

International Trade Enforcement Roundup

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You are reading the **June 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

- ◆ June saw two noteworthy **Russia-related** enforcement actions. First, a former U.S. service member was sentenced to prison for exporting defense articles to Russia without the required license. Second, a Swedbank AB subsidiary agreed to pay more than \$3 million to resolve almost 400 apparent violations of U.S. sanctions related to Russian-occupied Crimea.
- ◆ There were also a few **China-related** actions. June marked the one-year anniversary of the Uyghur Forced Labor Prevention Act (UFLPA) going into effect, and the Department of Homeland Security (DHS) made its first addition to the UFLPA entity list. The Commerce Department's Bureau of Industry and Security (BIS) also added several entities to its Entity List for strengthening Chinese military capabilities.
- ◆ In addition, a Maryland man pleaded guilty to illegally exporting firearms to **Ghana** and faces a maximum of 20 years in prison. Also, the Treasury Department's Office of Foreign Assets Control (OFAC) designated its first entities under EO 14098, which allows the agency to designate entities and persons in **Sudan** connected to the armed conflict in that country.
- ◆ June also saw a multilateral agreement between **Five Eyes partners** to improve information sharing to close gaps in export control enforcement and increase administration capacity. Additionally, the Departments of Justice, Commerce, State and Treasury issued a **joint advisory** to alert private industry of their obligations related to export control laws in the UAV sector.

Russia

Former U.S. Serviceman Sentenced to 27 Months in Prison for Illegally Exporting Night Vision Goggles, Other Military Items to Russia (DOJ Action)

Those involved. Igor Panchernikov, a U.S. citizen and former member of the United States Air Force Reserves.

Charges and penalties. One count of conspiracy to violate the Arms Export Control Act (AECA) (27 months in prison).

What happened? On June 23, Igor Panchernikov pleaded guilty to one count of conspiracy to violate the AECA after he worked with others to export defense articles controlled under the AECA without the required authorization from the Department of State. Panchernikov sent a thermal imaging scope and night vision goggles - items controlled on the United States Munitions List (USML) - by mail to Russia while falsifying the sender information and identities of the items and concealing the items within other merchandise. He also mailed 17 other controlled items to a co-defendant, who subsequently mailed them to Russia. One other co-conspirator, Vladimir Pridacha, has pleaded not guilty and will stand trial. Two additional defendants, Boris Polosin and Vladimir Gohman, are still at large.

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

Notably. The action highlights the severe consequences of violating U.S. export laws. Panchernikov was sentenced to more than two years in prison for knowingly violating the AECA. The sentence is a reminder that both companies and individuals can be subject to significant penalties for export violations.

OFAC Settles with Swedbank Latvia for \$3,430,900 Related to Apparent Violations of Sanctions on Crimea (OFAC Action)

Those involved. Swedbank Latvia AS, the subsidiary of Swedbank AB, an international financial institution headquartered in Stockholm, Sweden.

Charges with penalties. 386 apparent violations of OFAC sanctions on Crimea (agreed to remit \$3,430,900).

What happened? On June 20, OFAC announced a settlement with Swedbank Latvia AS, which agreed to remit over \$3 million for allegedly violating the Crimean sanctions program. Prior to Russia's invasion of Crimea in 2014, Swedbank Latvia maintained a client located on the Crimean peninsula. The client's three special purpose companies (SPCs) all had separate Swedbank Latvia accounts and initiated 386 transactions, totaling more than \$3.3 million, between 2015 and 2016, all in apparent violation of the sanctions program.

According to OFAC, one SPC attempted to use its Swedbank Latvia account to process a payment through a U.S. correspondent bank account, but the bank flagged it due to its connection to a Crimean IP address. Swedbank Latvia requested additional information, and the SPC falsely assured Swedbank Latvia that the transaction did not involve Crimea. OFAC asserted that Swedbank Latvia should have known that the transactions were improper as the company possessed Know Your Customer (KYC) data which "clearly indicat[ed] that the client and the SPCs had a physical presence in Crimea."

The settlement agreement identified Swedbank Latvia's failure to exercise due caution by relying exclusively on the client's assurances to ensure sanctions compliance, the fact that the company knew and had reason to know it serviced Crimean customers, and the company's sophistication as a financial institution, as aggravating factors. Conversely, the absence of a prior Finding of Violation or penalty notice, the extent of Swedbank's significant remedial actions, and Swedbank AB and Swedbank Latvia's substantial cooperation were identified as mitigating factors.

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

Notably. The settlement highlights OFAC's expectation that businesses will incorporate information gathered in the normal course of business into their compliance programs. Swedbank Latvia had information that its clients were located in Crimea, but this information was not integrated into compliance screening mechanisms.

Treasury Sanctions Illicit Gold Companies Funding Wagner Forces and Wagner Group Facilitator (OFAC Action)

Wagner Designations. On June 27, following the Wagner Group's dramatic march to Moscow and subsequent retreat following a deal between the group's leader, Yevgeny Prigozhin, and the President of Belarus, Alexander Lukashenko, OFAC designated four entities and one individual connected with mineral dealings funding the group's activities in the Central African Republic (CAR), Mali, and elsewhere. According to OFAC, the entities have been integral to a scheme to convert gold and diamonds to U.S. dollars to fund Wagner operations.

The designations were announced in coordination with the release of an advisory from the U.S. Departments of State, Treasury, Commerce, Homeland Security, and Labor, and the U.S. Agency for International Development (USAID) highlighting risks areas in the African gold sector and encouraging private industry to strengthen compliance programs and due diligence practices.

The OFAC press release can be found [here](#). The Africa Gold Advisory can be found [here](#).

BIS Issues TDO Against Defense Conglomerate Allegedly Providing Support to Russian Intelligence Services (BIS Action)

Export privileges revoked. On June 9, BIS issued a Temporary Denial Order (TDO) suspending the export privileges of Aratos Group, a NATO defense contractor. The company was run by Dr. Nikolaos Bogonikolos, a Greek national, who bought U.S.-origin military equipment, claiming it would be shipped to Aratos, but it was instead shipped to Russia. Dr. Bogonikolos was charged on May 16. We wrote about the action in our [May International Trade Enforcement Roundup](#). The June 9 TDO also renews TDOs against Boris Livshits, Svetlana Skvortsova, Aleksey Ippolitov, and two other companies for illegally exporting controlled items to Russia.

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

Notably. As with the Swedbank Latvia matter, the issuance of this TDO is a reminder to exporters of the importance of obtaining complete KYC information about customers and end-users. While there is no indication that the exporter violated any export or other law in this matter, it is likely that they were caught up in the investigation of Aratos and Bogonikolos. Having a fulsome record of KYC and other diligence on a customer is the best defense if a diversion occurs.

China

BIS Adds 43 entities under 50 entries to the Entity List in Response to Human Rights Abuses, Contributions to Ballistic Missile Programs, and Training People's Liberation Army Pilots on Western Aircraft (BIS Action)

Added. On June 12, BIS added to the Entity List 43 parties for their roles in committing human rights abuses against individuals in China, advancing Pakistan's ballistic missile program, and training Chinese military pilots using Western aircraft. While the majority of the entities are located in China, BIS also added entities in Laos, Malaysia, Pakistan, Singapore, South Africa, Thailand, the United Arab Emirates, and the United

Kingdom. As a general matter, a license is required to export, re-export, or transfer nearly any U.S.-origin item to a party on the Entity List.

The final rule provides little information about the basis for de-listing beyond indicating that de-listing occurred in accordance with BIS procedures, under 15 CFR Part 744 supp 5, based on information BIS received from Fiber Optic Solutions to request de-listing.

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

Notably. Among the listed entities is Frontier Services Group, which trains Chinese pilots, and which was previously run by Erik Prince, founder of private military contractor Blackwater. BIS continues to target companies that strengthen Chinese military capabilities. This action is an extension of the December indictment against Daniel Duggan—a former Marine Corps Aviator operating a South African flight school training Chinese pilots. We detailed the indictment in our [December issue](#) of the International Trade Enforcement Roundup.

DHS to Ban Imports from Two Additional PRC-Based Companies as Part of Its Enforcement of the Uyghur Forced Labor Prevention Act (UFLPA) (DHS Action)

New additions. On June 9, the interagency Forced Labor Enforcement Task Force (FLETF) added two Chinese companies to the UFLPA Entity List. Goods produced by Xinjiang Zhongtai Chemical Co., Ltd., Ninestar Corporation, and eight of its subsidiaries will be prohibited from entering the United States. These additions, effective June 12, are the first since the list was initially released in June 2022.

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

Notably. June marked the first anniversary of the UFLPA's implementation. Accordingly, U.S. government officials descended on Washington conference spaces to recap a year of enforcement and chart the next twelve months. Most notably, a law enforcement official predicted that more entities would be added to the UFLPA Entity List, admitting a pipeline of potential additions had already been developed. This is welcome news to importers, who have repeatedly requested additional CBP guidance and transparency as to what specific PRC companies to avoid.

Ghana and Sudan

Maryland Man Pleads Guilty to Illegally Exporting Firearms to Ghana (DOJ Action)

Those involved. Eric Nan Kofi Among Coker (resident of Maryland).

Charges and penalties. Illegally exporting firearms (maximum of 20 years in prison).

What happened? On June 8, Coker pleaded guilty to the illegal export of firearms after he purchased dozens of guns from Maryland firearms dealers and attempted to export some to Ghana. Customs and Border Patrol (CBP) and Homeland Security Investigations (HSI)—DHS's investigative arm—identified a shipping container with a vehicle registered under Coker's name used to conceal a suitcase with five 9mm handguns hidden in the lining. Law enforcement officials subsequently discovered a second shipping container, also bound for Ghana, containing six 9mm handguns and sixteen 9mm pistol magazines. All the firearms and magazines were listed on the Commerce Department's Control List (CCL) - needless to say, Coker did not have a license to send the items to Ghana.

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

Notably. The HSI Unit is seldom mentioned, yet it plays an important role in combatting transnational criminal activity such as the illegal export of firearms. HSI has over 6,000 special agents worldwide and over 200 offices across the United States.

Treasury Sanctions Military-Affiliated Companies Fueling the Conflict in Sudan (OFAC Action)

On June 1, OFAC added four entities to the Specially Designated Nationals (SDN) list for “generating revenue from, and contributing to, the conflict in Sudan.” Al Junaid Multi Activities Co Ltd, Tradive General Trading L.L.C., Defense Industries System, and Sudan Master Technology (SMT) were the first entities designated under a May Executive Order ([EO 14098](#)) which authorized the U.S. government to sanction entities and persons in Sudan connected to “the military’s seizure of power in October 2021 and the outbreak of inter-service fighting in April 2023.” 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 or interests in property of the designated entities are prohibited.

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

Enforcement Policy Updates

Five Eyes Partners Agree to Formalize Cooperation on Export Control Enforcement

On June 28, the United States, Australia, Canada, New Zealand, and the United Kingdom—the Five Eyes alliance—announced a commitment “to formally coordinate on export control enforcement.” The new commitment is intended to close gaps in enforcement, strengthen industry partnerships, and promote joint investigations to counter diversion and evasion efforts and strengthen supply chain resiliency.

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

Notably. Matthew Axelrod, Assistant Secretary of Commerce for Export Enforcement, stated, “we hope to drive additional enforcement outcomes in each of the Five Eyes countries, including detentions, penalties, and public identification of diversionary actors.” The increased information sharing will increase each country’s capacity to take actions, potentially leading to increased enforcement. In light of this further cooperation, companies should continue to ensure that compliance programs reflect export controls and other trade laws and regulations across the countries in which they operate.

United States Issues Advisory to Industry on Unmanned Aerial Vehicle (UAV) Activity Connected to Iran

On June 9, the Departments of Justice, Commerce, State, and Treasury issued a joint advisory to alert industry to legal obligations in relation to the export of UAV components, particularly related to components that both Iran and Russia seek to procure. The alert also provides exporters with information about red flag indicators of export control evasion and due diligence best practices, including a C-suite commitment to compliance, an environment that fosters the identification and reporting of violations, and implementing controls tailored to specific organizational risks.

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

Notably. This announcement continues the U.S. government’s efforts to cut off U.S. adversaries from advanced technologies. In March 2022, the Justice Department announced the creation of its Task Force KleptoCapture, and in February 2023, it stood up the Disruptive Technology Strike Force. Also, in March 2023, the DOJ’s National Security Division updated its policy on voluntary disclosures. Partnering with the private sector to enforce export control laws has become a common theme in the U.S. approach to enforcement.

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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