

International Trade Enforcement Roundup

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January saw a bevy of interesting enforcement actions and regulatory policy changes. A high-level former FBI agent was charged with sanctions violations, for the first time ever a North Korean national was extradited to the U.S. for money laundering to benefit designated persons, and yet another instance of Chinese espionage was thwarted. Let's jump in!

Overview

- ❖ January was a busy month for **Russia-specific enforcement actions**. Charles McGonigal, former Special Agent in Charge of the high profile FBI New York Counterintelligence Division, was indicted by the Department of Justice (DOJ) in connection with alleged work for a designated Russian oligarch. A Russian and a British national were also charged for supporting another Russian oligarch in maintaining his \$90 million, 250-foot mega yacht.
- ❖ The DOJ nabbed another U.S. citizen engaged in economic espionage involving China and the aerospace industry. According to the DOJ, Jonathan Yet Wing Soong - a program administrator at the Universities Space Research Association (USRA), a U.S. nonprofit research organization - conspired to **illegally export** aircraft modeling software to a Chinese university.
- ❖ A **North Korean** national was extradited and charged with falsifying transaction records and using shell companies to illegally transfer over \$1.2 million to raise capital and buy consumer goods and other commodities for North Korea. This was the first time a North Korean National was extradited to the U.S. after being charged.
- ❖ A U.S. citizen was charged with illegally shipping petroleum products into and out of Iran in violation of U.S. **sanctions on Iran**. Seven Iranian drone producers were also designated pursuant to the Russia/Belarus-Military End User Foreign Direct Product Rule.
- ❖ The **Foreign Corrupt Practices Act** (FCPA) Corporate Enforcement Policy (CEP), now dubbed the Corporate Enforcement and Voluntary Self Disclosure Policy, got a significant facelift in January

Russia

Former Special Agent in Charge of the FBI New York Counterintelligence Division Charged with Violating U.S. Sanctions on Russia (DOJ)

Those involved. Charles McGonigal, former Special Agent in Charge of the FBI New York Counterintelligence Division; Sergey Shestakov, former Soviet and Russian diplomat.

Charges with penalties. Conspiracy to Violate International Emergency Economic Powers Act (IEEPA); Violating IEEPA; Conspiracy to Commit Money Laundering; Money Laundering; (maximum of 20 years in prison for both McGonigal and Shestakov). An additional charge of making a false statement against Shestakov (maximum five years in prison).

What happened? McGonigal and Shestakov were indicted for violating U.S. Office of Foreign Assets Control (OFAC) sanctions by providing prohibited services to Oleg Deripaska, a sanctioned Russian oligarch. As part of his effort to be delisted as a sanctioned person by OFAC, Deripaska hired a law firm that in turn hired McGonigal, for \$25,000 in compensation, as an investigator. Deripaska then directly retained McGonigal and Shestakov to investigate a rival Russian oligarch. McGonigal and Shestakov used shell companies and forged signatures to conceal the payments.

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

Notably. This is not the first enforcement action taken against an individual providing Deripaska with services prohibited by sanctions programs. As summarized in our [October enforcement roundup](#), U.K. businessman Graham Bonham-Carter was previously indicted for illicit U.S. real estate transactions for Deripaska's benefit. Deripaska - and those with whom he engages - appear to be clear targets of U.S. sanctions enforcement officials.

British National and Russian Businessman Arrested for Facilitating Sanctions Evasion (DOJ Action)

Those involved. Vladislav Osipov, a Russian National; Richard Masters, a British National.

Charges with penalties. Conspiracy to Defraud the United States and to Commit Offenses Against the United States; International Emergency Economic Powers Act Violations; Money Laundering (maximum of 20 years in prison).

What happened? Osipov and Masters were separately indicted for helping a sanctioned Russian oligarch evade sanctions. In April 2018, Viktor Vekselberg was designated by OFAC. Despite the sanctions, Masters and Osipov continued to operate Vekselberg's 255-foot mega yacht, Motor Yacht Tango (Tango). Masters, the owner of the company managing Tango, and Osipov, an employee of Vekselberg and functionally Tango's property manager, conspired to circumvent U.S. sanctions. Among other things, the two men falsified the name of the yacht to deceive U.S. financial institutions into processing payments and used different currencies to garner hundreds of thousands of dollars in illegally-obtained U.S. services - processed by U.S. financial institutions - for the benefit of the designated oligarch. Masters has been arrested in Spain for extradition to the United States, and there is an outstanding warrant for Osipov's arrest.

The press release can be found [here](#). Osipov's indictment can be found [here](#). Masters' indictment can be found [here](#).

Notably. There was much fanfare following the initial freezing of yachts owned by prominent Russian oligarchs. That was only the beginning, however, as the FBI continues to monitor the companies and individuals providing services to seized property and pushes for arrests and extraditions when warranted.

Russia-Related Designations (OFAC/DOS Actions)

On January 26, OFAC designated the Wagner Group as “a significant Transnational Criminal Organization.” Concurrently, OFAC designated eight individuals, 16 entities, and four aircraft related to the Wagner Group, while the State Department (acting in concert with OFAC) designated five entities and one person related to the Wagner Group. Separately, the State Department designated nine individuals and 14 entities for affiliations with designated persons and/or for being part of Russia’s military-industrial complex and identified two yachts and one aircraft as blocked property.

While the “Transnational Criminal Organization” designation of the Wagner Group is largely symbolic, it may dissuade some countries and other actors from doing business with the group. (The Wagner Group was previously designated by OFAC in July 2017.) In addition, as we noted in [a recent blog](#), the Bureau of Industry and Security (BIS) added the Wagner Group to the Entity List in December 2022. As a result, a license from BIS is required for any person to export or re-export to the Wagner Group Export Administration Regulations (EAR)-controlled items, including certain items produced outside the United States using U.S.-origin technology or equipment.

The OFAC press release can be found [here](#). The Department of State (DOS) press release can be found [here](#).

China

California Resident Pleads Guilty to Illegally Exporting American Aviation Technology to Beijing University of Aeronautics and Astronautics (BUAA) (DOJ Action)

Those involved. Jonathan Yet Wing Soong, former program administrator at Universities Space Research Association (USRA), a U.S. nonprofit research corporation focused on advancing space science and technology.

Charges and penalties. Violating the International Emergency Economic Powers Act (IEEPA) (maximum of 20 years in prison and a \$1,000,000 fine).

What happened? Soong worked for USRA between August 2016 and September 2020. Soong’s responsibilities included vetting customers against U.S. government lists to ensure USRA was not illegally exporting products to prohibited entities. On May 1, 2015, a representative from BUAA, an entity on the Commerce Department’s Entity List, reached out to Soong, expressing interest in pursuing an arrangement where Soong uses the name of a third-party company to bypass U.S. export controls and receive software that allows for comprehensive analysis of aircraft dynamics. Soong used the third-party company to conceal the true recipient of the software, which was shipped directly to BUAA. Soong pleaded guilty to one count of violating the IEEPA. Sentencing is scheduled for April 28, 2023.

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

Notably. Economic espionage continues to be a Chinese tactic in gaining ground in the technology race. On January 3, a New York man was [sentenced](#) to two years in prison for conspiring to steal trade secrets from GE Power to send back to his company in China. With the scope of export controls imposed on China and designated Chinese entities likely to increase, these types of evasion techniques may become more common. Companies should take note of the tactic and implement internal controls to protect against similar illegal exports.

California-Based Company, Company President Plead Guilty in Scheme to Violate the Export Control Reform Act (ECRA) (DOJ action)

Those involved. Tao Jiang, president and owner of Broad Tech System, Inc., an electronics distribution company.

Charges with penalties. Conspiracy; Violating the Export Control Reform Act; Money Laundering Conspiracy (maximum of 45 years in prison; a fine of \$1,750,000; and a term of supervised release of nine years).

What happened? Jiang, aka Jason Jiang, pleaded guilty on January 11 to conspiring with an engineer at Broad Tech System to illegally export Photoresist, a chemical integral to the semiconductor manufacturing process, to China Electronics Technology Group Corporation 55th Research Institute (CETC 55). This entity, which apparently has ties to the Chinese military, was added to the Entity List in 2020. Jiang and a co-conspirator attempted to use a third company's name to conceal the identity of the actual recipient of the exported chemical. This included providing falsified information to the shipping company in an attempt to circumvent U.S. export control laws.

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

Notably. This is a great example of effective “call out” compliance culture. The Rhode Island manufacturer contacted Department of Commerce agents after becoming suspicious as the order was particularly large, Broad Tech System was a new client, and the request came shortly after the initial request was canceled. This type of culture is valuable to reduce penalty liability for a broad swath of export enforcement laws. “See something, say something” should be a motto among corporate compliance officials.

North Korea

North Korean National Sentenced for Money Laundering Offenses (DOJ Action)

Those involved. Mun Chol Myong, a North Korean National.

Charges with penalties. Money Laundering Conspiracy; Money Laundering (45 months in prison).

What happened? From April 2013 to November 2018, Mun transmitted funds through U.S. bank accounts to sanctioned North Korean entities by falsifying transaction records and using a network of shell companies. Mun - working with the Reconnaissance General Bureau, North Korea's foremost intelligence organization - illegally transferred over \$1.2 million in transactions to raise capital and buy consumer goods and other commodities for North Korea.

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

Notably. Mun's case represents the first time a North Korean national has been extradited to the U.S. Soon after being charged, Mun was reportedly arrested in Malaysia and, after a two-year extradition fight, Mun was extradited to the United States. North Korea apparently responded to Malaysia's agreement to extradite Mun by breaking off diplomatic ties with the Southeast Asian country. The case shows the extensive reach of DOJ enforcement authorities. The DOJ has capable f investigators and resources abroad to effectuate extraditions even when the consequences for the extraditing country are high.

Iran

Virginia Man Pleads Guilty to Conspiring to Violate Iran Sanctions (DOJ Action)

Those involved. Behrouz Mokhtari, a naturalized U.S. citizen and native of Iran.

Charges with penalties. Two counts of Conspiracy to Violate the International Emergency Economic Powers Act (IEEPA) (maximum of 10 years in prison).

What happened? Behrouz Mokhtari - chairman of the FSR Network, a group of companies located in the United Arab Emirates (UAE) and Iran - pleaded guilty to two counts of conspiring to violate IEEPA.

Between approximately March 2018 and September 2020, Mokhtari used his multiple businesses, referred to as “the FSR Network,” to engage in transactions with Iranian entities involving Iranian petrochemicals. Mokhtari used Bitubiz FZE, a company based in the UAE and part of the FSR Network, to process the transactions denominated in U.S. dollars.

Separately, between approximately February 2013 and June 2017, Mokhtari illegally shipped petrochemical products to and from Iran without the necessary licenses, violating U.S. sanctions on Iran. According to the DOJ, Mokhtari purchased two liquid petroleum gas tankers using a Panamanian shell company, East & West Shipping Inc., to transport the petrochemical products. He falsified shipping documents to conceal the fact the shipments violated sanctions. To hide his ownership interests in the tankers, Mokhtari transferred ownership to Greenline Shipholding Inc., which Mokhtari and his co-conspirators then used to control the tankers. The tankers were subsequently transferred to another company called Russell Shipping. A year later, the vessels were sold for scrap for \$3.1 million. Mokhtari received \$2.9 million, which he used to buy a house in California.

As a condition of the guilty plea, Mokhtari must forfeit all money, property and assets resulting from the illegal activities. This includes the California home and a \$2,862,598.12 money judgment. Sentencing is scheduled for April 3, 2023.

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

Notably. Even wholly foreign companies must closely monitor how they are processing payments if such payments are processed using U.S. dollars, because any U.S. dollar-denominated transaction must be cleared by a U.S. bank. This can be the basis for U.S. jurisdiction over a transaction even when there is no other connection to the United States.

Iran-Related Additions to the Entity List (DOC/BIS Action)

On January 31, BIS added seven Iranian drone producers - Design and Manufacturing of Aircraft Engines (DAMA), Islamic Revolutionary Guard Corps Aerospace Force, Islamic Revolutionary Guard Corps Research and Self-Sufficiency Jihad Organization, Oje Parvaz Mado Nafar Company, Paravar Pars Company, Qods Aviation Industry, and Shahed Aviation Industries - to the Entity List. The seven entities were added after it was determined they had acted contrary to U.S. national security or foreign policy interests. Suppliers - including non-U.S. suppliers - are now required to obtain a license from BIS before exporting EAR-controlled items to those entities. Those license applications will be reviewed under a presumption of denial. The restrictions also prohibit the transfer of certain foreign-made components to these producers.

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

Venezuelan Airlines - Temporary Denial Orders (TDO) (DOC/BIS Action)

On January 26, BIS renewed a previously issued TDO against Empresa de Transporte Aéreo cargo del Sur, S.A. (a/k/a Aéreo cargo del Sur Transportation Company, a/k/a EMTRASUR). The initial TDO was based on evidence that EMTRASUR acquired custody of a Mahan Air Boeing 747 through its parent company, the designated airline, CONVIASA, violating a TDO on Mahan Air. Further, EMTRASUR used the Boeing plane to fly into Iran and Russia in violation of General Prohibition 10 (Section 736.2(b)(1) of the EAR). Argentinian officials subsequently seized the plane. The renewal is based on additional evidence proving EMTRASUR violated the TDO on Mahan Air by providing evidence that U.S.-origin parts bear the Mahan Air and/or CONVIASA logos or markings. Additionally, BIS presented evidence showing Nicolas Maduro affirmatively asked Argentine authorities to release the aircraft. Any such release would violate General Prohibition 10.

The order renewing the TDO can be found [here](#).

BIS Orders Denying Export Privileges

BIS orders denying export privileges from criminal convictions pursuant to Section 1760(e) of the ECRA (formerly known as 11h denials):

On January 31, Josef Koysman was denied export privileges until February 6, 2030 (10 years from the date of his conviction). Koysman was convicted of violating Section 38 of the Arms Export Control Act by illegally exporting one advanced laser-aiming system and one set of binocular night vision goggles from the United States to Hong Kong. Both items are designated as defense articles under the United States Munitions List (USML) and are thus controlled for export under the International Traffic in Arms Regulations (ITAR). The United States has long maintained an embargo on ITAR exports to China. It is important to remember that, since July 2020, that embargo now explicitly extends to Hong Kong. The 1760(e) denial order can be found [here](#).

On January 31, Obaidullah Syed was denied export privileges until May 17, 2032 (10 years from the date of his conviction). Syed was convicted of violating 18 U.S.C. § 371 for conspiring to export various computers and computer systems from the United States to the Pakistan Atomic Energy Commission without the required BIS license. The 1760(e) denial order can be found [here](#).

On January 31, Amin Yousefi Jam was denied export privileges until November 17, 2028 (seven years from the date of his conviction). Jam was convicted of violating 18 U.S.C. § 371 for conspiring to export various goods from the United States to Iran using the UAE as a transshipment point without the required OFAC (or BIS) license. The 1760(e) denial order can be found [here](#).

On January 31, Victor Anthony Bocanegra was denied export privileges until January 3, 2030 (10 years from the date of his conviction). Bocanegra was convicted of violating 18 U.S.C. § 554(a) for illegally exporting various firearms from the United States to Mexico. The 1760(e) denial order can be found [here](#).

On January 31, Shirley Trinity Inzunza was denied export privileges until January 18, 2026 (eight years from the date of her conviction). Inzunza was convicted of violating Section 38 of the Arms Export Control Act for conspiring to export various ITAR-controlled ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).

On January 31, Michael Cox was denied export privileges until May 18, 2031 (10 years from the date of his conviction). Cox was convicted of violating 18 U.S.C. § 371 for conspiring to illegally export ITAR-controlled night sighting equipment from the United States to Ukraine. The 1760(e) denial order can be found [here](#).

On January 31, Maria Guadalupe Pina was denied export privileges until February 2, 2029 (eight years from the date of her conviction). Pina was convicted of violating 18 U.S.C. § 554 for illegally exporting various rifles and firearm parts from the United States to Mexico. The 1760(e) denial order can be found [here](#).

On January 18, Eli Isael Rodriguez-Jasso was denied export privileges until October 28, 2026 (six years from the date of his conviction). Rodriguez-Jasso was convicted of violating 18 U.S.C. § 554 for illegally exporting two firearm magazines and other ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).

On January 18, Jermaine Craig Rhoomes was denied export privileges until February 5, 2030 (10 years from the date of his conviction). Rhoomes was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. § 2778) for exporting various assault rifles, pistols, ammunition and firearm magazines from the United States to Jamaica without ITAR authorization. The 1760(e) denial order can be found [here](#).

On January 10, Brett McGinnis was denied export privileges until September 16, 2031 (10 years from the date of his conviction). McGinnis was convicted of violating 18 U.S.C. § 554 for illegally exporting various firearms and ammunition from the United States to Mexico. The 1760(3) denial order can be found [here](#).

On January 10, Jose Daniel Medina was denied export privileges until February 22, 2026 (seven years from the date of his conviction). Medina was convicted of violating 18 U.S.C. § 554 for illegally exporting two firearms from the United States to Mexico. The 1760(e) denial order can be found [here](#).

On January 10, Ge Song Tao was denied export privileges until July 14, 2031 (10 years from the date of his conviction). Tao was convicted of violating 18 U.S.C. § 371 and 18 U.S.C. § 554(a) for conspiring to illegally export maritime raiding craft and engines from the United States to China. Tao also conspired to submit false export information to the U.S. government's Automated Export System. The 1760(e) denial order can be found [here](#).

On January 5, Hany Veletanlic was denied export privileges until January 27, 2030 (10 years from the date of his conviction). Veletanlic was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778) for illegally exporting defense articles from the United States to Sweden. The 1760(e) denial order can be found [here](#).

On January 5, Mauricio Robles was denied export privileges until December 1, 2028 (seven years from the date of his conviction). Robles was convicted of violating 18 U.S.C. § 554(a) for attempting to smuggle ammunition from the U.S. into Mexico. The 1760(e) denial order can be found [here](#).

On January 5, Nathan Christopher Ball was denied export privileges until November 6, 2024 (five years from the date of his conviction). Ball was convicted of violating 18 U.S.C. § 371 and 18 U.S.C. § 554(a) for conspiring to smuggle firearms and ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).

Enforcement Policy Updates

Matthew Axelrod's Remarks to the 12th Annual Forum on U.S. Export & Re-export Compliance for Canadian Operations

A shared endeavor. On January 31, during a speech in Toronto, Matthew Axelrod, Assistant Secretary for Export Enforcement at the Department of Commerce, argued that export enforcement must be a shared focus across the globe, with multilateral export enforcement coordination essential to keeping the world safe. He called for "likeminded countries to invest in their export enforcement capacity" and asserted that, spurred by Russia's actions in Ukraine, a shift to vigorous, multilateral enforcement may be beginning.

The prepared remarks can be found [here](#).

Notably. The speech reflects a growing understanding within the Biden Administration that export controls are most effective when done multilaterally.

DOJ Revise its FCPA Corporate Enforcement Policy (CEP)

A policy change. On January 17, DOJ announced it had revised the CEP to provide companies greater clarity into how their actions following a violation can impact potential penalties. The new policy, entitled the Corporate Enforcement and Voluntary Self Disclosure Policy does the following:

1. Allows declinations even in situations where there are aggravating factors.
2. Increases the amount of credit to be awarded to companies for voluntarily disclosing past misconduct even in situations where the DOJ declines to prosecute.
3. Provides incentives for companies to cooperate even if they do not voluntarily disclose.

The new policy is intended to encourage more voluntary self-disclosures and corporate cooperation in all criminal matters.

The DOJ press release can be found [here](#). The Corporate Enforcement and Voluntary Self Disclosure Policy can be found [here](#).

Notably. While the new policy may provide more clarity on corporate penalties, the policy also affords the DOJ broad discretion when offering recommendations for sentencing. To be awarded a declination in the presence of aggravating circumstances, a company must show “extraordinary cooperation” and “extraordinary remediation” - heightened standards from the “full cooperation” and “appropriate remediation” language of the CEP. Assistant Attorney General Kenneth Polite, Jr. described the threshold as “not just run of the mill, or even gold-standard cooperation, but truly extraordinary.” This seems likely to be a hard standard to meet. Future enforcement

Please contact the authors if you have any questions about these enforcement updates and how they may impact your business.

International Trade Team

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), anti-bribery (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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