

# International Trade Enforcement Roundup

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You are reading the **July 2023 Update** of the Bass, Berry & Sims Enforcement Roundup, where we bring notable enforcement actions, policy changes, interesting news articles, and a bit of our insight to your inbox.

To stay up to date, subscribe to our [GovCon & Trade blog](#). If you have questions about any actions addressed in the Roundup, please contact the international trade team. We welcome your feedback and encourage sharing this newsletter. Let's get into it!

## Overview

- ◆ July saw two noteworthy **Russia** enforcement actions. A Russian national was arrested in Estonia and extradited to the United States after being charged with conspiring to procure U.S.-origin technologies and ammunition on behalf of the Russian government. In addition, the Treasury Department's Office of Foreign Assets Control (OFAC) imposed sanctions on entities and individuals to limit Russian access to U.S. technology and disrupt the Russian economy.
- ◆ There was also a major **China-related** enforcement action. An indictment was unsealed alleging that a dual U.S.-Israeli citizen flouted foreign agent registration requirements and sought to broker weapons deals between Chinese companies and foreign governments.
- ◆ An **Iranian** national who is a resident of Virginia was sentenced to 41 years in prison for violating U.S. sanctions on Iran.
- ◆ The Commerce Department imposed penalties against two companies that violated U.S. **antiboycott regulations** while attending a Bahrain trade show. Commerce also announced "two measures to further expand [its] antiboycott enforcement efforts."
- ◆ OFAC extended a general license covering the export and re-export of liquefied petroleum gas to **Venezuela** with some tweaks.
- ◆ The Departments of Justice, Commerce, and Treasury issued a **tri-seal notice** to provide guidance on the process for voluntary self-disclosure of potential violations of export controls, sanctions, and other national security laws.

# Russia

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## *Suspected Russian Intelligence Operative Extradited from Estonia to Face Charges Related to Providing American-Made Electronics and Ammunition to Russian Military (DOJ Action)*

**Those involved.** Vladimir Konoshchenok, a Russian citizen with alleged ties to Russia's Federal Security Service (FSB).

**Charges and penalties.** Conspiracy to Defraud the United States; Conspiracy to Violate the Export Control Reform Act (ECRA); and Smuggling Goods from the United States (maximum of 30 years in prison).

**What happened?** On July 13, 2023, the Department of Justice (DOJ) announced that Konoshchenok was arrested in Estonia and expedited to the United States. Konoshchenok was part of a group of several co-conspirators, some part of Russia's Serniya Network, who exported controlled items from U.S. companies to Russia via transshipment points in Estonia, Finland, Germany, and Hong Kong. Konoshchenok worked to smuggle or ship U.S.-origin items to Russia from Estonia. He was stopped by border guards in Estonia as he attempted to cross with 35 different types of semiconductors and other electronic components, as well as thousands of 6.5mm bullets. A month later, he was stopped again as he attempted to cross into Russia with U.S.-origin bullets controlled under ECCN OA505.x. Using an Estonian front company, Konoshchenok frequently coordinated the sourcing and shipment of the controlled items. We detailed the actions of the broader network in our [December Enforcement Roundup](#).

The press release can be found [here](#). The December 5 indictment can be found [here](#).

**Notably.** The case shows the long reach of U.S. prosecutors when it comes to U.S. export control laws. Konoshchenok is a Russian citizen who committed crimes outside the United States, yet he was arrested and extradited to the United States and now awaits trial in an American courtroom. "Let this case serve as the latest example that no matter where you are in the world, if you violate U.S. export controls or evade U.S. sanctions, we will not rest until you face justice in a U.S. courtroom," said Breon Peace, United States Attorney for the Eastern District of New York.

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## *Treasury Sanctions Impede Russian Access to Battlefield Supplies and Target Revenue Generators (OFAC Action)*

**More Sanctions.** On July 20, OFAC and the Department of State took joint action to prevent Russia from accessing products to support its war efforts and undermine its economic bottom line. The newly announced sanctions target sanctions evaders, Russian importers of dual-use items, and advanced technology industries within Russia. The designations also attempt to further cut off Russia from the international financial system, degrade Russia's energy industry, and target investment in Russian extractive industries. As a result of these designations, U.S. persons holding property of any of these entities must block and report that property to OFAC. Additionally, all transactions by U.S. persons, and persons in the United States, involving the property of the designated entities are prohibited.

The press release can be found [here](#).

# China

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## *Co-Director of Think Tank Indicted for Acting as Unregistered Foreign Agent, Trafficking in Arms, Violating U.S. Sanctions Against Iran, and Making False Statements to Federal Agents (DOJ Action)*

**Those involved.** Gal Luft, a dual U.S.-Israeli citizen and co-director of a Maryland-based think tank, the Institute for the Analysis of Global Security.

**Charges and penalties.** One Count of Conspiracy to Violate the Foreign Agents Registration Act (FARA) (maximum five years in prison); Four Counts of Conspiracy to Violate the Arms Export Control Act (maximum of 20 years in prison); Two Counts of Making False Statements (maximum of five years in prison per count); and One Count of Conspiracy to Violate the International Emergency Economic Powers Act (maximum of 20 years in prison).

**What happened?** On July 10, the DOJ unsealed an indictment alleging that Luft broke multiple federal laws as he ignored foreign agent registration requirements and brokered illegal business deals involving arms and oil between Chinese companies, Iran and other countries in the Middle East and Africa. Without registering under FARA, Luft worked with a Chinese official to recruit and pay an unnamed U.S. government official who acted as an adviser for then presidential candidate Donald Trump. Luft also brokered deals, in violation of the Arms Export Control Act, between Chinese companies and foreign countries without receiving the necessary license from the Directorate of Defense Trade Controls (DDTC). Luft brokered a deal to sell anti-tank launchers, grenade launchers, and mortar rounds to Libya; aerial bombs and rockets to the United Arab Emirates (UAE); and unmanned “strike” UAVs to Kenya. All of these weapons were listed on the United States Munitions List (USML). He also worked to broker deals for Iranian oil in violation of the International Emergency Powers Act. Luft was arrested in February in Cyprus, however he fled after he was released on bail and remains at large.

The press release can be found [here](#). The indictment can be found [here](#).

**Notably.** The indictment speaks to increased DOJ focus on enforcing FARA compliance. As U.S. Attorney Damian Williams stated, “our Office will continue to work vigorously with our law enforcement partners to detect and hold accountable those who surreptitiously attempt to perpetrate malign foreign influence campaigns here in the United States.” In addition, the action is a reminder that export controls, sanctions, and FARA compliance issues may arise in the context of the same transactions.

# Iran, Venezuela, and Bahrain

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## *Virginia Man Sentenced to Federal Prison for Conspiring to Violate Iranian Sanctions (DOJ Action)*

**Those involved.** Behrouz Mokhtari, a Virginia man and Iranian national.

**Charges and penalties.** Two Counts of Conspiracy to Violate the International Emergency Economic Powers Act (IEEPA) (41 months in prison).

**What happened?** On July 25, Mokhtari was sentenced to 41 months in prison for working on behalf of Iranian entities to engage in prohibited business activities without required OFAC authorization. Mokhtari used his businesses to provide services to Iranian entities related to oil refining and transportation. He also illegally shipped Iranian petrochemicals using gas tankers registered under a Panamanian front company and used a UAE-based company to process the transactions denominated in U.S. dollars. Mokhtari pleaded guilty last winter. We wrote about the plea agreement in our [January Enforcement Roundup](#).

The press release can be found [here](#).

**Notably.** In the January Enforcement Roundup, we emphasized that wholly foreign-owned companies must monitor how they process U.S. dollar-denominated payments, which can be the basis for U.S. jurisdiction over a transaction that otherwise lacks a U.S. nexus. We want to emphasize that again and underscore the severe consequences - e.g., a prison sentence - that can come with violations of IEEPA.

## Bahrain

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### *Bureau of Industry and Security (BIS) Imposes Penalties Against Defense Contractors for Violations of Antiboycott Regulations (BIS Action)*

**Those involved.** Profense LLC, an Arizona-based weapons manufacturer, and B.E. Meyers, a Washington-based defense contractor.

**Charges and penalties.** Profense LLC: Two Charges of “Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons” and Two Charges of “Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States” (\$48,500 civil penalty). B.E. Meyers: Two Charges of “Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons” and One Charge of “Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States” (\$44,750 civil penalty).

**What happened?** In connection with a 2019 trade show in Bahrain, both Profense LLC and B.E. Meyers certified that “no labor, capital, parts or raw materials of Israeli origin [had] been used in the printing, publishing, or manufacture” of the goods displayed nor that the goods were produced by an entity on the “Israeli Boycott Blacklist,” a list of prohibited companies blacklisted by the boycotting country. Both companies also failed to report the receipt of boycott requests in violation of Section 760 of the Export Administration Regulations (EAR).

The press release can be found [here](#). The Profense LLC charging letter can be found [here](#). The B.E. Meyers charging letter can be found [here](#).

**Notably.** This action serves as a reminder to companies that, subject to limited exceptions, they must report boycott requests to BIS. Moreover, this action suggests that training personnel on boycott matters, especially personnel involved in business in or with the Persian Gulf region, is essential, as it appears that both Profense and B.E. Meyers may have been ignorant of the boycott requirements.

## Venezuela

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### *OFAC Extends Venezuela General License Related to Liquefied Petroleum Gas (OFAC Action)*

**What happened?** On July 10, OFAC reissued General License (GL) 40B, which authorizes U.S. persons to engage in transactions related to exports and re-exports of liquefied petroleum gas involving the Venezuela government, Petróleos de Venezuela, S.A. (PdVSA), or any entity in which PdVSA owns at least a 50% stake. The GL continues to exclude payment-in-kind and the involvement of Specially Designated Nationals (SDN). The GL is also arguably more limiting than GL 40A, which authorized “activities” rather than “transactions.” Companies should be careful to ensure their contacts with PdVSA adhere to the updated language of the general license.

The press release can be found [here](#).

# Enforcement Policy Updates

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## *Departments of Justice, Commerce, and Treasury Issue Joint Compliance Note on Voluntary Self-Disclosure of Potential Violations (DOJ/BIS/OFAC Action)*

**Tri-Seal Compliance Note.** On July 26, the Departments of Justice, Commerce, and Treasury issued guidance on voluntary self-disclosure processes for potential violations of U.S. sanctions, export controls, and other national security laws.

- **DOJ:** The note reiterates the DOJ policy “to provide incentives for companies and other organizations to come forward promptly when they identify or otherwise become aware of potential criminal violations of the U.S. sanctions and export control laws.” The note states that going forward, the DOJ’s National Security Division (NSD) will generally not seek guilty pleas for companies that disclose potential “criminal violations, fully cooperate[], and timely and appropriately remediate[] the violations.” The note also specifies that there “will be a presumption that the company will receive a non-prosecution agreement and will not pay a fine” for the disclosing companies when there are no aggravating factors. This new policy applies to export controls, sanctions, the FARA, laws related to terrorism, criminal violations related to Committee on Foreign Investment in the United States (CFIUS) proceedings, and other areas over which NSD exercises jurisdiction.
- **BIS:** The note re-states that BIS “strongly encourages” disclosures and reiterates an April memo released by the Assistant Secretary for Export Enforcement which called deliberate non-disclosure an aggravating factor and announced it would consider tips that resulted in enforcement action of third parties to be mitigating factors in the event the disclosing party is a party to a future enforcement action.
- **OFAC:** As OFAC continues to encourage voluntary self-disclosures, the agency will consider these disclosures as mitigating factors in enforcement actions, potentially resulting in a 50% reduction in the base amount of a proposed civil penalty. To qualify, the disclosure “must occur prior to, or simultaneous with, the discovery by OFAC or another government agency of the apparent violation or a substantially similar apparent violation.”

We summarized the compliance notice in this [August 1 blog post](#). The notice can be found [here](#).

**Notably.** The decision to voluntary self-disclosure should be a risk-based decision for companies. This tri-seal guidance may further incentivize companies to disclose even in minor cases.

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## *Strengthening Antiboycott Reporting and Compliance (BIS Action)*

**Strengthened Requirements.** On July 26, Matthew Axelrod, Assistant Secretary for Export Enforcement, announced “two measures to further expand [its] antiboycott enforcement efforts.” First, the Department of Commerce is updating the boycott reporting form to include the identity of the specific requesting party. Second, the Department of Commerce’s Office of Acquisition Management (OAM) developed a policy statement that clearly articulates the anti-boycott requirements and displays them on OAM and SAM.gov websites.

The memo detailing the changes can be found [here](#).

**Notably.** The updated OAM policy was promulgated to “make clear [OAM’s] expectations of federal contractors when it comes to their legal obligations to not comply with, or otherwise, participate in or support, any unsanctioned foreign boycott.”

# International Trade Practice Group

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The Bass, Berry & Sims International Trade Practice Group helps clients navigate the complex regulations associated with a global marketplace. Our team is experienced in guiding clients through challenging issues related to economic sanctions (OFAC), exports (DDTC and the ITAR; BIS and the EAR), imports (CBP), antibribery (DOJ and SEC), anti-boycott regulations (OAC and Treasury), and the Committee on Foreign Investment in the United States (CFIUS). Our work in this area has been recognized in leading legal industry outlets, including Chambers USA, whose research revealed “Bass, Berry & Sims represents a range of clients in export controls and economic sanctions matters. The team is experienced in handling EAR, OFAC and ITAR issues.” A client added, “Bass, Berry & Sims is very responsive and service-oriented.” (from *Chambers USA 2022*). Learn more [here](#).

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