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U.S. to Ask for Dismissal of Pulungan Suit for Compensation

Justice intends to ask the U.S. Court of Federal Claims to dismiss a suit by Doli Syarief Pulungan for $25 million in compensation for the government's failed prosecution of him for violation of the Arms Export Control Act (AECA). Pulungan filed his suit after winning a "certificate of innocence" from the Madison, Wis., U.S. District Court. With that certificate having been reversed by the Seventh Circuit Court in July, Justice says Pulungan no longer has grounds for compensation (see **WTTL**, Aug. 12, page 5).

> From his home in Jakarta, Indonesia, Pulungan began suing federal officials for compensation and restitution after the Seventh Circuit in June 2009 overturned his conviction of AECA violations. A district judge dismissed those suits, which included among its targets Secretary of State Condoleezza Rice and Robert Kovac, who was managing director of the Directorate of Defense Trade Controls at the time, and even the federal district judge who presided in the case. The judge, citing a lack of jurisdiction, said any suit for compensation had to go to the federal claims court.

Pulungan, who has pleaded poverty in his suit, filed his complaint with the claims court in November 2012. In addition to monetary compensation, he asked for an apology from the government. "The United States intends to file a motion to lift the stay and dismiss Mr. Pulungan's complain, because Mr. Pulungan no longer possesses a valid certificate of innocence," Justice told the claims court after the circuit court ruling. The motion for dismissal is expected in the first weeks of September.

State Clarifies Exceptions in Final ITAR Brokering Rules

In its final brokering rule published in the Aug. 26 Federal Register, State addressed industry concerns that earlier proposed changes would have overly expanded the definition of who is an arms broker and what activities are considered brokering under the International Traffic in Arms Regulations (ITAR). The interim final rule follows closely a version that drew strong praise last November from the Defense Trade Advisory Group (DTAG), which was given an advance look at the regulation. Publication of the regulation marks the end of an effort that started in 2005 to clarify ITAR brokering requirements after a federal court almost upended the department's enforcement of the

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brokering amendments to the Arms Export Control Act (AECA). The new rule makes it clear that lawyers won't be considered brokers if they merely give legal advice to clients on brokering activities, but it doesn't answer concerns about legal activities that go beyond advising, such as participating in negotiations on behalf of a client, drafting contracts and helping to arrange deals (see **WTTL**, July 1, page 1).

> In the notice, State says an activity that does not extend beyond the provision of legal advice to clients "is not within the definition" of brokering and "legal advice" includes the provision of export compliance advice.

The rules also exclude from the brokering definition administrative services, such as "providing or arranging office space and equipment, hospitality, advertising, or clerical, visa, or translation services, collecting product and pricing information to prepare a response to Request for Proposal, generally promoting company goodwill at trade shows, or activities by an attorney that do not extend beyond the provision of legal advice to clients." It also exempts those "whose business is exclusively financing, insuring, transporting, or freight forwarding, as distinct from those who engage in these activities as part of their direct involvement in arranging transactions for defense articles or defense services or hold title to defense articles, even when no physical custody of defense articles is involved," State noted.

Comments on State's original proposed revisions in December 2011 complained that the scope of foreign persons considered brokers was too broad. In response, the department said it has "clarified that foreign persons that are required to register as brokers are those that are in the United States and those foreign persons outside the United States that are owned/controlled by a U.S. person." It also removed from the definition of 'brokering activities' the "activities of any foreign person located outside the United States acting on behalf of a U.S. person."

State did not accept suggestions that soliciting or promoting the transaction should not be considered brokering activities. The department "believes that 'soliciting' or 'promoting' the purchase, sale, transfer, loan, or lease of a defense article or defense service is an integral aspect of a broker's brokering activities, and therefore did not accept the recommendation to remove these activities from the definition of 'brokering activities,'" it said. Published as an interim final rule, State is accepting public comments until Oct. 10. The rules will become effective Oct. 25 with "a final rule notifying of any changes to the rule pursuant to public comment assessment."

Appellate Court Rejects Need to Exhaust Remedies at ITA

When Commerce has already rejected an arguments in an antidumping case, there is no need for a party to resubmit them to demonstrate an exhaustion of remedies, the Court of Appeals for the Federal Circuit (CAFC) ruled Aug. 19 in *Itochu Building Products v. U.S.* The court reversed and remanded "as an abuse of discretion" a decision by Court of International Trade (CIT) Judge Timothy Stanceu, who had declined to rule on Itochu's suit because it had not exhausted its remedies at the International Trade Administration (ITA). "In the circumstances here, requiring exhaustion served no discernible practical purpose and would have risked harm to Itochu," the CAFC ruled. At issue was a Commerce determination on when to revoke an antidumping order on certain steel nails from China. The case was complicated because of the intersection of an administrative

review, a changed circumstances review and a separate pending CIT case that addressed the same issue. Itochu wanted the duties revoked from the start of the administrative review period; Commerce wanted it at the end of the period. "The requirement that invocation of exhaustion be 'appropriate,' however, requires that it serve some practical purpose when applied," wrote CAFC Judge Richard Taranto for the court.

> "In the present case, no purpose was served by requiring Itochu to have re-submitted its effective-date argument after Commerce announced the preliminary results," he wrote. "Nothing in the record suggests that any additional material from Itochu would have been significant to Commerce's consideration of the issue or to later judicial review. Indeed, the trade court indicated that a simple resubmission would have sufficed for exhaustion," he added.

"Here, Commerce's position, which Commerce was defending in court at the time, was that it had no discretion in the matter because it was constrained by statute to reject Itochu's position. Moreover, Commerce has not identified any new factual or legal argument that Itochu could have made after Commerce issued its preliminary results that might have affected Commerce's position, aided judicial review, or given Itochu the relief it sought. In these circumstances, which are likely rare ones, the demanding abuse-of-discretion standard for reversal of an exhaustion ruling under section 2637(d) is met," Taranto wrote.

Meggitt to Apply Most of State Penalty to Correct Violations

State's Directorate of Defense Trade Controls (DDTC) has allowed Meggitt USA, Inc., to apply $22 million of a $25 million civil penalty to export compliance remedial actions as part of a consent agreement the agency and company reached Aug. 23. The agreement settles 68 charges of violations of the International Traffic in Arms Regulations (ITAR) that DDTC identified in a proposed charging letter to the company, most of which Meggitt had voluntarily disclosed and involved violations at companies Meggitt, the U.S. subsidiary of Meggitt, PLC in the United Kingdom, acquired over the last two decades. The $3 million balance of the fine will be paid in three $1 million payments over two years.

> "Over the course of several years, Meggitt subsidiaries and business units disclosed to the Department hundreds of ITAR violations beginning in the mid-1990s, largely involving the unauthorized export of defense articles, including technical data, the unauthorized provision of defense services, violation of the terms of provisos or other limitations of license authorizations, and the failure to maintain specific records involving ITAR-controlled transactions," a State statement said.

Under the agreement, Meggitt will be able to apply $22 million toward export compliance remedial actions it had already taken before the settlement as well as additional measures it will be required to take as part of the agreement. Among the steps the company will be required to take include the appointment of an Internal Special Compliance Officer who will have responsibility to monitor Meggitt's export compliance, oversee implementation of provisions of the agreement and report to DDTC and Meggitt's leaders and board on compliance measures. The company will also conduct an audit of its export compliance program, continue to implement its automated export

compliance system and conduct a commodity classification review of all products exported by Meggitt units subject to ITAR.

> "The consent agreement acknowledges the extensive efforts made by Meggitt to comply with the ITAR and assist in the preservation of U.S. national security interests," a Meggitt spokesperson said in an e-mail to WTTL. "No limitations have been imposed on Meggitt USA's ability to trade items, data and services subject to the ITAR," she added. The suspension of $22 million of its fine recognized "our commitment to and implementation of a comprehensive and well-resourced compliance system covering the whole group's trading activities," the statement added.

Divided CAFC Bars Byrd Payments in Furniture Case

Despite twice addressing the question of eligibility for Byrd Amendment payments, the Court of Appeals for the Federal Circuit (CAFC) remains divided over what constitutes support or opposition to an antidumping case and which companies can receive distributions of Byrd money. In its latest ruling in *Ashley Furniture Industries v. U.S.* Aug. 19, two judges agreed to affirm a Court of International Trade (CIT) decision to reject a suit by three firms seeking a share of the funds, while one judge wrote a dissenting opinion saying the firms deserved to get paid. At issue was whether the plaintiffs, Ashley Furniture, Inc., Ethan Allen Global, Inc., and Ethan Allen Operations, Inc., qualified as Affected Domestic Producers (ADPs) that could receive Byrd payments.

> A three-judge CIT panel said they didn't. As Circuit Judge Kimberly Moore wrote for the majority, the case fell between two previous CAFC decisions in *SKF USA, Inc. v. U.S. Customs & Border Protection* and *PS Chez Sidney, L.L.C. v. U.S. International Trade Commission.*

Moore said the CIT panel's reliance on the SKF decision resolved a First Amendment challenge to determining who is eligible for Byrd money based on statements made in response to International Trade Commission (ITC) questionnaires. "We are bound to follow this precedent and are not free to revisit the First Amendment arguments that were before the *SKF* panel. To the extent that Appellants argue that recent Supreme Court precedent overruled our *SKF* holding, we do not agree," she wrote.

"On one side is *SKF*, where the producer indicated opposition to the petition in a questionnaire and actively opposed the petition—and failed to qualify for a distribution. On the opposite side is *Chez Sidney*, where the producer indicated support for the petition through a questionnaire response and did not actively oppose the petition—and received a Byrd Amendment distribution," Moore explained. "The appeals before us fall between these two extremes. Here, Appellants did not indicate support for the petition in a questionnaire and did not actively oppose the petition. We hold that Appellants have not supported the petition under the plain meaning of the Byrd Amendment," she argued.

"Because Congress could not have intended the odd construction of the Byrd Amendment advocated by Appellants, we hold that a producer who never indicates support for the petition by letter or through questionnaire response cannot be an ADP. The language of this statute is straightforward. This interpretation is consistent with both *SKF* and *Chez Sidney*. No doubt a skilled advocate could pluck out-of-context statements from these

cases to argue in a client's favor, but we must decide this case on its facts. We conclude that the domestic producers in these cases are not entitled to Byrd Amendment distributions," Moore declared.

> In his dissenting opinion, Circuit Judge Raymond Clevenger disagreed with the majority's view that the "plain meaning" of the Byrd Amendment allows the ITC to determine who qualifies as an ADP based solely on the producer's response to the ITC's support/oppose question. The support/oppose question on questionnaires dates back at least to 1987, well before the 2000 Byrd Amendment, and was intended to determine whether a petition was filed on behalf of the domestic industry.

"When the Byrd Amendment was enacted, there was no mention of using the support/oppose question in the ITC's questionnaires as the basis for determining which domestic producers could receive Byrd Amendment distributions," Clevenger wrote.

"As we recognized in *SKF*, if the Byrd Amendment penalized the mere expression of opposition to a dumping investigation, it would raise serious First Amendment concerns," he noted. "Instead, we concluded that the Byrd Amendment's purpose was 'to reward injured parties who assisted government enforcement of the antidumping laws by initiating or supporting antidumping proceedings'," he continued. "We then [in *Chez Sidney*] limited the statute's 'support' requirement to require active support, and not a mere abstract expression of support. For the same reasons, the ITC cannot use a mere expression of opposition to substitute for *active* opposition in denying Byrd Amendment distributions," Clevenger argued (original emphasis, citations omitted).

Froman Getting Squeezed on Footwear Tariffs in TPP Talks

The debate over footwear tariffs in Trans-Pacific Partnership (TPP) talks is squeezing USTR Michael Froman tighter than a pair of shoes one-size too small. Froman is getting opposite pressure from domestic footwear manufacturers and well-known brands and retailers that import footwear from TPP trading partners.

> In a letter to Froman Aug. 22, executives from Converse, Saucony, Sperry Top-Sider, Adidas, Clarks and Black Diamond Group urged the Obama administration to push for eliminating all footwear tariffs during TPP negotiations. "Excessively high duties have failed to keep manufacturing jobs here, but they have succeeded in making shoes artificially expensive, hampering our ability to expand domestic employment throughout the footwear supply chain," they wrote.

"While the average duty on consumer goods is only 1.3 percent, footwear duties are exorbitant, reaching nearly 70 percent on some items. Americans pay an estimated $700 million in shoe taxes from TPP countries alone," the letter said. Importers say imported athletic footwear account for 99% of the U.S. market, with tariffs as high as 67.5%.

On the other side, domestic manufacturers are urging U.S. negotiators to "maintain the status quo and keep import-sensitive tariffs on the books for the 1 percent of footwear that is made in the U.S," said Marc Fleischaker, trade counsel for the Rubber and Plastic Footwear Manufacturers Association (RPFMA), in a statement. RPFMA represents such

brands as New Balance, whose Maine factory Froman toured earlier this summer (see **WTTL**, Aug. 5, page 3). "These tariffs do not restrict imports from Vietnam, but they do keep manufacturing jobs in the U.S. Trading them away means trading away manufacturing jobs that will never come back," Fleischaker added.

> Meanwhile, the Footwear Distributors and Retailers of America released a report Aug. 20, claiming the elimination of tariffs under a TPP deal would have no real impact on employment in the U.S. footwear industry.

"If duty eliminations were limited to just the top five athletic footwear classifications from Vietnam, which account for almost 70 percent of athletic footwear imports from Vietnam by value, the output and revenue effects on the U.S. athletic footwear industry are 1 percent or less," report contends. "Because China is currently the main source of U.S. athletic footwear imports, it stands to reason that the shift in sourcing to Vietnam predicted herein would come largely at China's expense," it adds.

Incoming WTO Head Picks Global Cadre of Deputies

Continuing the pattern of previous leaders, incoming World Trade Organization (WTO) Director-General Roberto Azevêdo Aug. 17 picked four deputy directors-general from all four corners of the globe. He named Yi Xiaozhun of China, Karl-Ernst Brauner of Germany, Nigeria's Yonov Frederick Agah and David Shark of the U.S. as his four deputies. Azevedo, who takes the WTO reins Sept. 1, named Tim Yeend, who has been Australian Ambassador to the WTO for the last three years, to be his Chef de Cabinet.

> Shark has served as the U.S. deputy permanent representative to the WTO since 2000. Prior to that, he was deputy assistant USTR for environment and natural resources from 1995 to 2000 and also served from 1988 to 1995 as trade attaché in Geneva during the Uruguay Round.

U.S. Tobacco Proposal in TPP Ignites Complaints from All Sides

The Obama administration hasn't pleased anyone with its latest proposal on how to treat tobacco regulations under the Trans-Pacific Partnership (TPP). The proposal presented at the 19th round of TPP talks in Brunei Aug. 26 would not carve out tobacco regulations from complying from international trade agreement rules, but would specify tobacco as falling under public health exceptions. The proposal drew complaints from public health groups that called it a retreat from stronger proposals previously discussed and from U.S. industry that said a specific reference to tobacco would undercut the long-standing "general exceptions" provisions in the General Agreement on Tariffs & Trade.

In a call with reporters Aug. 23, USTR Michael Froman defended the proposal, saying it "strikes the right balance, recognizing that there are public health issues around tobacco, and we want to make sure that countries can regulate on a scientific basis in the interest of public health, and that those health authorities will be consulted before any challenge to a tobacco-related regulation might take place." Froman said "we don't want to create a precedent where we're excluding any particular agricultural product or other product from the negotiation." According to a USTR factsheet, the U.S. tobacco proposal has three elements. It would (1) include a provision indicating that the TPP parties

understand that general exception applies to tobacco health measures; (2) add a provision requiring that before a party initiates a challenge through TPP dispute settlement to another party's tobacco regulatory measure, the health authorities of the concerned parties shall meet to discuss the measure; and (3) leave unchanged market access proposals consistent with long-standing trade and agriculture policy.

> The first two elements "work together to preserve the right to regulate tobacco products domestically," the factsheet said. "As we do for other products, we will continue to press for the elimination of tariffs on U.S. agriculture exports, which, by their very nature, discriminate against American farmers," it said.

In a letter to Froman Aug. 22, 16 agriculture and manufacturing groups objected to the potential precedent that could be set in dispute-settlement proceedings. "Such a consequence would undercut the long-standing U.S. insistence that measures implemented as exceptions to the rules be based in evidence, including sound science, to demonstrate their necessity to achieve legitimate regulatory objectives without being more trade restrictive than necessary."

Public health groups said the proposal "does not recognize tobacco as a uniquely harmful product or provide a safe harbor for nations to regulate in order to reduce tobacco use, as the initial proposal would have done." In an Aug. 19 statement, they said the proposal "states the obvious – that tobacco control measures involve public health – and then directs public health officials from the countries that are party to the trade agreement to consult each other before launching tobacco-related trade challenges."

In contrast, Malaysia reportedly introduced its own proposal in Brunei Aug. 26, seeking to carve out tobacco regulations completely from any negotiations. U.S. public health groups, not surprisingly, supported this proposal, which Campaign for Tobacco-Free Kids called "appropriate and necessary to stop the tobacco industry from continuing to challenge tobacco control measures as trade violations, a tactic the industry increasingly has used around the world to fight efforts to reduce tobacco use."

* * * Briefs * * *

TPP: After 19 rounds of Trans-Pacific Partnership (TPP) talks, negotiators will take break from big joint meetings for a while. Malaysia's chief TPP negotiator, J. Jayasiri, told Malaysian National News Agency (Bernama) Aug. 30 that moving forward, "negotiators will meet intersessionally." Each negotiating group "may meet over different dates," he is quoted as saying. After making "minimal progress" in Brunei, "they will no longer converge all it once as they did in this round and in the past 18 rounds," he told Bernama. USTR statement same day said TPP negotiators "intensified their work this week to close gaps between them" during week in Brunei. "Their discussions both jointly and bilaterally were successful in identifying creative and pragmatic solutions to many issues and further narrowing the remaining work," USTR continued. Meeting of Asia-Pacific Economic Cooperation (APEC) Forum Summit in Bali Oct. 7-8 "will be an important milestone as the 12 countries work intensively to conclude this landmark agreement this year," USTR said (see **WTTL**, Aug. 19, page 3).

BYRD AMENDMENT: Japan told WTO DSB Aug. 30 that it is increasing to 13 from 1 number of U.S. products that will face retaliation because U.S. has failed to comply with WTO ruling requiring Washington to stop distribution of antidumping and countervailing duties to petitioning parties under Byrd Amendment. Tokyo will increase average retaliatory duty to 17.4% from

4% for various U.S. stainless steel products, steel pipes and tubes, and ball, roller and cylindrical bearings, product made by firms that are among largest recipients of Byrd funds.

GAMBLING: Antigua and Barbuda told WTO Aug. 30 that U.S. has "utterly failed to engage honestly and openly" with it to bring U.S. into compliance with WTO rulings against U.S. online gambling regulations. As result, Antigua and Barbuda is moving forward with plans to retaliate against U.S. intellectual property rights. Antigua and Barbuda has "formed high-level committee chaired by our attorney general to design, develop and implement the legal and operational framework for suspensions," representative said in prepared statement. WTO authorized retaliation against U.S. in January (see **WTTL,** Feb. 4, page 4).

EXPORT ENFORCEMENT: Guiseppe Luciano Menegazzo-Carrasquel, Venezuelan air force colonel, was sentenced Aug. 20 in Phoenix U.S. District Court to 19 months in prison for exporting military T-76 aircraft engines, which are listed on USML, to Venezuela. He was also sentenced to three years' supervision after prison. Menegazzo-Carrasquel pleaded guilty June 3 to conspiracy to violate Arms Export Control Act. Floyd D. Stilwell, 87, former president of Marsh Aviation, who was also charged in scheme, was sentenced May 13 to $250,000 fine and five years' probation after pleading guilty in October 2012.

MORE EXPORT ENFORCEMENT: Ming Suan Zhang, Chinese citizen, pleaded guilty Aug. 19 in Brooklyn, N.Y., U.S. District Court to violating IEEPA by attempting to export massive quantities of aerospace-grade Toray M60JB-3000-50B carbon fiber to China without Commerce licenses (see **WTTL**, Oct. 1, 2012, page 4). Sentencing is scheduled for Nov. 15.

MORE EXPORT ENFORCEMENT: Mehdi Khorramshahgol, formerly of Centreville, Va., was convicted Aug. 20 after bench trial in Alexandria, Va., U.S. District Court for sending explosion-graded industrial parts to petrochemical company in Iran in 2008, violating U.S. economic sanctions (see **WTTL**, March 18, page 8). Khorramshahgol purchased U.S.-origin goods "on behalf of individuals and corporations in Iran, and arranged for those goods to be transported to Iran via the United Arab Emirates," criminal complaint noted. Sentencing is set for Nov. 1.

EVEN MORE EXPORT ENFORCEMENT: Patrick Campbell, of Freetown, Sierra Leone, was arrested Aug. 21, in Queens, N.Y., and charged with brokering goods that he knew were destined and intended for supply to Iran. Criminal complaint alleges that Campbell traveled to U.S. from Sierra Leone with sample of uranium concealed in soles of shoes in his luggage.

NME: CIT Judge Jane Restani Aug. 21 remanded for second time to ITA its administrative review determination on polyethylene terephthalate (PET) film from China, citing agency's failure to follow her previous remand instructions on use of economic data for choice of surrogate country in nonmarket economy (NME) case (slip op. 13-111). "Here, Commerce abused its discretion by depriving the parties of a meaningful opportunity to comment on the OP's [office of policy] initial finding of economic comparability. Although Commerce may set reasonable deadlines, it cannot entirely deprive interested parties of the opportunity to submit factual information on a particular issue," Restani wrote (see **WTTL**, Feb. 11, page 9).

SILICOMANGANESE**:** In affirmative "sunset" vote Aug. 23, ITC determined that ending antidumping duty order on silicomanganese from India, Kazakhstan and Venezuela would cause renewed injury to U.S. industry. Vote was 6-0 for India and Kazakhstan and 5-1 for Venezuela.

INDONESIA: U.S. revised its request for formal WTO consultations with Indonesia Aug. 30 to include additional import-restricting measures Jakarta allegedly adopted since U.S. first asked for consultations in January (see **WTTL**, Jan. 14, page 4). New Zealand has now joined U.S. in its complaints against Jakarta's imposition of import restrictions on horticultural products, animals and animal products. After initial consultations, Indonesia revised some import rules, but "these changes did not remove the trade restrictions and thus failed to address U.S. concerns," USTR release explained. "Instead, Indonesia's revised measures include new laws

on food, beef, and other agricultural products that contain further import-restrictive provisions. The affected products include, but are not limited to, fruits, vegetables, flowers, dried fruits and vegetables, juices, cattle, beef, and other animal products," it added.

ZEROING: Binational NAFTA dispute-settlement panel upheld Commerce's antidumping order on light-walled rectangular pipe and tube from Mexico Aug. 6. Panel cited April 2013 Court of Appeals for Federal Circuit ruling in *Union Steel*, which found Commerce had justified distinction between ending zeroing in original investigations and keeping it in administrative reviews (see **WTTL**, April 22, page 4). "The panel finds that the policies supporting the holding in *Union Steel* are equally implicated by the facts of the case before the panel, and, therefore, that *Union Steel* stands as *stare decisis* for the panel," it stated.

PASTA: ITC determined Aug. 19 that ending antidumping and countervailing duty orders on certain pasta from Italy and Turkey would cause renewed injury to U.S. industry. Vote in "sunset" cases was 6-0 for Italy and 4-2 for Turkey.

TRADE PEOPLE: Business Software Alliance announced Aug. 28 naming of Victoria Espinel to be its president and CEO beginning Sept. 3. Espinel served as Obama administration's first intellectual property enforcement coordinator and earlier was assistant USTR for intellectual property and innovation.

URUGUAY: Under Secretary of Commerce for International Trade Francisco Sánchez signed Memorandum of Understanding (MOU) Aug. 27 with Uruguay calling for cooperation on trade facilitation. MOU will support development of public-private working group in Uruguay and technical training for capacity building.

CHLORINATED ISOCYANURATES: Clearon Corp. and Occidental Chemical Corporation filed antidumping petitions at ITC and ITA Aug. 29 against imports of chlorinated isocyanurates from Japan and countervailing duty petitions against imports from China.

WASHING MACHINES: Korea asked U.S. for WTO consultations Aug. 29 to hear Seoul's complaint about Commerce's use of "zeroing" in antidumping and countervailing duty determinations against large residential washing machines from Korea (see **WTTL**, Jan. 28, page 7).

COOL: U.S. blocked Canada's and Mexico's request Aug. 30 to WTO Dispute-Settlement Body (DSB) to establish panel to determine whether new regulations Agriculture Department issued to revise its Country of Origin Labeling (COOL) rules complied with previous WTO ruling against earlier version (see **WTTL**, July 1, page 6). "By increasing the discrimination found by the panel and the Appellate Body, the effect of the amended COOL measure is diametrically opposed to what the United States was required to do to bring itself into compliance," Canadian official told DSB.

EX-IM: Three men were sentenced Aug. 29 in El Paso U.S. District Court to probation or confinement for scheme to defraud Ex-Im Bank in connection with loans for agriculture equipment. Alexis Papatheodorou-Schmill, owner of refrigeration company in Ciudad Juarez, was ordered to serve two years' probation and to pay $527,378 in restitution and $553,148 in forfeiture. Victor Gonzalez, owner of Gaviv S.A., El Paso-based export company, received ten months' home confinement, $1,976,320 in restitution and $3,801,833 in forfeiture; and co-defendant Jesus Armando Bustillos, farmer in Chihuahua, Mexico, was sentenced to two years' probation, $571,002 in restitution and $1,399,029 in forfeiture. All three pleaded guilty.

FERROSILICON: In 6-0 preliminary vote, ITC Aug. 30 found U.S. industry may be materially injured by allegedly dumped imports of ferrosilicon from Russia and Venezuela.