

International Trade Enforcement Roundup

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You are reading the **March 2023 edition** 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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March saw several new enforcement actions and policy updates. Two U.S. citizens were arrested after illegally exporting avionics equipment to Russia; the Department of Justice (DOJ) broke up an illegal procurement network supporting the Iranian drone industry; and the Treasury Department's Office of Foreign Assets Control (OFAC) announced two settlements for sanctions violations. Let's jump in!

Overview

- ◆ We saw two notable **Russia-related** enforcement actions in March. In one, the DOJ unsealed a warrant for the seizure of a PJSC Rosneft Boeing 737. In the other, two Kansas men were arrested for illegally exporting avionics equipment to Russia.
- ◆ **Iran** was also the focus of U.S. government enforcement actions. The DOJ broke up an illegal Iranian procurement network and issued two related indictments. In addition, an Iranian national was indicted for illegal exports, and OFAC designated 39 entities for their involvement in an Iranian "shadow banking" network.
- ◆ **OFAC** announced settlements with two financial services companies. One of those settlements, involving Wells Fargo, amounted to more than \$30,000,000 in penalties.
- ◆ March also saw notable **enforcement policy** updates. First, Deputy Attorney General Lisa Monaco proclaimed that companies stand on the "front lines of today's national security challenges" as she announced **a new pilot program** for companies to claim penalty credit for funds clawed back from offenders. Also, the DOJ, OFAC, and the Commerce Department's Bureau of Industry and Security (BIS) released **a joint compliance note on Russia-related sanctions evasion** to help companies comply with relevant trade laws.

Russia

United States Obtains Warrant for Seizure of Airplane Owned by Russian Oil Company Valued at More Than \$25 Million (DOJ Action)

Those involved. PJSC Rosneft Oil Company, a Russian energy company.

Charges and penalties. Violation of the Export Control Reform Act (ECRA) (seizure and forfeiture of the aircraft).

What happened? On March 8, the United States unsealed a warrant for the seizure of a Boeing 737-7JU aircraft after finding probable cause that the aircraft had been operated in violation of the Export Administration Regulations (EAR), the dual-use U.S. export controls regime. For more than a year, BIS has maintained strict controls on flying EAR-controlled aircraft into and out of Russia. BIS claimed that the aircraft in question had exited and reentered Russia at least seven times without a license.

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

Notably. The U.S. government continues to target aircraft that have been operated in violation of U.S. export controls. In this case, with the issuance of a warrant, the U.S. government has taken the additional step of attempting to seize the aircraft.

Two U.S. Citizens Arrested for Illegally Exporting Technology to Russia (DOJ Action)

Those involved. Cyril Buyanovsky and Douglas Robertson, U.S. nationals.

Charges with penalties. One Count of Conspiracy to Commit Offenses against the United States (maximum of five years in prison); Four Counts of Unlawful Export of U.S.-Origin Controlled Goods to Russia (maximum of 20 years in prison for each count); Three Counts of Submitting False or Misleading Export Information (maximum five years in prison for each count); and Six Counts of Smuggling Goods from the United States (maximum of 10 years in prison for each count).

What happened? On March 2, Buyanovsky and Robertson, owners and operators of KanRus Trading Company, were indicted for unauthorized exports of U.S.-origin avionics equipment to Russia and improperly providing Russian entities, including the Federal Security Services (FSB), with repair services. The indictment alleges the defendants intentionally misstated the true end-users, value, and ultimate destinations of controlled items, shipping them through third-party countries. Buyanovsky and Robertson used Armenia, Cyprus, Germany, and the United Arab Emirates (UAE) as transshipment points.

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

Notably. Matthew S. Axelrod, the Assistant Secretary for Export Enforcement at BIS, recently stated that the illegal export of sensitive technologies in violation of export control rules is at the “top of our list from an enforcement perspective.” This matter is a reminder that violations can lead to severe financial and criminal penalties, including substantial jail time.

Belarus

On March 24, OFAC announced it had designated three entities and nine individuals in response to the parties' efforts to undermine democracy in the country. In addition, OFAC designated Belarusian President Lukashenko's presidential aircraft as blocked property. A list of the designated parties and property can be found [here](#).

Iran

Justice Department Announces Charges and Sentence in Connection with Iranian Procurement Network's Attempts to Acquire Sophisticated Military Technology (DOJ Action)

Two indictments were unsealed on March 21, alleging five defendants violated the Arms Export Control Act (AECA) and the International Emergency Economic Powers Act (IEEPA) while executing separate schemes to allegedly procure and illegally export sensitive technologies to Iran between 2005 and 2013 to, among other things, support the country's drone industry.

United States v. Paidar, et al.

Those involved. Amanallah Paidar, Iranian national; Murat Bükey, a Turkish national.

Charges with penalties. One Count of Conspiracy (maximum of five years in prison); One Count of Attempting to Unlawfully Export Defense Articles to Iran (maximum of 20 years); One Count of Smuggling (maximum of 10 years); One Count of Conspiracy to Launder Monetary Instruments (maximum of 20 years); One Count of False Statements (maximum of five years); Four Counts of Attempting to Unlawfully Exports to Iran (maximum of 20 years for each count).

What happened? Paidar and Bükey used their companies to procure U.S. technology and illegally export it through Turkey to Iran. The defendants successfully exported a fuel cell test station, a device used to test the efficacy of fuel cells, from the United States to Iran. The pair failed to export a device, listed as a defense article on the United States Munitions List (USML), used to detect biological agents in the air, water, or ground. (An undercover U.S. law enforcement agent thwarted this scheme.) Paidar also attempted to export spectrum analyzers, spectrometers, night vision cameras, and gamma-ray projectors in violation of the IEEPA and the Iranian Transactions and Sanctions Regulations (ITSR). Bükey was extradited to the United States from Spain and pleaded guilty to conspiring to violate the AECA and IEEPA. He was sentenced to 28 months in prison. Paidar remains at large.

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

United States v. Mahmoudi, et al.

Those involved. Agshar Mahmoudi and Mahmoud Alilou, Iranian nationals; and Shahin Golshani, a UAE national.

Charges and penalties. One Count of Conspiracy (maximum of five years in prison); Three Counts of Unlawful Exports or Attempted Exports of U.S.-Origin Goods to Iran (maximum of 20 years for each offense); Three Counts of Smuggling (maximum of 10 years for each offense); One Count of Attempting to Export Defense Articles (maximum of 20 years for each offense); and Two Counts of Making a False Statement (maximum of five years for each offense).

What happened? Between 2005 and 2009, the three defendants conspired to procure and export a high-speed camera used for ballistic and nuclear missile testing, landing gear for a fighter jet, and a meteorological

sensor to Iran without the required license and in violation of IEEPA and the AECA. Assistant Attorney General Matthew Olsen stated, "The defendants' efforts to unlawfully export advanced U.S. technology that could benefit the Iranian regime's military and weapons of mass destruction research pose a threat to all Americans." The defendants remain at large.

The press release detailing both indictments can be found [here](#). You can find the indictment [here](#).

Notably. Bükey, Mahmoudi, Paidar, and their companies, Farazan Industrial Engineering, Inc. and Ozone Aircraft and Defense Industry LLC, were designated by OFAC. As a result of these designations, all property of these individuals is blocked, and must be reported to OFAC. Additionally, entities owned by the individuals are also blocked and all transactions by U.S. persons, or persons within the U.S., involving the property or interests in property of the blocked or designated persons are prohibited. Paidar was designated after being identified as a procurement agent for the Iran-based Defense Technology and Science Research Center (DTSRC) (also designated with this action). Bükey was also identified as a procuring agent as he supported Paidar in his DTSRC-related endeavor. Mahmoudi similarly aided Paidar and the DTSRC. In conjunction with the unsealing of both indictments, the designations reflect the interoperability between multiple U.S. government agencies to hold individuals accountable for violations of U.S. export laws.

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

Iranian National Charged with Illegally Exporting Electrical Equipment to Iran (DOJ Action)

Those involved. Mehdi Khoshghadam, an Iranian national and managing director of Pardazan Systems Namad Arman.

Charges with penalties. One Count of Violating the IEEPA (maximum 20 years in prison); One Count of Conspiracy to Commit Money Laundering (maximum 20 years in prison); One Count of Conspiracy (maximum of five years in prison). The indictment also alleges forfeiture seeking all ill-gotten gains.

What happened? On March 9, a federal grand jury voted to indict Khoshghadam for illegally exporting electrical cables and connectors from the United States to Iran. Koshghadam used a front company - Merlin International Trading Company - and an alias - David Lei - to mislead U.S. companies into shipping the cables and connectors to a Hong Kong freight forwarder which would then ship the items to Iran. These items were exported to Iran without the required U.S. government license. Khoshghadam allegedly falsified the identity and location of the true end-user on a BIS-issued form - the BIS-711. He also allegedly made, or caused to be made, three transactions using foreign bank accounts to transfer funds to U.S. bank accounts or used U.S. correspondent accounts in connection with "the unlawful exports to Iran." A warrant has been issued for Khoshghadam's arrest.

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

Notably. While Khoshghadam's actions were flagrant violations of U.S. export controls, this matter is also a reminder of the importance of robust compliance due diligence on transaction partners and the long arm of U.S. sanctions jurisdiction, which can reach virtually any transaction involving a U.S. financial institution.

BIS Imposes 20-Year Denial Order for Alleged Attempted Unauthorized Export of Communications Equipment to Iran (BIS Action)

Those involved. Kenneth Peter Scott, U.S. national and owner of Scott Communications, Inc. and Mission Communications, LLC. Both companies are also subject to the Denial Order.

Charges and penalties. Denial Order.

What happened? The Denial Order resolves a June 7 Charging Letter, which alleged five violations of the EAR. Scott admitted to using his two companies to export communications equipment to Jordan, even though

he knew Iran was the ultimate destination. Scott did not have the required U.S. government license for an export to Iran. In addition, Scott failed to maintain appropriate records, made false or misleading statements to federal agents, produced falsified emails, and failed to file the Electronic Export Information (EEI). The Denial Order resolves the Charging Letter and prohibits Scott, Scott Communications, Inc., and Mission Communications, LLC from participating in any transaction involving items subject to the EAR or exported from the United States.

The original Charging Letter can be found [here](#). The Settlement Agreement can be found [here](#).

Notably. The Charging Letter and Settlement Agreement suggest that Jordan is a recurrent transshipment point for U.S.-origin products destined for Iran. Proximity to the sanctioned country is an important determinant for transshipment countries. Companies should be aware of this fact when conducting business in the region.

Iran-Related Designations (OFAC Actions)

Iranian International UAV Procurement Network. On March 9, OFAC designated five companies and one individual constituting a China-based network designed to procure aerospace components for the Iran Aircraft Manufacturing Industrial Company (HESA). HESA has supported the production of the Shahed-136 UAV. Yun Xia Yuan, a Chinese-based employee of S&C Trade PTY Co., Ltd, was the sole individual designated. The OFAC press release can be found [here](#).

“Shadow Banking” Network. On March 9, OFAC designated 39 entities involved in a “shadow banking” network that aimed to give sanctioned Iranian companies like Persian Gulf Petrochemical Industry Commercial Co (PGPICC) and Triliance Petrochemical Co Ltd access to the international financial system. The multijurisdictional OFAC action designated entities from numerous countries, including Hong Kong, Pakistan, Turkey, and the UAE. The OFAC press release can be found [here](#).

OFAC Settlements

Settlement Agreement between the U.S. Department of the Treasury’s Office of Foreign Assets Control and Wells Fargo Bank, N.A.

Those involved. Wells Fargo, an American multinational financial services company.

Charges with penalties. 124 apparent violations of multiple OFAC sanctions regimes. The bank agreed to pay \$30,000,000 in penalties to OFAC and \$67.8 million to the Federal Reserve Board. The maximum applicable OFAC civil penalty was over \$1 billion.

What happened? Wells Fargo took ownership of the Global Trade Services (GTS) business unit of Wachovia Bank when Wells acquired Wachovia in 2008. According to OFAC, the GTS business unit provided a European bank with a trade finance platform, called Eximills, that the bank used to violate U.S. sanctions against Iran, Syria, and Sudan. OFAC asserted that Eximills facilitated approximately \$532 million in prohibited transactions and that GTS specifically designed the platform to allow the European bank to engage in these prohibited transactions. The government also argued that Wells Fargo should have known the European bank was using Eximills to violate sanctions regimes.

In announcing its penalty in this matter, OFAC cited as aggravating factors GTS’s “reckless disregard for U.S. sanctions requirements” and the sophisticated nature of Wells Fargo and its predecessor, Wachovia. For mitigating factors, OFAC identified GTS as a small business unit, the relatively limited impact of the conduct as a majority of the violations related to the agriculture, medicine, and telecommunications sectors, a lack of prior misconduct, the termination of the European bank’s access to the technology after the apparent violations were identified, and the extent of remediation.

The OFAC press release can be found [here](#). The Federal Reserve Board press release can be found [here](#).

Notably. These violations underscore the importance of transactional due diligence and integration of compliance measures and processes post-closing. Even when robust pre-deal diligence is not possible, a post-close audit or diligence can help identify and appropriately respond to compliance issues.

OFAC Settles with Uphold HQ Inc. Related to Apparent Violations of Multiple Sanctions Programs

Those involved. Uphold HQ Inc., a California-based digital money platform and digital services company.

Charges with penalties. 152 apparent violations of multiple OFAC sanctions regimes. Uphold agreed to pay \$72,230 in penalties. The maximum applicable civil penalty was over \$44 million.

What happened? Uphold apparently processed over 150 transactions totaling over \$180,000 for customers who self-identified as being located in Cuba or Iran or employees of the Venezuelan government. OFAC considered the General Factors under the Enforcement Guidelines to determine the settlement amount. While OFAC alleged that Uphold failed to exercise due caution during the onboarding process and had reason to know it was processing payments for individuals in sanctioned countries, Uphold voluntarily self-disclosed the conduct, has not been issued a Penalty Notice or Finding of Violation in the last five years, and undertook numerous remedial measures. The mitigating factors helped to substantially reduce Uphold's penalty.

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

Notably. The action shows the importance of effective review and screening to identify sanctions compliance risks. Likewise, the relatively small penalty imposed - as opposed to the maximum that could have been imposed - serves as a reminder of the potential benefits of disclosing and remediating violations that do occur.

Enforcement Policy Updates

Export Controls and Human Rights Initiative Code of Conduct Released at the Summit for Democracy

Human Rights Code of Conduct. On March 30, the Department of State released a Code of Conduct as part of the U.S.-led [Export Controls and Human Rights Initiative](#). The Initiative - launched at last year's Summit for Democracy by the United States, Canada, France, the Netherlands, and the United Kingdom - intends "to counter state and non-state actors' misuse of goods and technology that violate human rights." In the year following the Summit, the United States led an effort to get countries to endorse a nonbinding, voluntary Code of Conduct which calls for "subscribing states" to consult with human rights stakeholders when implementing export controls, share information among subscribing states about threats associated with the trade that poses human rights issues, share best practices in implementing effective controls, and more. The governments of Albania, Australia, Bulgaria, Canada, Croatia, Ecuador, Estonia, Germany, Kosovo, Latvia, New Zealand, North Macedonia, Spain, and many more have signed on. Following the second Democracy Summit, the Department of State will continue to engage with subscribing states to implement portions of the Code and with non-subscribing states to seek additional endorsements.

The full announcement can be found [here](#). The Code of Conduct can be found [here](#).

Notably. International support for the protection of human rights means that human rights will increasingly be a basis for implementing more stringent multinational export controls. While non-binding, the Code should prompt compliance departments to ensure that human rights considerations are a part of export compliance.

DOJ: Deputy Attorney General Lisa Monaco Delivers Remarks at American Bar Association National Institute of White Collar Crime

Front lines. On March 2, Deputy Attorney General Lisa Monaco discussed DOJ efforts to promote a culture of corporate compliance. Monaco acknowledged that in this “uncertain geopolitical environment, corporate crime and national security are overlapping to a degree never seen before.” She emphasized that companies are on the “front lines of today’s geopolitical and national security challenges.”

Monaco described strengthening corporate compliance through the promotion of voluntary self-disclosure and structuring compensation and claw-back programs in such a way that shift “the burden of corporate malfeasance away from uninvolved shareholders onto those more directly responsible.” She also announced a pilot program whereby every corporate resolution requires the offending company to implement “compliance-promoting criteria within its compensation and bonus system.” The pilot program would also allow the Criminal Division to reduce fines for companies that attempt to claw back compensation from individual wrongdoers. In addition, if the company successfully recovers the money, it may keep it.

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

Notably. This pilot program is likely to become permanent even if changes are made to the program before it is officially implemented. Companies should update compliance programs to reflect the pilot program and the concept of clawing back compensation - while also recognizing the effective compliance efforts of individual personnel.

Departments of Justice, Commerce and Treasury Issue Joint Compliance Note on Russia-Related Sanctions Evasion and Export Controls

Joint Action. On March 2, DOJ, BIS, and OFAC released their first joint, “tri-seal,” compliance note relating to the risks associated with third-party intermediaries and transshipment points. The note highlights how Russia and its proxies use third-party intermediaries and transshipment countries to circumvent sanctions and U.S. export control laws. The note also lists common red flags that could indicate a third party is engaged in sanctions evasion, including:

- ◆ The use of corporate vehicles to obscure ownership, the source of funds, or the countries involved.
- ◆ A reluctance to share information or complete an end-user form.
- ◆ The use of shell companies for international wire transfers, last-second changes to delivery addresses, and the use of personal email accounts rather than a corporate address.
- ◆ The lack of an organizational web presence.
- ◆ Routing purchases through established transshipment points like China (Hong Kong and Macau), Armenia, Turkey, and Uzbekistan.

The three agencies will continue to “inform the private sector about enforcement trends and provide guidance to the business community on compliance with U.S. sanctions and export laws.”

The Joint Compliance Note can be found [here](#).

Notably. While DOJ, BIS, and OFAC have repeatedly shown a willingness to hold offending companies and individuals accountable for violations of U.S. export laws, this type of notice serves to equip companies with guidance on preventing violations from occurring altogether.

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), 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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