

International Trade Enforcement Roundup

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You are reading the **May 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.

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Overview

- ◆ May saw several **Russia-related** enforcement and other actions. The Department of Justice (DOJ) identified and charged three foreign nationals with violating export control laws as they attempted to circumvent Russian sanctions. The U.S. government also expanded the breadth of export controls and sanctions against Russia as over 300 individuals or entities were designated or identified for blocking. Additionally, the Department of Commerce Bureau of Industry and Security (BIS) added 71 entities to its Entity List.
- ◆ There were also a few **China-related** enforcement actions. A former Apple employee was charged with stealing trade secrets related to autonomous tech before fleeing the country. Also, a Chinese national working for Sinotech Dalian Carbon and Graphite Manufacturing Corporation, an entity previously designated by the Treasury Department's Office of Foreign Assets Control (OFAC), was charged with conspiring to export a material used in the development of ballistic missiles to Iran.
- ◆ In addition, Murad, LLC, a cosmetic company acquired by Unilever in 2015, was fined over \$3 million for its continued violations of the **Iranian** sanctions regimes. OFAC also settled an investigation alleging Poloniex, LLC, an online trading platform, committed thousands of violations of multiple sanctions regimes, resulting in \$7,591,630 in penalties.
- ◆ A Pennsylvania man was convicted of numerous federal offenses related to dealings with a weapons factory in the Kurdistan region of **Iraq**. The man violated the International Emergency Economic Powers Act (IEEPA) and Arms Export Control Act (AECA) and committed wire fraud and money laundering. He also became the second person in history to be convicted of the Federal Torture Statutes.
- ◆ May also saw the first **antiboycott** action since the Commerce Department strengthened its enforcement policy. A Dubai company failed to report a number of boycott requests in violation of the statute.

Russia

Greek Man Allegedly Conspired to Obtain Sensitive Technologies Used in Quantum Computing and Nuclear Testing to Further Russia's Defense Research and Development Efforts (DOJ Action)

Those involved. Dr. Nikolaos "Nikos" Bogonikolos, Greek national.

Charges and penalties. Wire Fraud Conspiracy (maximum of 20 years in prison); Smuggling Goods from the United States (maximum of 10 years in prison).

What happened? On May 16, Bogonikolos was charged with smuggling U.S.-origin military equipment and other dual-use items to Russia. Bogonikolos claimed the products were to be shipped to his company, the Aratos Group, a NATO contractor, while in actuality, they were reshipped to Russia. Many of the shipments went to the Serniya Network, a collection of Russian companies acting at the direction of the Russian intelligence services to procure sensitive items. Bogonikolos was arrested in Paris on May 9 and is awaiting the resolution of extradition proceedings.

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

Notably. By providing the U.S. companies with a false destination, Bogonikolos "caused" the U.S. companies to file incorrect electronic export information through the Automated Export System (AES). This is, in itself, a crime.

Two Russian Nationals Arrested and Charged with Violating ECRA (DOJ Action)

Those involved. Oleg Sergeyevich Patsulya and Vasiliy Sergeyevich Besedin, two Russian nationals.

Charges with penalties. Conspiracy to Violate the Export Control Reform Act (ECRA) (maximum of 20 years in prison); Conspiracy to Commit International Money Laundering (maximum of 20 years in prison).

What happened? On May 11, Patsulya and Besedin were arrested and charged with using their company, MIC P&I, LLC, to illegally export over \$2 million in aircraft parts to Russian airlines. Patsulya and Besedin used a supplier to attempt to procure a large number of aircraft wheels, tires, and break assemblies for JSC Smartavia Airlines and Pobeda Airlines, two entities on BIS's Denied Persons List (DPL). Parties on the DPL are prohibited from participating in virtually any transaction involving U.S.-origin goods. The co-conspirators fielded requests directly from the airlines, then used intermediaries and foreign bank accounts to mask the identities of the airlines. They also misled U.S. suppliers about the ultimate customer and destinations using Intermodal Maldives, a front company.

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

In conjunction. In a related action, BIS issued a Temporary Denial Order (TDO) suspending the export privileges of Patsulya, Besedin, MIC P&I, LLC, JSC Smartavia Airlines and Intermodal Maldives for their respective roles in the plot to divert airplane parts to Russia.

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

Notably. Some of the exports involved in the scheme were designated EAR99, but BIS had reason to believe those exports would still violate the Russian sanctions pursuant to section 746.5 of the EAR - the Russian sectoral sanctions. It is important to remember that EAR99 exports to Russia can still violate U.S. export laws.

Expansion of Russia-Related Restrictions (BIS/OFAC Actions)

Commerce Expands Russia Restrictions. On May 19, the U.S. government and its partners in the G7 announced a sweeping package of new sanctions and export controls targeting Russia. The United States designated or identified for blocking more than 300 individuals, entities, aircraft and vessels; implemented sanctions targeting Russia's architecture, engineering, construction, manufacturing, and transportation sectors; added 71 entities to the Entity List; and introduced a number of new export controls imposing license requirements on over 1,200 additional items, as identified by HTS-6 Codes when destined for Russia or Belarus. The new actions further restrict the number of transactions that can be conducted with and in Russia. Products from sunglasses to hair dryers now face licensing requirements and are subject to a policy of denial.

Notably. The scope of export restrictions and designated parties has greatly expanded, with the recent actions affecting numerous industries. Companies should take steps to ensure compliance with the updated controls and sanctions. In particular, companies should consider tailored trade compliance training to help employees identify potential red flags given the complexity of and frequent changes to the export and sanctions rules and the sanctions evasion networks that have arisen in order to avoid those rules.

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

China

Former Apple Employee Charged with Theft of Trade Secrets (DOJ Action)

Those involved. Weibao Wang, a U.S. national.

Charges with penalties. Six Counts of Theft and Attempted Theft of Trade Secrets (maximum of ten years in prison for each count).

What happened? Wang was indicted and charged with six counts of theft or attempted theft of trade secrets. Wang previously worked at Apple, where he supported the company's autonomous systems division. Between 2016 and 2018, Wang stole or attempted to steal source code; descriptions of hardware systems; and tracking, behavior planning, architecture design, and a motion planner for an autonomous system. In 2017, Wang accepted a job with a Chinese company in a similar line of work but neglected to tell Apple for more than four months. In actuality, he continued to steal large amounts of proprietary information. Wang is currently at large after fleeing to China.

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

Notably. This action highlights the importance of effective security systems integrated into a larger compliance framework that are capable of monitoring large data downloads while concurrently flagging anomalies for the compliance team. It also showcases the importance of a "call out culture" where employees feel comfortable disclosing potential violations to supervisors.

Chinese National Charged with Conspiring to Provide Materials for the Production of Ballistic Missiles to Iran in Violation of U.S. Sanctions (DOJ Action)

Those involved. Xiangjiang Qiao, a Chinese national.

Charges with penalties. One Count of Conspiracy to Violate U.S. Sanctions against Iran; One Count of Violating IEEPA (maximum of 20 years in prison); One Count of Conspiracy to Commit Bank Fraud (maximum

of 30 years in prison); Two Counts of Attempted Bank Fraud (maximum sentence of 20 years in prison); Two Counts of Money Laundering (maximum of 20 years in prison).

What happened? On May 16, Qiao was charged with conspiring to send isostatic graphite, a material used in the manufacture of intercontinental ballistic missiles, to Iran. Qiao was an employee of Sinotech Dalian Carbon and Graphite Manufacturing Corporation, a company designated as an SDN in 2014 for engaging in the proliferation of weapons of mass destruction. Qiao attempted to conceal Sinotech Dalian's identity by using a front company to receive transfers from a U.S. bank as part of his efforts to transfer material to Iran. Qiao is at large in China.

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

Notably. The action is a reminder that the U.S. financial system is a nexus of liability for companies and individuals. It is a powerful tool wielded frequently by U.S. authorities to enforce U.S. laws at home and abroad.

Iran

OFAC Settled with Murad, LLC for \$3,334,286 and with a Former Senior Executive of Murad, LLC for \$175,000 Related to Apparent Violations of the Iranian Transactions and Sanctions Regulations (OFAC Action)

Those involved. Murad, LLC, a California-based cosmetics company, and a former senior company executive.

Charges with penalties. Murad, LLC: One Apparent Violation of OFAC's Iranian Transactions and Sanctions Regulations (\$3,334,286 in penalties); U.S. Person 1: Three Apparent Violations of OFAC's Iranian Transactions and Sanctions Regulations (\$175,000 in penalties).

What happened? Between 2009 and 2018, Murad entered into two agreements: 1) with an Iranian distributor to sell its products in the Middle East, specifically in Iran, and 2) with a United Arab Emirates (UAE) distributor that also exported Murad's goods to Iran. Murad exported goods through both distributors without the necessary authorizations from OFAC. The agreements were primarily facilitated by U.S. Person 1, who signed and executed both agreements. Unilever subsequently acquired Murad in a transaction that closed on September 1, 2015. Murad never disclosed the Iranian transactions to Unilever. Unilever discovered the improper activity after an employee was forwarded an email from the UAE distributor explaining a shipping delay for products transiting from California to Iran. U.S. Person 1 and another company executive were advised by corporate counsel to tell the UAE distributor to cease all exports of products to Iran; however, the shipments continued until 2018. Only after Murad's bank flagged payments involving Iran did the activity end. In total, more than 62 shipments, amounting to more than \$11 million, were exported to Iran.

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

Notably. This settlement agreement evidences the importance of pre-acquisition due diligence. While Murad took steps to conceal its Iranian operations during and after the acquisition process, Murad operated an Iranian website in plain view. Effective pre-acquisition due diligence could have uncovered the violations and saved Unilever the financial and reputational damage associated with the OFAC penalty.

OFAC Settles with Poloniex, LLC for \$7,591,630 Related to Apparent Violations of Multiple Sanctions Programs (OFAC Action)

Those involved. Poloniex, LLC, a Boston-based online trading platform.

Charges with penalties. 65,942 Apparent Violations of Multiple Sanctions Regimes (agreed to remit \$7,591,630 in penalties).

What happened? On May 1, Poloniex agreed to remit over \$7,000,000 in penalties after processing 65,942 transactions valued at approximately \$15,335,349 for 232 customers located in Crimea, Iran, Sudan, and Syria. The Poloniex platform was offered for 15 months before Poloniex implemented a Know Your Customer (KYC) function and a program to monitor IP address data. Existing customers were not affected by the upgraded compliance infrastructure. While Poloniex took action against accounts with a nexus in a foreign jurisdiction, some customers in prohibited jurisdictions continued to use the platform.

OFAC identified Poloniex's failure to exercise due caution in the initial months after launching the platform, the company having reason to know users were operating in sanctioned jurisdictions, and the number of persons who received an economic benefit as aggravating factors. For mitigating factors, OFAC highlighted Poloniex's lack of prior violations, its small size at the time most violations occurred, the extent of remedial measures undertaken, its substantial cooperation, and the relatively small monetary value associated with each transaction. The statutory maximum civil monetary penalty was nearly \$20 billion.

Notably. The enforcement action underscores the importance of implementing effective compliance measures even at the outset of a company's operations. Companies in the financial industry, and especially those with a global footprint, are at particular risk for sanctions violations and thus should prioritize establishing an effective, thorough, and scalable compliance program as soon as possible after the business is launched.

Iraq

Man Convicted of Torture and Exporting Weapons Parts and Related Services to Iraq (DOJ Action)

Those involved. Ross Roggio, a Pennsylvania man.

Charges with penalties. Torture; Conspiracy to Commit Torture; Conspiring to Commit an Offense Against the United States; Violating the AECA; Violating the IEEPA; Smuggling Goods from the United States; Wire Fraud; Money Laundering (maximum of life in prison).

What happened? On May 19, Roggio was convicted of multiple federal crimes stemming from the operation of a weapons factory in the Kurdistan region of Iraq. Roggio contracted with Kurdish officials to manage the construction of the factory to produce weapons for Kurdish soldiers. At one point, an employee raised concerns related to the factory and was subsequently tortured at the direction of Roggio. Roggio is only the second person to be found guilty of torture since the federal torture statute went into effect in 1994. Roggio was only brought to justice after the victim came forward.

Roggio also violated a number of export laws, including the IEEPA, when he knowingly and willfully exported rifling combo buttons, various other products listed on the Commerce Control List, defense services in violation of the AECA without the required license from the Department of State's Directorate of Defense Trade Controls (DDTC), and M4 Bolt Gas Rings and Firing Pin Retainers. These actions violated IEEPA as Roggio failed to acquire the required DDTC license.

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

Notably. It is crucial to remember that the export of defense services, including military training, without the required license violates the AECA.

Antiboycott

BIS Imposes \$283,500 Penalty Against Dubai Subsidiary of U.S. Manufacturer, Resolving 84 Alleged Violations of the Antiboycott Regulations

Those involved. A Dubai-based controlled in-fact foreign subsidiary of a U.S. manufacturer.

Charges with penalties. 84 Violations of the Antiboycott Provisions of the Export Administration Regulations (EAR) (\$283,500 civil penalty).

What happened? The company admitted to receiving 84 requests from a customer in Saudi Arabia asking the company to halt imports of Israeli-origin goods into Saudi Arabia between February 2017 and September 2021. The violations arose from the company's failure to report the requests in compliance with Section 760.5 of the EAR.

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

Notably. This is the first settlement reached under the new policy strengthening the Department of Commerce's antiboycott enforcement program. While the antiboycott rules prohibit U.S. persons from engaging in foreign government-sanctioned boycotts against U.S. allies, the new rules increased penalties, reprioritized violation categories, required admissions of misconduct, and placed a renewed focus on foreign subsidiaries. We wrote about the strengthened boycott measures in our [October 2022 Enforcement Roundup](#).

This is also a reminder that participating in a boycott is not required to be found in violation of the U.S. antiboycott rules under the EAR. Simply failing to report such requests can land a company in hot water with BIS and result in substantive fines.

International Trade Practice Group

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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