Users exceeding the number of searches allowed will have their search access temporarily suspended for a few moments. The vast majority of users should see no change in their search capabilities."

CIT: President Obama Aug. 18 said he will nominate Jeanne E. Davidson to be judge on Court of International Trade. Davidson, who is director of Justice's offices of foreign litigation and international legal assistance as well as international trade field office, has represented government in scores of trade cases at CIT and CAFC. Previously, she served as USTR associate general counsel. She has J.D. from NYU School of Law and A.B. from University of California at Berkeley.

FERROSILICON: In 6-0 negative vote Aug. 26 ITC determined that a U.S. industry is not materially injured by dumped imports of ferrosilicon from Venezuela.

GRAIN-ORIENTED ELECTRICAL STEEL: In 5-1 final vote Aug. 27, ITC determined that U.S. industry is not materially injured by dumped imports of grain-oriented electrical steel (GOES) from Germany, Japan and Poland. Commissioner Rhonda K. Schmidtlein was only yes vote.

OIL COUNTRY TUBULAR GOODS: ITC Aug. 22 made final determination that U.S. industry is materially injured by dumped imports of certain oil country tubular goods (OCTG) from India, Korea, Taiwan, Turkey, Ukraine and Vietnam and subsidized imports of these products from India and Turkey (see **WTTL**, July 21, page 8). Votes for India, Korea, Turkey, Ukraine and Vietnam were unanimous; for Taiwan, Chairman Broadbent only negative in 4-1 vote. In 5-0 negative votes, ITC also determined that U.S. industry is not materially injured by imports of OCTG from Philippines and Thailand, two smallest suppliers by value in 2013. Commissioner F. Scott Kieff did not participate in investigations.

REEXPORTS: As of Oct. 1, DDTC will require letter from foreign persons requesting reexport of defense articles under Section 123.9 addressing: whether applicant is subject of indictment or "is ineligible to contract with, or to receive a license or other approval to temporarily import or export defense articles or defense services from any agency of the U.S. Government"; or whether any party to export is ineligible for license. "Reexport and re-transfer requests submitted

after September 30, 2014 that do not contain the 126.13 statement are subject to being returned without action," Aug. 26 notice said.

CITRUS: Agriculture Secretary Tom Vilsack Aug. 22 announced agreement between U.S. and Chinese officials to resume California citrus exports to China. In April 2013, Chinese officials blocked California-origin citrus due to interceptions of brown rot (Phytophthora syringae), soil fungus that affects stored fruit, USDA statement noted.

NAFTA: Arbitral tribunal Aug. 25 rejected Canadian pharmaceutical companies' claims for up to $1.5 billion damages caused by 2009 FDA Import Alert. FDA placed two Ontario facilities on alert after "inspections revealed significant deviations from current good manufacturing practice," State said. "On the merits, the tribunal unanimously concluded that the Import Alert was a lawful and appropriate exercise of FDA's regulatory authority," State noted. FDA removed facilities in 2011. "While we are disappointed in the Tribunal's decision, we remain strongly committed to the U.S. market and we continue to work closely with the FDA to resolve all outstanding issues and to achieve our shared objective of expanding the public's access to quality, affordable generic medicines," said Dr. Jeremy B. Desai, Apotex's President and Chief Executive Officer.

SUGAR: U.S. sugar users claim Commerce's preliminary countervailing duty (CVD) on sugar from Mexico Aug. 26 shows that vast majority of private sugar producers don't get government subsidies. Commerce determined preliminary rate of 2.99% for mandatory respondent Ingenio Tala S.A. de C.V. and Grupo Azucarero Mexico S.A. de C.V., which represent private sugar producers, and 17.01% for mandatory respondent Fondo de Empresas Expropiadas del Sector Azucarero, which comprises group of producers held in trust by Mexican government. "Lower level of duties assessed to TALA, a privately owned company, shows that the DOC did not find significant subsidization to the vast majority of the Mexican industry, which is also privately owned. Therefore, most of the preliminary duty 'protection' for U.S. producers is unwarranted, as it is based on unfounded U.S. industry allegations of subsidies to the large majority of the Mexican Industry," said statement from Sweetener Users Association.

EX-IM: President Obama used his weekly video address Aug. 23 to urge Congress to renew Ex-Im Bank charter and for public to press lawmakers to support bank. "Your members of Congress are home this month. If you're a small business owner or employee of a large business that depends on financing to tackle new markets and create new jobs, tell them to quit treating your business like it's expendable, and start treating it for what it is: vital to America's success," he said. House Financial Services Committee Chairman Jeb Hensarling (R-Texas) issued rebuttal statement. "Because over 98% of all U.S. exports are funded without Ex-Im, no one can make a credible case that Ex-Im's continuation is critical to our economy. What would really help American manufacturers and small businesses compete on a level playing field are pro-growth tax, energy, regulatory and liability policies that the House has already passed but are being blocked by Democrats in the Senate," he said.

TRADE PEOPLE: President Obama Aug. 28 announced his intent to nominate Jennifer A. Haverkamp to be assistant secretary of State for oceans and international environmental and scientific affairs. She previously was director of international climate program at Environmental Defense Fund (EDF) from 2011 to 2014. Earlier, she served as assistant USTR for environment and natural resources and is member of USTR's Trade and Environment Policy Advisory Committee. Haverkamp received B.A. from College of Wooster, B.A. and M.A. from Somerville College at Oxford University, where she was Rhodes Scholar, and J.D. from Yale Law School.

MORE TRADE PEOPLE: President Obama Aug.28 also said he intends to nominate Sarah R. Saldaña to be assistant secretary for Immigration and Customs Enforcement (ICE) at Department of Homeland Security. She has been U.S. Attorney for Northern District of Texas since 2011. Saldaña received B.A. from Texas A&I University and J.D. from Southern Methodist University.