

International Trade Enforcement Roundup

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You are reading Bass, Berry & Sims' **February 2023 edition** of our Monthly 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.

February saw several interesting enforcement actions. From a Chinese "spy balloon's" cross-country journey to the first anniversary of the war in Ukraine, the news of the day seemed to drive much of the enforcement activity. Let's get into it!

Overview

- ◆ Twelve months after the beginning of the war in Ukraine, economic sanctions and export controls imposed on Russia and regions of Ukraine have fundamentally altered international commerce. As in prior months, **Russia-related** actions were plentiful. Notably, a Russian national was indicted for illegally smuggling controlled goods for Russia's Federal Security Service (FSB) and North Korea, and an associate of oft-mentioned Viktor Vekselberg was indicted for maintaining Vekselberg's U.S. properties.
- ◆ **China** enforcement actions slowed but did not cease. A 3D printing company with U.S. government contracts was ordered to pay up to \$27 million for violations of the International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), and False Claims Act (FCA) for illegal exports of technical data. And after the U.S. government recovered and examined the infamous Chinese weather balloon, the Department of Commerce's Bureau of Industry and Security (BIS) placed six Chinese entities on the Entity List (EL).
- ◆ **Austria and Switzerland** make their way onto our Roundup for the first time as **Dotphins**, an e-commerce platform, illegally exported - and attempted to export - red dot scopes to the two countries in violation of the EAR.
- ◆ **Iran** was also involved in several enforcement actions. For one, a dual American-Iranian citizen exported controlled items to the National Bank of Iran in violation of U.S. export controls. In addition, the Treasury Department's Office of Foreign Assets Control (OFAC) designated nine entities operating in the Iranian petrochemical industry and eight senior directors of Paravar Pars Company, an Iranian drone manufacturer.

Russia

Russian National Charged with Supplying U.S. Technology to the Russian and North Korean Governments (DOJ Action)

Those involved. Ilya Balakaev, Russian national.

Charges and penalties. Conspiracy to Defraud the United States; Conspiracy to Violate the International Emergency Economic Powers Act (IEEPA); Conspiracy to Violate Export Control Reform Act (ECRA); and Smuggling Goods from the United States (maximum of 75 years in prison).

What happened? On February 24, Balakaev was indicted for illegally smuggling various controlled devices from the United States to Russia and North Korea. Balakaev entered into contracts with Russia's Federal Security Service (FSB) to repair spectrum analyzers and signal generators through his company, Radiotester LLC. Such devices are not easily obtained in Russia, so Balakaev leveraged a procurement network in the U.S. to obtain the relevant equipment. He reportedly entered into at least 10 contracts with the FSB, procured more than 43 devices, and traveled to the United States more than a dozen times in furtherance of his procurement efforts. The spectrum analyzers are included on the Commerce Control List (CCL) and require a license for export, but neither Balakaev nor Radiotester had such a license.

Balakaev also provided a North Korean government official with an Altair 4X gas detector which is "used to detect gases such as combustible gases, oxygen-deficient atmospheres and toxic gases." A license was required from the Department of Commerce to export the gas detector, yet (again) neither Balakaev nor his company obtained such a license.

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

Notably. The DOJ focuses on improper actions of individuals as well as the actions of larger entities. Individuals who violate U.S. export laws may face lengthy prison times - in this case, upwards of 75 years. Understanding and complying with these laws is crucial to head off liability.

Associate of Sanctioned Oligarch Indicted for Sanctions Evasion and Money Laundering (DOJ Action)

Those involved. Vladimir Voronchenko, a Russian national and permanent U.S. resident.

Charges and penalties. Conspiracy to Violate IEEPA; Violation of IEEPA; Conspiracy to Commit International Money Laundering; International Money Laundering (maximum of 20 years for each offense). He was also charged with Contempt of Court after fleeing to Moscow after receiving a grand jury subpoena. (the maximum sentence is within the discretion of the court).

What happened? Voronchenko, described as a "longtime friend and associate of [Viktor] Vekselberg," a Russian oligarch first sanctioned in 2018 (and [redesignated](#) in 2022, at which time his yacht and aircraft were blocked), was charged for allegedly making payments, amounting to approximately \$4 million, to maintain the oligarch's U.S. properties. The properties include a New York apartment on Park Avenue; a house and apartment in Fisher Island, Florida; and a house in Southampton, New York. The indictment also alleges Voronchenko assisted Vekselberg when initially buying the properties using an unnamed New York attorney and two shell companies to conceal the real estate's true owner.

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

Notably. Last month, two other associates of Vekselberg were charged for helping the sanctioned oligarch maintain his 255-foot mega yacht, Tango. We wrote about it in the [January 2023 edition](#) of the Roundup.

This current action underscores the FBI's and DOJ's interest in sanctions enforcement, especially against high-profile targets like Vekselberg. While the initial freezing of oligarch assets received significant attention, U.S. authorities continue to monitor the activities around these individuals and their seized property and enforce those aiding in sanctions evasion.

Russia-Related Designations (OFAC Action)

Russian Sanctions Evasion Network. On February 1, OFAC designated 22 individuals and entities for their roles in a sanctions evasion network supporting the Russian defense industry. According to OFAC, the network was led by Russian arms dealer Igor Vladimirovich Zimenkov and assisted designated Russian defense companies with selling military materials and services, including cybersecurity and helicopters, abroad. Each of the parties subject to OFAC designation is essentially cut off from U.S. commerce, as U.S. persons are prohibited from conducting business with such parties, as well as entities owned 50% or more by one or more designated parties. In addition, U.S. persons must block all property of a designated party in their possession or control.

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

China

3D Printing Company to Pay Up To \$27 Million for Exports to China and Germany of Aerospace and Military Design Documents (DOS/DOC/DOJ Action)

On February 27, 3D Systems Corporation, a South Carolina-based 3D printing company, agreed to pay a \$20 million civil penalty for violations of the Arms Export Control Act (AECA) and the ITAR. (The AECA is the authorizing statute for the ITAR.)

Interestingly, the matter started in October 2017 when BIS served 3D Systems with a subpoena related to potential export violations of the EAR. This prompted the company to conduct an internal investigation that resulted in discovery of ITAR violations. In particular, as a result of the investigation, the company identified unauthorized exports of technical data to China, Germany, and Taiwan, as well as to foreign person employees in India and the United Kingdom. To resolve the matter, 3D Systems entered into a consent agreement with the Department of State. Under that agreement, 3D Systems agreed to appoint, in consultation with the State Department, a designated official to oversee ITAR compliance, strengthen compliance policies and training programs, implement an export compliance system, and perform two compliance audits (one completed by 3D Systems and another by an outside consultant). These compliance undertakings were in addition to the company's agreement to pay \$20 million in penalties (though \$10 million of that is set aside to cover the costs of the remedial measures).

3D Systems agreed to pay \$2.77 million to settle with BIS for alleged violations of the EAR that occurred when the company emailed (exported) aerospace industry design blueprints and technical data to its Chinese subsidiary. 3D Systems employee emails that contained EAR-controlled drawings, blueprints, and engineering designs, were also stored on a server located in Germany.

Finally, the company agreed to pay \$4.54 million to settle FCA allegations brought by the DOJ for "improperly transmitting export-controlled technical data to China in violation of the export control laws of the United States in connection with certain NASA and DOD contracts."

The Department of State press release can be found [here](#). The Department of State Proposed Charging Letter can be found [here](#). The Department of State Consent Agreement can be found [here](#). The BIS Order settling proposed charges can be found [here](#). The DOJ press release can be found [here](#).

Notably. Government contractors often work on thin profit margins that can make it tempting to outsource business processes to cheaper jurisdictions. This does not mean that export rules can be ignored, especially

when transferring technical data, which can electronically cross borders even when information is simply being shared amongst employees of the same company.

Similarly, companies must be aware of where their servers are located and how technical data can be encrypted to ensure that it is not inadvertently exported to a prohibited recipient or destination.

Complying with a consent agreement imposes a huge financial commitment on a company. Even with the \$10 million set aside for remedial measures pursuant to the agreement, the compliance burden for 3D Systems will likely be significant.

China-Related Designations (BIS Action)

On February 10, BIS announced it had added six Chinese entities to the EL following the transcontinental journey of a Chinese “spy balloon.” According to the Assistant Secretary of Commerce for Export Enforcement Matthew Axelrod, the action “demonstrates our concerted effort to identify and disrupt the PRC’s [People’s Republic of China] use of surveillance balloons, which have violated the airspace of the United States and more than forty other countries.”

The six entities are as follows:

- ◆ Beijing Nanjiang Aerospace Technology Co., Ltd.
- ◆ China Electronics Technology Group Corporation 48th Research Institute
- ◆ Dongguan Lingkong Remote Sensing Technology Co., Ltd.
- ◆ Eagles Men Aviation Science and Technology Group Co., Ltd.
- ◆ Guangzhou Tian-Hai-Xiang Aviation Technology Co., Ltd.
- ◆ Shanxi Eagles Men Aviation Science and Technology Group Co., Ltd.

As a result of these designations, a license from BIS is required for any person to export or re-export an EAR-controlled item to these entities, including certain items produced outside the United States using U.S.-origin technology or equipment. Moreover, license applications for exports to these designated parties (as is generally the case with license applications for all parties on the EL) will be reviewed under a presumption of denial.

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

Austria and Switzerland

Dotphins LLC Settles Charges of EAR Violations (BIS Action)

Those involved. Dotphins LLC, an e-commerce platform.

Charges and penalties. Two Violations of the EAR (various penalties described in full below).

What happened? In 2016, Dotphins LLC exported two red dot scopes, devices mounted to the top of a firearm to help the user aim, from the United States to Austria and Switzerland without a required license under the EAR. The scopes, with a total value of less than \$200, are classified under ECCN 0A504 on the CCL and therefore require a license for export to Austria and Switzerland, even though each is a well-established U.S. trading partner.

The BIS Order settling the proposed charges can be found [here](#).

Notably. The BIS order requires Dotphins personnel to attend an export control compliance program within 12 months from the date of the order, and certify that attendance to BIS. The order also imposes a denial of export privileges for two years, though the denial is suspended for a two-year probationary period so long as the company (1) does not commit any additional EAR violations and (2) attends and certifies to attendance at an export control compliance program. This matter is a reminder that even low-value monetary transactions can trigger significant penalties, including when exports are made to relatively low-risk U.S. trading partners.

Iran

U.S. Citizen Sentenced to 30 Months in Prison for Conspiring to Provide Electronic Equipment and Technology to the Government of Iran (DOJ Action)

Those involved. Kambiz Attar Kashani, dual citizen of the United States and Iran.

Charges and penalties. Conspiracy to Violate IEEPA (sentenced to 30 months in prison).

What happened? On February 9, Kambiz Attar Kashani was sentenced to 30 months in prison for illegally exporting “six power suppliers, two subscriptions to a proprietary computer software program, several fixed attenuators, two subscriptions to operating software, and several storage systems” to Iranian end users, including the OFAC-designated Central Bank of Iran. Kashani falsely claimed that United Arab Emirates- (UAE) based companies would be end-users to conceal the illegality of the exports. Kashani pleaded guilty in June 2022 and agreed to pay a \$50,000 fine.

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


Notably. Unsurprisingly, a willful violation of U.S. sanctions can lead to prison time. What is perhaps more useful to take from this action is the fact that Kashani used the UAE either as a transshipment point or simply as a front for shipments to Iran. The UAE and Dubai, in particular, continue to be common jumping-off points for Iran, and thus shipments to the UAE, even when not undertaken intentionally to violate U.S. sanctions, should be carefully screened and monitored.

Iran-Related Additions to OFAC’s SDN List (OFAC Action)

On February 9, OFAC designated nine entities that “have played a critical role in the production, sale, and shipment of hundreds of millions of dollars’ worth of Iranian petrochemicals and petroleum to buyers in Asia.”

The entities are as follows:

- ◆ Amir Kabir Petrochemical Company
- ◆ Simorgh Petrochemical Company
- ◆ Laleh Petrochemical Company
- ◆ Marun Tadbir Tina Company
- ◆ Marun Sepehr Ofogh Company
- ◆ Marun Supplemental Industries Company
- ◆ Asia Fuel PTE. Ltd.
- ◆ Sense Shipping and Trading SDN. BHD.

 Unicious Energy PTE. Ltd.

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

On February 3, OFAC designated eight senior directors of Paravar Pars Company, an Iranian manufacturer of drones.

The OFAC press release 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 February 22, Qingshan Li was denied export privileges until June 12, 2030 (10 years from his conviction). Li was convicted of violating Section 38 of the AECA for attempting to export a Harris Falcon III AN/PRC Radio, an item designated as a defense article on the United States Munitions List (USML), from the United States to China without the necessary license. The 1760(e) order can be found [here](#).

On February 22, Javier Campos was denied export privileges until February 22, 2031 (10 years from his conviction). Campos was convicted of violating 18 U.S.C. § 554(a) for smuggling and attempting to smuggle 6000 rounds of ammunition from the United States to Mexico. The 1760(e) order can be found [here](#).

On February 22, Marco Rodriguez was denied export privileges until March 12, 2031 (10 years from his conviction). Rodriguez was convicted of violating 18 U.S.C. § 371 and 18 U.S.C. § 554(a) for conspiring and illegally smuggling 10,000 rounds of ammunition from the United States to Mexico. The 1760(e) order can be found [here](#).

On February 14, Carlos Francisco Rodriguez was denied export privileges until November 3, 2028 (7 years from his conviction). Rodriguez was convicted of violating 18 U.S.C. § 554(a) for attempting to smuggle almost 16,000 rounds of ammunition from the United States to Mexico. The 1760(e) order can be found [here](#).

On February 14, Jorge Martin Dorame, Jr. was denied export privileges until January 26, 2026 (5 years from his conviction). Dorame was convicted of violating 18 U.S.C. § 554(a) for smuggling various weapons and weapons components from the United States to Mexico. The 1760(e) order can be found [here](#).

On February 14, Rafael Palomares, Jr. was denied export privileges until May 13, 2031 (10 years from his conviction). Palomares was convicted of violating Section 38 of the AECA for agreeing to conspire with others to export various firearms from the United States to Mexico without the required license. The 1760(e) order can be found [here](#).

On February 14, Shuren Qin was denied export privileges until September 8, 2031 (10 years from his conviction). Qin was convicted of violating the IEEPA for conspiring to illegally export items from the United States to an entity on Commerce's Entity List, Northwestern Polytechnic University. Qin was also convicted of making false representations to law enforcement agents and illegally exporting hydrophones to China. The 1760(e) order can be found [here](#).

On February 8, Luc Emond was denied export privileges until February 19, 2025 (5 years from his conviction). Emond was convicted of violating 18 U.S.C. § 554(a) for attempting to smuggle two pistol kits from the United States to Canada. The 1760(e) order can be found [here](#).

On February 8, Arash Yousefi Jam was denied export privileges until October 14, 2028 (7 years from his conviction). Jam was convicted of violating 18 U.S.C. § 371 for conspiring to export goods from the United States to Iran without the required license. The 1760(e) order can be found [here](#).

Enforcement Policy Updates

OFAC Announces New Price Cap on Russian-Origin Petroleum Products

Price Capped. On February 3, Treasury Secretary Janet Yellen [published](#) a determination implementing a price cap on seaborne Russian refined oil products. On February 5, a second [determination](#) implemented two distinct price caps: 1) \$45 a barrel for Discount to Crude Petroleum products of Russian Federation origin and 2) \$100 a barrel for Premium to Crude petroleum products of Russian Federation origin. Companies purchasing seaborne refined oil products from Russia must pay at or below the price cap, or they will otherwise be barred from access to key services, including trading/commodities brokering, financing, shipping, insurance, flagging, and customs brokering. We wrote about the November 21 price cap in a December [blog post](#).

Notably. The price cap shows an enduring commitment by the United States and many allies to tighten the economic screws on Russia. The continued resolve shown by many Western nations portends new economic and trade restrictions and increasingly vigorous enforcement.

U.S. Expands Export Controls and Sanctions Marking the Anniversary of the War in Ukraine

More Restrictions Related to Russia. On February 24, OFAC and BIS expanded sanctions and export controls imposed on facilitators of the Russian war effort in Ukraine. Most notably, BIS expanded the scope of the Russian and Belarusian Industry Sector Sanctions to prohibit 322 new EAR99 items from being exported to Russia or Belarus without a BIS license and added 89 entities to the EL for their efforts to procure items for Russia's defense industry. OFAC also designated over 100 individuals and entities to the SDN list, including several Russian banks, technology companies, and sanctions evaders. In conjunction with the BIS and OFAC actions, the White House announced the president had signed a proclamation significantly increasing tariffs on Russian metal, minerals, and chemical imports.

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

Notably. Many of the items now subject to licensing requirements are identified based on Harmonized Tariff Schedule (HTS) code. Export compliance programs need to recognize that HTS codes - and Schedule B numbers - are as important to track as ECCNs. It is also important to track ISO codes to ensure exports are not inadvertently sent to the wrong or a prohibited destination.

U.S. Departments of Justice and Commerce Announce Creation of Disruptive Technology Strike Force

Enforcement is Key. On February 16, the Departments of Justice and Commerce launched the Disruptive Technology Strike Force, which aims to keep sensitive technologies out of the hands of "nation-state adversaries." The Strike Force will bring together experts from across the Departments of Justice, Commerce, Homeland Security, and U.S. Attorneys' Offices to focus on enforcing export controls, prosecuting violators, enhancing private sector partnerships, "leveraging international partnerships," and "strengthening connectivity between the strike force and the Intelligence Community."

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

Notably. The multi-agency coalition will likely result in heightened enforcement action and more prosecutions. Companies should consider conducting a targeted risk assessment of export activity, especially export business in riskier countries and regions, and bolster compliance policies and programs to address identified risks. A carefully-devised compliance program is essential to protect against export violations, particularly in an environment in which U.S. enforcement resources are being increased.

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.” (*Chambers USA 2022*).

Learn more [here](#).



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