

International Trade Enforcement Roundup

BASS
BERRY
SIMS

You are reading Bass, Berry, & Sims' new enforcement roundup, where we bring notable enforcement actions, policy changes, interesting news articles, and a bit of our insight to your inbox every month.

To stay up to date, subscribe to our [GovCon & Trade blog](#). If you have questions about any of the actions mentioned and how they relate to your business, contact our firm's international trade team. We welcome your feedback and encourage sharing this newsletter with anyone interested.

December was a busy month! A highly complex Russian procurement network dismembered, a former Marine indicted, a government contractor sentenced to prison for export violations, and temporary denial orders (TDOs) galore! Let's get into it.

Overview

- ❖ December saw a flurry of **Russia-specific enforcement actions**. The Department of Justice (DOJ) indicted a sanctions evader using new criminal forfeiture powers for the first time and interrupted a sophisticated Russian procurement network that had been violating numerous export regulations. Additionally, the Department of Commerce's Bureau of Industry and Security (BIS) renewed several TDOs against Russian and Belarusian airlines.
- ❖ DOJ took action against a former Marine who **violated the International Traffic in Arms Regulations (ITAR)** when he provided training to Chinese military pilots. BIS also renewed a TDO on Quicksilver Manufacturing, Inc., Rapid Cut LLC, and US Prototype, Inc. based on evidence that the companies were continuing to send unauthorized exports to China.
- ❖ The Department of Treasury's Office of Foreign Assets Control (OFAC) settled with Danish manufacturer Danfoss A/S for violating U.S. sanctions on **Iran, Sudan, and Syria**.
- ❖ Another **government contractor** was in the news. A Massachusetts man was sentenced to prison following the illegal export of defense technical information to Turkey.
- ❖ The DOJ and the Securities & Exchange Commission (SEC) announced several significant settlements involving matters under the **Foreign Corrupt Practices Act**.

Russia

Active Russian Agent Indicted for Scheme to Violate Sanctions in the United States (DOJ Action)

Those involved. Andrii Derkach, a Ukrainian national and - according to the DOJ - an “Active Russian Agent.”

Charges with penalties. Conspiracy to Violate the International Emergency Economic Powers Acts (IEEPA), one of the main authorizing statutes for U.S. sanctions programs; Bank Fraud Conspiracy; Money Laundering Conspiracy; and Money Laundering (maximum of 30 years).

What happened? On December 7, DOJ announced it had unsealed a seven-count indictment against Andrii Derkach, who OFAC designated as a Specially Designated National (SDN) for efforts to influence the 2020 U.S. Presidential Election. According to the indictment, Andrii Derkach knowingly and actively attempted to evade the sanctions imposed on him, misrepresenting his identity to buy and maintain two Beverly Hills real estate properties. Derkach wired almost \$4 million from Latvian and Swiss bank accounts registered to companies in the British Virgin Islands to a “corporate nominee” to buy both properties. The DOJ is seeking forfeiture of both properties and accounts.

Read the indictment [here](#). Read the press release [here](#).

Notably. The indictment marked the first use of new federal criminal forfeiture powers enacted pursuant to the 2021 National Defense Authorization Act. The new enforcement powers allow for the forfeiture of assets where a senior foreign political figure knowingly conceals or falsifies a material fact related to the ownership or control of assets worth more than \$1,000,000. Penalties include up to 10 years in prison, a fine of up to \$1,000,000, and potential seizure and forfeiture of real estate properties, bank accounts, and other assets.

Russian Military and Intelligence Agencies Procurement Network Indicted (DOJ Action)

Those involved. Yevgeniy Grinin, Aleksey Ippolitov, Boris Livshits, Svetlana Skvortsova, and Vadim Konoshchenok (Russian Nationals); Alexey Brayman and Vadim Yermolenko (U.S. Nationals).

Charges with penalties. Conspiracy to Defraud the United States as to the Enforcement of Export Controls and Economic Sanctions; Conspiracy to Violate the Export Control Reform Act (ECRA); Smuggling; and Failure to Comply with the Automated Export System relating to the transportation of electronics (maximum of 30 years in prison).

What happened? On December 13, five Russian nationals and two U.S. nationals were charged with operating a global scheme to (1) procure technology from U.S. companies to transfer to the Russian defense industry and (2) launder money. Ippolitov relayed requests from Russian end users to Grinin and Skvortsova, who were both affiliated with two Moscow-based organizations, Serniya Engineering and Sertal LLC. These two organizations, which OFAC and BIS previously sanctioned, were tasked by the Russian government to procure technologies for Russia’s military supply chain. Grinin and Skvortsova would then work with Livshits, who used a network of New York City shell companies and bank accounts to route shipments and fabricate business records to conceal the true nature of shipments. Konoshchenok, a suspected Russian Federal Security Service (FSB) officer, would then smuggle the products across the Estonian border into Russia.

Konoshchenok was apprehended in October with 35 different types of semiconductors, various other dual-use electronics, and U.S.-manufactured ammunition. Brayman and Yermolenko, who fabricated invoices and reshipped items to transshipment points across the globe, were also arrested. The other four individuals remain at large.

Read the press release [here](#).

The Department of Commerce jointly issued a TDO against Livshits, Skvortsova, and Ippolitov as well as the two shell companies - Advanced Web Services and Strandway LLC - formed to support the illegal scheme. The TDO bans the named individuals and companies from participating in transactions subject to the EAR, including exports from the United States and re-exports from abroad. The TDO will remain in effect for an additional 180 days and can be renewed. The full TDO can be found [here](#).

Notably. The indictment and TDO highlight the important work of the Office of Export Enforcement (OEE) within BIS. This elaborate scheme operated across multiple nations and was uncovered, in part, due to an OEE discovery of a transshipment point in Hamburg, Germany. This is difficult work for a small enforcement arm of the U.S. national security establishment, but OEE's mission could be made easier in the future given that the recently enacted omnibus funding bill increased BIS' budget by 35%. This significant increase in funding may lead to greater resources for prosecution and enforcement of export violations.

Russian and Belarusian Airlines - TDOs Renewed

On December 5, BIS renewed a TDO first issued on June 16, 2022, against [Belavia Belarusian Airlines](#) for ongoing violations of comprehensive U.S. export controls on Belarus. BIS asserted that the airline continues to operate in violation of the TDO and the regulations imposed against Belarus. The TDO bans the company from participating in transactions subject to the EAR, including exports from the United States and re-exports abroad. The TDO will remain in effect for an additional 180 days.

On December 20, TDOs against [Nordwind Airlines](#), [Pobeda Airlines](#), and [Siberian Airlines d/b/a S7 Airlines](#) were also renewed.

Russia-Related Designations

On December 21, Bureau of Industry and Security added the Wagner Group to the Entity List. The Wagner Group has been determined to be a Russia/Belarus 'Military End User.' As a result of the designation, a license from BIS is required to export or re-export to the group both U.S.-origin items and certain items produced outside the United States using U.S.-origin technology or equipment. The BIS press release can be found [here](#).

On December 8, BIS [added](#) one entity from Latvia, one entity from Switzerland, and nine entities from Russia to the EL for significant contributions to Russia's military and/or defense industrial base. The added entities were determined to be Russia/Belarus 'Military End Users.' As a result of the designation, a license from BIS is required to export or re-export to the listed entities both U.S.-origin items and certain items produced outside the United States using U.S.-origin technology or equipment. The BIS press release can be found [here](#).

For more information about BIS and OFAC designations of Russian and related entities, please see the Bass, Berry, and Sims' Q4 Russia, Ukraine update [blog](#).

China

Former Marine Indicted for Violating the AECA after Training Chinese Pilots

Those involved. Daniel Edmund Duggan, a former Marine Corps Aviator.

Charges and penalties. Conspiracy (maximum of 5 years); Violating the AECA (maximum of 10 years and a fine up to \$1,000,000); and Conspiracy to Launder Money (maximum of 20 years and a fine up to \$500,000 or twice the value of the property, whichever is greater).

What happened? On December 9, the DOJ unsealed a 2017 indictment against Daniel Duggan, a former Marine Corps pilot, alleging that Duggan and eight unnamed co-conspirators operated a South African flight school that trained Chinese military pilots. Such flight training is deemed a “defense service” subject to the International Traffic in Arms Regulations (ITAR) and thus must be licensed by the State Department’s Directorate of Defense Trade Controls (DDTC). The U.S. government has long maintained a policy of denial for ITAR export licenses to China, including for providing defense services to Chinese nationals in a third country. Duggan also allegedly aided Chinese and South African companies in fraudulently obtaining a T-2 Buckeye training airplane to use in their training. Duggan was arrested in Australia in October, and a U.S. request for extradition has been approved by Australian officials.

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

Notably. The term “defense services” is broadly defined under the ITAR. Companies and individuals - including retired military personnel - must proceed carefully when consulting on defense issues abroad or with non-U.S. armed forces. Even providing publicly available information in the context of training a foreign military can trigger ITAR licensing requirements.

Massachusetts Man Sentenced for Wire Fraud and Illegally Exporting Defense Articles to Turkey (DOJ Action)

Those involved. Arif Ugur, sole managing partner of the Anatolia Group Limited Partnership.

Charges with penalties. Wire Fraud, Violating the AECA (33 months in prison and two years of supervised release).

What happened? On December 15, Arif Ugur was sentenced to prison for violating U.S. export control laws. Mr. Ugur prepared bids for and won contracts to supply the Defense Department (DOD) with parts required to be manufactured in the United States. Mr. Ugur falsely claimed the parts he was supplying the DOD were manufactured in the U.S. when in fact the parts were being made in Turkey. Mr. Ugur sent the Turkish manufacturer the specifications and even gave the company’s employees access to the DOD online library of technical specifications and drawings. The parts were designated as defense articles under the ITAR, meaning that technical data related to the parts would generally require an ITAR license for export to Turkey.

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

Notably. First, it is important to recognize that exports do not necessarily require physical objects crossing borders. As was the case here, sharing technical specifications and allowing a foreign national to access the DOD’s online library of technical specifications resulted in jail time.

Additionally, this is the second indictment in two months for a DOD contractor that illegally exported technical information to a non-U.S. manufacturer. The first indictment can be found [here](#). The November 2022 International Trade Enforcement Roundup detailing the first case can be found [here](#). Government contractors must be aware of and strictly adhere to contract terms. DOJ has seemingly prioritized enforcement against this type of conduct, and we expect similar actions going forward.

TDOs Renewed Against Quicksilver Manufacturing, Inc., Rapid Cut LLC, and US Prototype, Inc.

On December 5, BIS renewed the TDO first issued against these three entities on June 27, 2022, for illegally exporting technical drawings to China. The TDO was renewed after new evidence was uncovered showing (1) additional U.S. companies engaged with Quicksilver Manufacturing, Inc., Rapid Cut LLC, and US Prototype, Inc., (2) the presence of additional export violations, and (3) a China-based individual may have violated the June TDO shortly after it was issued. The TDO bans the companies from participating in transactions subject to the EAR, including exports from the United States and re-exports from abroad. The TDO will remain in effect for an additional 180 days. The full TDO can be found [here](#).

Iran, Sudan, and Syria

OFAC Settles with Danfoss A/S for \$4,379,810 Related to Apparent Violations of the Iran, Sudan, and Syria Sanctions Programs (OFAC Action)

Those involved. Danfoss A/S (Danfoss), a multinational Danish manufacturer of cooling products.

Charges with penalties. 225 violations of multiple OFAC regimes. Danfoss agreed to pay over \$4.3 million in penalties. The maximum applicable civil penalty was over \$71.3 million.

What happened? From November 21, 2013, to August 28, 2017, Danfoss FZCO, Danfoss's wholly-owned United Arab Emirates (UAE) subsidiary, sold products to customers in Iran, Sudan, and Syria and asked customers to send payment to three bank accounts, including one U.S. branch account located in the UAE. Danfoss FZCO also used third-party agents to make money transfers from its U.S. bank account to customers in Iran and Syria. The use of the third-party agents disguised critical information about the transactions, including where they originated and their ultimate destination, which thwarted the bank's transactional screening mechanism.

Read the enforcement action [here](#).

Notably. This action highlights the importance of timeliness for voluntary disclosures. While the violations were identified in May 2017, Danfoss did not notify OFAC of the violations until October 31, 2017, by which time OFAC was already aware of the violations. Danfoss thus did not receive "credit" for the voluntary disclosure. At the same time, Danfoss's cooperation with OFAC's investigation and commitment to implement improved compliance measures were factors in OFAC ultimately agreeing to a penalty that was a fraction of the maximum possible amount.

The action also underscores the long arm of OFAC jurisdiction and enforcement. OFAC can and does reach non-U.S. entities whose commercial activity would not otherwise violate OFAC regulations when U.S. financial institutions are involved in transactions.

FCPA Enforcement Actions

DOJ Declines to Prosecute Safran S.A. for alleged FCPA violations

Those involved. Safran S.A., a French aerospace engine manufacturer.

Charges with penalties. Safran agreed to disgorge \$17 million to the SEC in ill-gotten profits.

What happened? Safran's U.S. and German subsidiaries were alleged to have paid millions of dollars in bribes to a close relative of a former senior Chinese official to secure contracts for train lavatories. The misconduct allegedly occurred prior to Safran's acquisition of the companies and was identified in post-acquisition due diligence. While DOJ declined to prosecute Safran for alleged violations of the U.S. subsidiary, it deferred to German authorities as to the penalty imposed on the German subsidiary. Additionally, as noted above, Safran agreed to disgorge \$17 million in profits to the SEC.

The DOJ declination letter can be found [here](#).

Notably. The declination underscores the importance of due diligence even post-acquisition and during integration. When violations are discovered, DOJ's voluntary disclosure mechanism continues to be an option for potentially avoiding criminal penalties.

ABB Agrees to pay over \$462 million to settle FCPA investigations

For more details about this matter, please refer to the Bass, Berry, and Sims blog, which can be found [here](#). In addition, the DOJ press release can be found [here](#), and the deferred prosecution agreement (DPA) between DOJ and ABB can be found [here](#).

Honeywell to pay over \$160 million to DOJ and SEC ending Civil and Criminal Investigations

For more details about this matter, please refer to the Bass, Berry, and Sims blog, which can be found [here](#). In addition, the DPA between DOJ and Honeywell can be found [here](#), and the SEC's administrative order resolving the matter can be found [here](#).

BIS Updates to Lists, Orders Denying Export Privileges

BIS List Updates

On December 16, BIS announced significant updates to the EL and to the Unverified List (UVL), as follows:

- ◆ Added 36 entities, the majority of which are located in China and involved in work in support of China's military, to the EL;
- ◆ Revised details related to certain existing EL entries;
- ◆ Removed 26 entities from China and one from Pakistan from the UVL after receiving End-User Certificates (EUCs) from the entities; and
- ◆ Transitioned 9 Russian parties from the UVL to the Entity List because their bona fides could not be verified through an EUC.

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

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

- ❖ On December 20, Jesse Cortez-Arguelles was denied export privileges until November 5, 2030 (10 years from the date of his conviction). Cortez-Arguelles was convicted of violating 18 U.S.C. § 554(a) for attempting to smuggle various firearms and ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 20, Priscilla Bustos Martinez was denied export privileges until November 24, 2028 (8 years from the date of her conviction). Priscilla Bustos Martinez was convicted of violating 18 U.S.C. § 554 for fraudulently and knowingly exporting or attempting to export a variety of firearms without obtaining a license from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Jose Miguel Lazarin-Zurita was denied export privileges until July 15, 2031 (10 years from the date of his conviction). Lazrin-Zurita was convicted of violating Section 38 of the AECA for attempting to export a rifle and ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Jacqueline Castro-Aguilera was denied export privileges until February 25, 2026 (7 years from the date of her conviction). Castro-Aguilera was convicted of violating 18 U.S.C. § 554 for attempting to export 1000 rounds of ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Mauricio Martell was denied export privileges until January 14, 2030 (10 years from the date of his conviction). Martell was convicted of violating 18 U.S.C. § 554(a) for attempting to export two rifles from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Rene Sarmiento was denied export privileges until November 19, 2030 (10 years from the date of her conviction). Sarmiento was convicted of violating 18 U.S.C. § 554 for attempting to export various rifles and ammunition from the United States to Mexico. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Mark Komoroski was denied export privileges until February 14, 2030 (10 years from the date of his conviction). Komoroski was convicted of violating the IEEPA (50 U.S.C. § 1701) for attempting to export a rifle scope from the United States to Russia. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Gene Shilman was denied export privileges until May 27, 2028 (7 years from the date of his conviction). Shilman was convicted of violating 18 U.S.C. § 371 for conspiring to export certain EAR-controlled items as well as arms and ammunition from the United States to Russia and Ukraine. The 1760(e) denial order can be found [here](#).
- ❖ On December 1, Tian Min Wu was denied export privileges until June 9, 2031 (10 years from the date of his conviction). Wu was convicted of violating the AECA for “knowingly and willfully soliciting the export of, attempting to export and causing others to export from the United States, a Decoder,” which is controlled under the ITAR. The 1760(e) denial order can be found [here](#).

Enforcement Policy Updates

There were no new enforcement policy updates in November.

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](#).



[Mi-Yong Kim](#)
(202) 827-2970
miyong.kim@bassberry.com



[Thaddeus R. McBride](#)
(202) 827-2959
tmcbride@bassberry.com



[Sylvia Yi](#)
(202) 827-2993
syi@bassberry.com