

The Export PractitionerTM

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Timely News and Analysis of Export Regulations

INSIDE

**Busy Spring
at Commerce
and Treasury
Departments**

ALSO INSIDE

New ITAR Rule -
Consolidation and
Restructuring

DoD Tungsten
Contractor Indicted,
again

ZTE Goes Free, Visa
Fraud Charges Dodged

Oligarch Gets a Break,
except his Yacht and Jet

Dirty Coal Dealings in
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Ex-Fox Executive
Indicted for Sanction
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AT A GLANCE

4 | FEATURE

Export regulators spent the month building working plans for a changed future, as sanctions dominated the conversation and conditions on the ground continued to change. Commerce finally got a head for the Bureau of Industry and Security, as enforcement continued to dominate the focus.

DEPARTMENTS

8 | FOCUS ON ENFORCEMENT

- Tungsten CEO Indicted for ITAR Violations
- ZTE Off the Hook
- J-1 Visa Fraud Conviction
- Corruption Allegations Dog Microsoft
- Oderbrecht Stain Still Spreading
- Ericsson's CEO under fire, DPA in jeopardy
- Coal Executive Charged with Egyptian Bribery, Money Laundering, Wire Fraud

11 | EXPORT CONTROLS

- New ITAR Consolidation and Restructuring Rule
- Cybersecurity Items in the Automated Export System (AES)

13 | TRADE SANCTIONS

- Sanctions Continue to Mount
- Recent licenses issued by OFAC
- Oligarch Loses Yacht & Jet, Life is Good
- TV Producer Charged with Violating Crimea-Related Sanctions

15 | POLICY BRIEFS

- Russia, Belarus PNTR Status Hangs Fire
- Thune-Klobuchar Ocean Shipping Reform Act Steams Ahead
- Export-Import Bank Update

END NOTES: Three Seas Initiative, Trade Barriers Report, Lithuania Added to DFARS, Congo, Burma, Sudan, Nigeria

NON PROLIFERATION: North Korea, Syria, Iran

Regulators Staff Up, More Enforcement, Data Integration

As Spring returned to Washington, regulators spent the month building working plans for a changed future. Sanctions dominated the conversation and conditions on the ground continued to change. Commerce finally got a head for the Bureau of Industry and Security, and enforcement continued to be on everybody's mind.

Estevez Confirmed as BIS Chief

It's been five years since Commerce has had a Senate-confirmed Under Secretary of Commerce for Industry and Security. March 31 Alan F. Estevez was confirmed to the post. Nominated last July, Estevez served as Principal Deputy Undersecretary of Defense for Acquisition, Technology and Logistics in the Obama Administration. He brings over 30 years Pentagon experience, including overseeing the Defense Advanced Research Projects Agency and DoD's laboratory infrastructure. Estevez also represented the DoD on the Committee for Foreign Investment in the United States.

His nomination had been delayed by Sen. Robert Menendez (D-NJ) in opposition to the transfer of firearms export regulation from State (ITAR) to Commerce (EAR), which took place under the Trump Administration.

Axelrod Calls for Law and Order

In the March 13 BIS Regulations and Procedures Technical Advisory Committee meeting March 13, Assistant Secretary for Export Enforcement Matthew Axelrod outlined his

team's agenda, emphasizing that greater consequences encourage greater compliance.

The customary Neither-Admit-Nor-Deny resolution will be discouraged where an Admit-with-Statement-of-Facts can be reached. Reflecting on the modest fines collected in some BIS actions, Axelrod says the Enforcement Team is looking to ensure that *"penalty amounts are calibrated to the national security harm."*

Axelrod also discussed reforming the voluntary self-disclosure process, noting that of the 400 received last year, only three prompted an administrative resolution, with no criminal investigations. A structure for prompt letters of response will

conserve resources for more aggressive action where justified, he said, adding that a joint office, coordinating BIS and Justice activities is in the works.

Aligning US rulemaking with more than 30 countries imposing over 7,000 sanctions on persons and entities

associated with the Putin regime has been what Axelrod calls "a substantial undertaking."

This expedited rulemaking produced five new rules in two weeks. Hillary Hess, Director, Regulatory Policy, Bureau of Industry and Security discussed challenges of this process. With the great majority of sanctions directed at individuals, not states or entities, some commercial screening services are struggling to keep up. Hess noted that since rules are "effective upon public display," some compliance systems keyed to publication date in the Federal Register may prove insufficiently robust.

Both Axelrod and Thea Rozman Kendler, Assistant Secretary of Commerce of Export Administration, are former federal prosecutors; this agenda reflects a renewed emphasis on the criminal nature of export violations.

Axelrod says the Enforcement Team is looking to ensure that *"penalty amounts are calibrated to the national security harm."*

Rozman Kendler Lauds US-EU Trade Cooperation

Assistant Secretary Rozman Kendler discussed the effectiveness of allied export controls at the ACI's 12th Annual Advanced Forum on Global Encryption, Cloud, and Cyber Export Controls in San Francisco March 30.

Rozman Kendler applauded The U.S.-EU Trade and Technology Council (TTC), launched last fall to coordinate approaches to key global technology, economic, and trade issues, saying it has provided an opportunity to jointly enhance export controls, as well as establishing a common set of export controls goals and an Export Controls working group with industry participation.

“Unlike financial sanctions, our export controls measures were never expected to have immediate effects,” said the Assistant Secretary, “The Ukrainian government reports that Russia’s two major tank plants have halted work due to lack of foreign components. Baikal Electronics, a Russian fabless semiconductor company and computer manufacturer, is cut off from the integrated circuits needed to support its domestic communications equipment TSMC’s exit from the Russia market has cut access to Elbrus chips, which are widely used in Russian intelligence and military systems. Even Russian car maker Lada has shut down production as U.S. and partner countries’ export controls have deprived the company of necessary parts and supplies.

“In terms of export controls, we are closer to our allies than we have been in decades. For other partners who may still be sorting out their plans, we are talking about adoption. If that isn’t likely for their system, we’re helping them and their industries understand how our foreign direct product rules will work in their countries. In fact, we have jump-started the work of the TTC. I am looking forward to the next TTC meetings in mid-May in France.”

“Even Russian car maker Lada has shut down production as U.S. and partner countries’ export controls have deprived the company of necessary parts and supplies.”

Commerce’s 2022-2026 Strategic Plan

In a report released March 28, Commerce outlined a more aggressive stance to enforce Trade actions, with the International Trade Administration (ITA) focusing on three areas:

- **Export Controls / Investment Restrictions.** Commerce will continue to expand plurilateral and bilateral cooperation with allies specific to export control policy and information sharing. BIS will also detect and aggressively investigate potential violations by monitoring exports, conducting end-use verifications, reviewing tips and disclosures, and leveraging interagency data fusion and analysis efforts.
- **Antidumping / countervailing duties (AD/CVD) remedies** ITA will “vigorously” defend the results of U.S. AD/CVD determinations before domestic courts and international tribunals.
- **Identify and protect emerging technologies.** ITA research on industry trends, and their Global Markets directorate will collaborate with Census’s Center for Economic Studies to integrate their respective databases and Census statistical data.

ITA, BIS Aim to Hire, Spend More

In the President’s FY22 Budget Proposal, Commerce asks for the International Trade Administration (ITA) to receive a 16 percent increase in funding, with an additional \$25 million dedicated to enforcement and compliance.

ITA asks for an additional 330 staff, while the Bureau of Industrial Security (BIS) requests 200 more staff and a 20 percent increase. The Export Enforcement line is held to \$82 million, five percent over FY20 levels, though a separate press release from the Commerce cites a \$30 million increase for BIS export control enforcement.

The Department’s budget includes an \$8 million increase

to “strengthen U.S. leadership in inter-national standards development.”

Borman on Sanction Enforcement, Impact

In a call with reporters March 29 Deputy Assistant Secretary for Export Administration Matthew Borman discussed compliance so far with the past month’s torrent of sanctions.

“As far as U.S. companies or, frankly, any companies in China or elsewhere, the requirements are that they make sure that they understand whether items they seek to export to Russia from China directly, or even indirectly, are subject to our jurisdiction. If they have more than a de minimis amount of U.S. content in their items and it’s going to Russia, or if a foreign-made product – even without that U.S. content – is based on U.S. software or technology or produced on a line that uses a U.S. tool or piece of equipment, then that product going to Russia may be subject to these restrictions.

Sanctions for Chinese companies found in violation

“Right now, even with the foreign direct product rule or entity list listings, there is the possibility that items could get approved through a U.S. Government authorization, but that if there was a violation, then that would all change and would really be a complete prohibition on not only trade, but related activities like financing and servicing, at least by U.S. persons or even, frankly, foreign persons, through a denial order. For example, the denial order that was imposed on ZTE and then suspended as part of their settlement agreement (see Enforcement), which is the most severe sanction we can apply in the export control area.

Measuring the success of sanctions

“Russian manufacturing facilities – including those that

are involved in manufacturing military vehicles – have had to shut down production because they are not able to get the components, particularly semiconductors, that they need for their products. We have seen a significant impact on the Russian civil aerospace industry.

Compliance from foreign chipmakers

“The restrictions have been in place for roughly a month, a little bit over a month, and we certainly haven’t seen any indication that there’s non-compliance. In fact, we’ve seen the reverse. [...] I think there’s also a fair amount of additional self-sanctioning, if you will, by multinational companies operating in Russia.

“The major, major players know that there’s a significant risk to their business if they don’t comply because of the various actions, we can take ranging from restricting U.S. and, frankly, allied exports to them or inputs to them, all the way through to potential fines and even criminal penalties.

“So far, I think we’ve seen very substantial demonstrations of compliance – again, either allied government imposing their similar controls, which means we don’t have to be as concerned about exports from those countries; and then for the countries that haven’t, continuing to see a lot of companies doing their own self-sanctioning, if you will.

“The countries that we’re reaching out to are the ones you might imagine, particularly those in the region that have substantial production, testing, packaging in the electronics area, countries that have aircraft maintenance repair operation facilities.

Smartphones and the license requirement

“If they’re smartphones manufactured outside of the United States, and if that smartphone or the chips in them are designed using U.S. software or technology, or are manufactured on a fabrication line using a U.S. tool, that chip itself is now caught caught by the foreign direct product rule.

“Two general authorizations allow them to go to Russia. First If it’s a consumer communication device, those, even if caught by the restrictions or covered by the restrictions, *can go to individuals and independent NGOs in Russia under this general authorization; they cannot go to government officials or end users.*

“Similarly, if the product, like a server or a router, is caught because of its level of encryption, there’s a license exception called encryption that allows that to go essentially to *U.S. and Western subs and individuals* in Russia under a general authorization.

Further escalation possible

“First, in terms of exports, categories of items that are currently only subject to restrictions if they’re going to named military end users in Russia. Those could be expanded to all end users in Russia.

There certainly is more that could be done on the imports side – in other words, restricting more categories of imports from Russia – and there’s certainly more that could be done in the financial sector as well. We’re also looking at different parties in Russia’s defense industrial base to add to our restricted list, which covers all items subject to our jurisdiction, not just the categories specified in the current restrictions.”

Treasury Prepares for More Enforcement

On March 16 Treasury Secretary Janet Yellen and Attorney General Merrick Garland joined representatives from Australia, Canada, Germany, France, Italy, Japan, the United Kingdom, and the European Commission, to launch the **Russian Elites, Proxies, and Oligarchs (REPO)** multilateral task force to share information to take concrete actions, including sanctions, asset freezing, and civil and criminal asset seizure, and criminal prosecution.

“Our sanctions, trade restrictions, and other measures

have already imposed significant costs on Russia, its leadership, and those who enabled Putin’s unprovoked invasion into Ukraine,” said Secretary Yellen. “This multilateral task

force will raise those costs even more, by galvanizing coordinated efforts to freeze and seize assets of these individuals in jurisdictions around the world and deny safe haven for their ill-gotten gains.”

The Department of Justice’s **Task Force KleptoCap-**

ture will support this international effort, said AG Garland. KleptoCapture coordinates US efforts to identify sanctions evasion and related criminal conduct.

Treasury also launched the **Kleptocracy Asset Recovery Rewards Program**, offering payments for information leading to seizure, restraint, or forfeiture of assets linked to foreign government corruption. The Department of the Treasury’s Office of Terrorism and Financial Intelligence administers the program in coordination with the Departments of Justice, State and U.S. federal law enforcement agencies.

Treasury Budgets for TFI, Funds Klepto Rewards.

Treasury’s Office of Terrorism and Financial Intelligence (TFI), which includes Financial Crimes Enforcement Network (FinCEN) and the Office of Foreign Assets Control (OFAC) requests a 21 percent increase in funding, to \$212 million, up \$37 million from the level of the FY 2021 Operating Plan.

The request promotes targeted investments in classified systems technology, sanctions efforts, Department-wide counterintelligence efforts, and the legislatively mandated **Kleptocracy Asset Recovery Rewards Pilot Program**. OFAC requests 13 additional full-time employees to manage increased enforcement, while the **Kleptocracy Rewards Program** plans no staffing and budgets \$1.65 million for rewards in the coming year. Substantive whistleblower incentives have yet to be announced.

The Kleptocracy Rewards Program plans no staffing and budgets \$1.65 million for rewards in the coming year.

Tungsten CEO Indicted for ITAR Violations

The former owner and CEO of Tungsten Heavy Powder & Parts (THP) was charged March 4 with violations of federal export laws pursuant to the International Traffic in Arms Regulations (ITAR).

Despite being educated and trained regarding the requirements of ITAR, CEO Joe Sery and his brother Dror Sery – a foreign national and dual citizen of Israel and South Africa – exported from the United States to the People’s Republic of China, the Republic of India and elsewhere overseas, defense articles covered by the United States Munitions List without first

THPP’s DoD projects included the construction of an Advanced Rapid Response Weapon, a 155-millimeter Bi-Modal Warhead, a R9E Warhead, and an 81-millimeter Cowling Cone.

obtaining permission from the United States Department of State’s Directorate of Defense Trade Controls.

The indictment further alleges that the brothers created a non-THP email address to surreptitiously receive ITAR-controlled documents. Shortly after creating the outside email address Joe Sery provided Dror Sery with administrative level access of THP’s “ShareFile system,” which contained ITAR-controlled data. Subsequently, on several occasions, the brothers exported technical drawings from the United States via email messages to each other, including while Dror was in India and the People’s Republic of China. An arrest warrant has been issued for fugitive Dror Sery. He is believed to be residing in Israel.

THPP is a San Diego-based company that provides tungsten fragments, sub-assemblies, and other weapon grade components for United States military contracts. Some of THPP’s projects included the construction of an Advanced Rapid Response Weapon, a 155-millimeter Bi-Modal Warhead, a R9E Warhead, and an 81-millimeter Cowling Cone.

In April 2021 THP paid a \$5.6 million fine to settle false claims act violations relating to US-funded contracts for the Government of Israel. THP falsely

certified that tungsten sourced in China had been sourced, instead, in the United States. THP also falsely certified that manufacturing occurred in the United States, when in fact THP contracted with a Mexican maquiladora.

ZTE Off the Hook

A U.S. judge ended the Chinese telecommunication firm ZTE’s five-year probation for violations of U.S. sanctions on Iran. In addition to supervision, the 2017 settlement called for nearly \$900 million in penalties, with an additional \$300 million due Commerce’s Bureau of Industry and Security (BIS) should BIS find the company violates the settlement agreement. The BIS determination remains pending.

The decision was put in jeopardy by allegations of a conspiracy to commit visa fraud. According to FBI testimony, a former ZTE research director and a Georgia Institute of Technology professor allegedly conspired to bring Chinese nationals to the U.S. to conduct research at ZTE from at least 2014 through 2018 while on J-1 visas sponsored by the university. Defense countered that compliance was the responsibility of Georgia Tech, not ZTE.

March 28 Senator Marco Rubio (R-FL) sent a letter calling for Commerce Secretary Raimondo and Attorney General Garland to “take all appropriate measures against ZTE to ensure it cannot pose a threat to Americans, including adding the company to the Bureau of Industry and Security’s Entity List or pursuing potential criminal or civil penalties.”

J-1 Visa Fraud Conviction

In a case similar to that which nearly derailed ZTE’s end of probation, Justice March 23 obtained a conviction of a Chinese Government Employee of Participating in Conspiracy to Defraud the United States and Fraudulently Obtain U.S. Visas.

Zhonsan Liu, 59, of Fort Lee, participated in a scheme to fraudulently procure J-1 research scholar visas for employees of the government of the of the People’s Republic of China (PRC) to enable them to

unlawfully work for the PRC government in the United States and to conceal that unlawful work from the United States and its agencies.

Liu operated an office of the China Association for the International Exchange of Personnel (CAIEP), an agency of the PRC government, in Fort Lee, New Jersey. Among other activities, CAIEP engages in talent-recruitment for the benefit of the PRC, including recruiting U.S. scientists, academics, engineers and other experts to work in China.

From 2017 up to and including September 2019, Liu worked with others to fraudulently procure J-1 research scholar visas for PRC government employees to enable those employees to unlawfully work for CAIEP in the United States and to conceal that unlawful work from the Department of State and the Department of Homeland Security.

Corruption Allegations Dog Microsoft

Microsoft is the subject of new allegations that much of a \$200 million per year “Business Investment Fund” is channeled to Microsoft employees and senior government officials in Ghana, Nigeria, Zimbabwe, Qatar, and Saudi Arabia in violation of the Foreign Corrupt Practices Act (FCPA).

The allegations were published March 25 by Yasser Elbad, 20-year veteran of Microsoft and former Director of Public Sector and Emerging Markets for the Middle East and Africa. In 2019 the Microsoft paid a penalty of \$25.3 million for allowing bribery and kickbacks in Hungary, Saudi Arabia, Thailand, and Turkey.

Oderbrecht Stain Still Spreading

Former Comptroller General of Ecuador Carlos Ramon Polit Faggioni is alleged to have solicited and received over \$10 million in bribes from the Brazilian construction firm Odebrecht S.A, according to a March 24 indictment on conspiracy to commit money laundering and other charges. In 2016 Odebrecht and

its petrochemical affiliate, Braskem S.A., reached a \$3.5 billion combined global settlement with U.S., Brazilian, and Swiss authorities to resolve allegations involving nearly \$800 million of bribes in Latin America. Both companies plead guilty in the U.S. to conspiracy to violate the FCPA.

Ericsson’s CEO Under Fire, Deferred Prosecution in Jeopardy.

Following the March 2 disclosure that Justice intended to find it in violation of its 2019 Deferred Prosecution Agreement (DPA), shareholders voted March 29 to hold CEO Börje Ekholm and the Board

The DPA was called into question after news of the firm’s extensive dealings with Islamic State in Iraq between 2011 and 2019.

personally liable for the scandal.

The DPA was called into question after the International Consortium of Investigative Journalists (ICIJ) published “The Ericsson List,” documenting the firm’s extensive dealings with the terrorist group Islamic State in Iraq between 2011 and 2019. In 2013 Ericsson disclosed that it was cooperating with U.S. authorities investigating bribery allegations elsewhere, resulting in a \$1 billion bribery settlement in 2019. That settlement contains no mention of Iraq.

Coal Executive Charged with Egyptian Bribery, Money Laundering, Wire Fraud

A former coal company executive was arrested March 30 on charges of violating the Foreign Corrupt Practices Act (FCPA), laundering funds, and receiving kickbacks as part of an alleged scheme to pay bribes to government officials in Egypt in connection with contracts with an Egyptian state-owned and state-controlled company.

Charles Hunter Hobson, 46, of Knoxville, Tennessee, allegedly engaged in the scheme between late 2016 and early 2020. Hobson was the Vice President of Corsa Coal (Company 1 in the indictment) a Western Pennsylvania producer of metallurgical coal, controlled at the time by Quintana Capital of Houston.

Hobson, allegedly paid bribes to officials in Egypt to obtain approximately \$143 million in coal contracts for Corsa. The indictment alleges Hobson and others caused Corsa and its affiliates to: (1) pay commissions to the sales intermediary, who passed

on bribes to Al Nasr officials in exchange for the coal contracts, and (2) transfer the corrupt commission payments from a bank account in the United States to a bank account in the United Arab Emirates. The indictment also alleges that Hobson conspired to secretly receive a portion of the commissions paid to the sales intermediary as kickbacks.

In December 2021 Quintana Capital liquidated its Corsa position by distributing its holdings of approximately 45% of the outstanding common shares of the Company to their limited partners.

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New ITAR Consolidation and Restructuring Rule

The State Department published March 22 an interim final rule that restructures part 120 of the International Traffic in Arms Regulation (ITAR) to better organize definitions previously found in that part and in other ITAR locations and to consolidate provisions that provide background information or otherwise apply throughout the regulations. The rule will be open for public comments for 45 days.

The changes add text not previously found in the ITAR and clarifying revisions to existing text. State said they are the first in a series of rulemakings that will further streamline and clarify the subchapter. Among the changes, the rule will:

- Prohibit the use of ITAR exemptions for items subject to the EAR that are unaccompanied by a defense article. DDTC believes this change minimizes possible confusion regarding requirements for Commerce approval and the use of ITAR exemptions.
- Revise § 120.12 Commodity Jurisdiction Determination Requests in its entirety to a new purpose describing the process for obtaining a CJ determination.
- Persons with questions regarding the U.S. Munitions Import List (USMIL) should first address those questions to the Bureau of Alcohol, Tobacco, Firearms and Explosives.
- Distinguish between authorizations requiring a request for approval to be obtained from DDTC (i.e., the existing authorization sections), and the use of an exemption, for which no request is required to be submitted to DDTC.
- Add in § 120.17 a description of the Blue Lantern End-Use Monitoring program. This description did not previously appear in the ITAR. The Blue Lantern program monitors the end-use of defense articles, technical data, defense services, and brokering activities exported through commercial channels

and subject to [DOS] licenses or other approvals.

- Add in § 120.18(a)(9) the statement that an unfavorable finding of an end-use monitoring check may be the basis for disapproving, revoking, suspending, or amending any existing license or license application.
- Add in § 120.19 a general statement in paragraph (a) of the authority to impose penalties for violations of the ITAR and a reference to part 127 (conduct that constitutes a violation), and in paragraph (b) a statement derived from existing § 127.12(a) of the Department's encouragement of the voluntary disclosure of violations when discovered.
- Add in § 120.23(c) reference to the Wassenaar Arrangement on Export Controls not formerly found in the subchapter
- Add in § 120.43(a) and (b) single instance definitions of development and production formerly found in § 120.41 specifically, modification of an existing design creates a distinct design, regardless of the modification.

Cybersecurity Items in the Automated Export System (AES)

The Bureau of Industry and Security (BIS) last October published an interim final rule that took effect March 7 establishing “a new control on cybersecurity items and a new License Exception: ‘Authorized Cybersecurity Exports’ (ACE) that authorizes exports of these items to most destinations except in the circumstances described in the rule.”

AES filers should be aware of the following changes in order to successfully report Electronic Export Information: Addition of two Export Control Classification Numbers (ECCNs): 4A005 and 4D004, and creation of a new AES license code C64 — Authorized Cybersecurity Exports (ACE), that authorizes exports, reexports and transfers (in-country) of cybersecurity items and certain IP network surveillance products, not also controlled in Category 5 — Part 2

of the Commerce Control List (CCL) or for Surreptitious Listening (SL) reasons.

License Exception ACE allows the export, re-export and transfer (in-country) of “cybersecurity items” to most destinations, except those listed in Country Groups E:1 and E:2 of supplement No. 1 to part 740 of the Export Administration Regulations (EAR).

These changes could impact the way you file shipments if you’re exporting items that fall under this BIS requirement. Accurate EEI reporting is critical for export compliance, especially if exporting a shipment subject to a license requirement (under a license or license exception).

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Sanctions Continue to Mount

While the U.S. and its allies pull out almost all the stops in isolating Russia from the world financial and technological markets, U.S. companies and the attorneys advising them would be pardoned if they couldn't keep up with the ever-changing export controls and sanctions.

The list of actions taken by the U.S., the European Union (EU) and other trading partners against Russia since its invasion of Ukraine is long and unwieldy, including sanctions on Russian banks, members of its leadership and elite circles, novel export controls and many other restrictions on trade and investment.

A month packed with actions in response to the Russian invasion of Ukraine, began with the European Union (EU) agreeing to exclude key Russian banks from the SWIFT system, the world's dominant financial messaging system.

Sanctions followed targeting Russian and Kremlin elites, oligarchs, and Russia's political and national security leaders, 328 members of the Russian State Duma, banking, technology, and defense organizations.

Finally, March 31 Treasury announced Sanction on the aerospace, marine, and electronics sectors of the Russian economy. OFAC included a description of the procurement network used by Moscow to evade export controls, listing companies in Russia, Singapore, Malta, Spain, and the U.K. OFAC also designated the Russian government "malicious cyber actors."

Recent licenses issued by OFAC:

- **GL 24** authorizing maritime transactions with Ukrainians in the rebel regions of Donetsk (DNR) and Luhansk (LNR).
- **GL 25** allowing US journalists and media organizations to conduct transactions in Crimea, the DNR and LNR.
- **GL 6A** permitting certain exports/re-exports of agricultural commodities, medicine, medical devices, replacement parts and compo-

nents, or software updates related to the COVID-19 pandemic or clinical trials.

- **GL 17A** permits transactions related to imports prohibited by Executive Order 14068, in-transit orders.
- **GL 20** third-country diplomatic and consular funds transfers.

Oligarch Loses Yacht & Jet, Otherwise Gets a Pass

On March 3 OFAC issued a press release touting the actions against the yacht and private aircraft of Russian Alisher Usmanov, stating "any transactions *related to the yacht or aircraft*, including things such as maintenance, the hiring of operating personnel, or payment of docking or landing fees, conducted with U.S. persons or in U.S. dollars, are prohibited." Color photos of the plane and boat were included.

Concurrent with this designation, OFAC issued General License (GL) 15, *authorizing all transactions and unblocking all property* of any entity owned 50

"Putin's favorite Oligarch" received a pass on meaningful sanctions on his business interests

percent or more, directly or indirectly, by Usmanov, that does not appear on OFAC's SDN List.

Usmanov's yacht was named after his mother and that his plane, named after his father, was previously used by Uzbekistan's president, details that warmed readers' hearts. That the man known as "Putin's favorite Oligarch" received a pass on meaningful sanctions on his business interests is a testament to the influence that \$20 billion of net worth can have on regulators.

TV Producer Charged with Violating Crimea-Related Sanctions

A federal court unsealed the first-ever criminal indictment for a violation of U.S. sanctions arising

from the 2014 Russian annexation of the Crimea region of Ukraine. According to court documents, John Hanick, 71, is charged with violations of U.S. sanctions and false statements in connection with his years-long work for the sanctioned Russian oligarch Konstantin Malofeyev, a Specially Designated National (SDN) who provided significant financing for Russians promoting separatism in Crimea and the Donetsk separatist region.

Sanctions prohibit U.S. citizens from working for or doing business with SDNs but as alleged, Hanick violated those sanctions by working for Malofeyev on multiple television projects over the course of several years, including establishing, or attempting to estab-

Moscow, and his Russian work visa.

After OFAC designated Malofeyev an SDN in December 2014, Hanick continued to work for and report directly to Malofeyev. In January 2015, Hanick wrote an email to Malofeyev that a draft policy for the Russian TV Network was meant “to implement your vision and to provide you with information for you to make decisions ... You are the founder and chief architect of the project. We, as board members have the responsibility to direct the staff to implement your instructions.” Tsargrad TV went on the air in Russia in April 2015.

Hanick also worked for Malofeyev on a project to establish and run a Greek television network and on efforts to acquire a Bulgarian television network. In November 2015, Hanick wrote to Malofeyev that the Greek television network would be an “opportunity to detail Russia’s point of view on Greek TV.” In connection with Malofeyev’s efforts to acquire the Bulgarian television network, Hanick took steps to conceal Malofeyev’s role in the acquisition by arranging to travel to Bulgaria with a Greek associate of Malofeyev, so that it would appear the buyer was a Greek national rather than Malofeyev.

Hanick is charged with violating the International Emergency Economic Powers Act, which carries a maximum penalty of 20 years in prison and making false statements which carries a maximum penalty of five years in prison.

After OFAC designated Malofeyev an SDN in December 2014, Hanick continued to work for and report directly to Malofeyev.

lish, TV networks in Russia, Bulgaria and Greece. Before moving to Moscow in 2013 to head Tsargrad TV, Hanick spent 15 years as an executive with Fox News.

Hanick worked directly for and for the benefit of Malofeyev from 2013 through 2017. In 2013, Hanick moved to Russia, negotiating the terms of his employment directly with Malofeyev, including the salary he would receive, payment for his housing in

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Russia, Belarus PNTR Status Hangs Fire.

In a 424-8 vote March 17th the House of Representatives voted to eliminate Permanent Normal Trade Relations with Russia, leading to higher tariffs and other restrictions. The measure expands the Global Magnitsky Human Rights Accountability Act, passage of which was an original condition of PNTR extension to Russia. Senate Approval has been delayed by Sen. Rand Paul (R-KY), though ultimate passage is considered likely.

Sen. Ron Wyden (D-Ore.) introduced the legislation in the Senate. Wyden outlined several areas Congress needs to address and should support in addition to PNTR status. These include adding resources to the IRS Criminal Investigations Unit, closing the loophole that exempts private equity and hedge funds from implementing basic anti-money laundering requirements, ensuring Treasury has sufficient funding for FinCen, and requiring financial institutions to rigorously monitor and eliminate correspondent banking services for Russian oligarchs and sanctioned entities.

The day after Wyden introduced his bill, Canada announced that it would revoke most favored nation (MFN) status to Russia and Belarus. Imports from those countries will face duties up to 35% once implemented.

Thune-Klobuchar Ocean Shipping Reform Act Steams Ahead

The Senate unanimously approved the Ocean Shipping Reform Act April 1. The Act's intent is to support U.S. exporters, strengthen the investigatory authority of the Federal Maritime Commission (FMC) and to improve transparency of industry practices.

"My bill would level the playing field for American farmers, exporters, and consumers by making it harder for ocean carriers to unreasonably refuse goods that are ready to export at U.S. ports," said bill co-sponsor Sen. John Thune (R-S.D.) in a statement.

"This legislation would also give the FMC greater rulemaking authority to regulate harmful practices by carriers."

U.S. exporters, have seen the price of shipping containers increase four-fold in just two years

A statement from its other co-sponsor, Sen. Amy Klobuchar (D-Minn.) said: "Congestion at ports and increased shipping costs pose unique challenges for U.S. exporters, who have seen the price of shipping containers increase four-fold in just two years, raising costs for consumers and hurting our businesses. Meanwhile, ocean carriers that are mostly foreign-owned have reported record profits." She added: "This legislation will help level the playing field for American exporters so they can get their goods to market in a timely manner for a fair price."

The Ocean Shipping Reform Act would:

- Prohibit ocean carriers from unreasonably declining opportunities for U.S. exports, as determined by the FMC in a new required rulemaking;
- Require ocean common carriers to report to the FMC each calendar quarter on total import/export tonnage and twenty-foot equivalent units (loaded/empty) per vessel that makes port in the United States;
- Authorize the FMC to self-initiate investigations of ocean common carrier's business practices and apply enforcement measures; and
- Establish new authority for the FMC to register shipping exchanges to improve the negotiation of service contracts.

American Farm Bureau Federation President Zippy Duvall applauded the move. "AFBF appreciates the unanimous vote in the Senate to pass the Ocean Shipping Reform Act. Farmers have lost out on up to \$4 billion in agricultural exports because of lack

of access to export containers, record shipping costs and harmful surcharges.”

Export-Import Bank Update

Bank Board Goes to Work

The Export-Import Bank of the United States (EXIM) Board of Directors met March 31, its first under President and Chair Reta Jo Lewis. In addition to approving four transactions, the Board also voted to move EXIM “off-cover” in Russia, formalizing the freeze on transactions in effect since the 2014 invasion of Crimea. The Bank “*does not see reasonable assurance of repayment*” of its \$410 million in exposure to Russian aviation sector loan guarantees.

CTEP was created is to “directly neutralize” export subsidies ... from the PRC or another covered country.

Ex-Im transactions approved include:

- \$48 million loan guarantee to support the sale of 12 U.S.-made **Wabtec** diesel electric locomotives to **Sri Lanka Railways**.
- A preliminary commitment for a nearly \$33 million energy efficiency technology authorization that will rehabilitate the electricity metering capabilities of **Albania’s national electricity utility**. The US exporter was not identified. *Because the services in this project will reduce energy loss or consumption, it has qualified as an Energy Efficiency Transformational Export Area through CTEP.*
- Renewal of a \$450 million guarantee authorization to **Citibank, N.A.** under EXIM’s Supply Chain Finance Guarantee Program. The Citibank facility allows suppliers of **The Boeing Company** to receive accelerated payments on accounts receivable due from the manufacturer.

The Board also approved a resolution delegating to certain officers of EXIM Bank the authority to approve, deny, and amend requests for insurance coverage on letters of credit issued by the **Trade Bank of Iraq** up to \$300 million for the purchase of U.S. goods and servicesEx-Im FY 2021 Report

Ex-Im released the Bank’s FY2021 Annual Report March 30, showing that the Bank authorized nearly \$5.8 billion in loan guarantees, up from \$5.4 billion in 2020.

The China and Transformational Exports Program (CTEP) financed more than \$140 million in authorizations in its first fiscal year of full operations. CTEP was created is to “directly neutralize” export subsidies for competing goods and services financed by official export credit, tied aid, or blended financing from the PRC or another covered country. The law charges EXIM with a goal of reserving not less than 20 percent of the agency’s total financing authority (i.e., \$27 billion out of a total of \$135 billion) for support made pursuant to the program.

Other highlights include:

- Long-term loan guarantee authorizations increased by nearly 75 percent and total guarantee authorizations increased by roughly 15 percent.
- Direct loan authorizations increased from \$10 million in 2020 to \$70 million in 2021.
- More than \$42 million in support for sub-Saharan Africa through President Biden’s Build Back Better World initiative.
- \$361 million in support of minority- or women-owned businesses up nearly 10 percent from 2020.
- Nearly 33 percent of total direct export value supported in FY 2021 was for small businesses.
- The agency’s pandemic relief offered exporters an estimated \$1 billion in financing

END NOTES

EU Parliament calls to include Ukraine in Three Seas Initiative. The March 25 statement by the Foreign Affairs Committee makes the case for admitting Ukraine to the Three Seas Initiative (3SI). The Initiative describes itself as a "politically inspired, commercially driven platform for improving connections among twelve EU Member States located between the Baltic, Adriatic and Black Seas." Latvia will host 3SI summit in June.

USTR released its National Trade Estimate Report on Foreign Trade Barriers (NTE Report) March 31, a review of foreign barriers to U.S. exports of goods and services, U.S. foreign direct investment, and U.S. electronic commerce in key export markets for the United States. On a country-by-country basis, the NTE Report surveys Agriculture impediments, restrictive data policies, and Industrial policies, as well as technical barriers to trade.

LITHUANIA. DoD is issued a final rule March 19 amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Lithuania as a qualifying country. Lithuania is already a designated country under the World Trade Organization Government Procurement Agreement

CONGO. March 17th Treasury's Office of Foreign Assets Control (OFAC), sanctioned Belgian national Alain Goetz, the African Gold Refinery (AGR) in Uganda, and a network of companies involved in the illicit movement of gold from the Democratic Republic of the Congo (DRC).

A 2018 report from The Sentry identified 283 publicly-traded companies in the U.S. listing Goetz's Belgian refinery as an entity that may be in their supply chains, despite the fact that the refinery failed a major international conflict minerals audit in 2017. Those same SEC filings indicate that AGR may be in the supply chains of 103 publicly traded U.S. companies, including GE and Halliburton. Last month it was reported the Goetz family will soon control half the gold refining output of Brazil through their North

Star Refinery, an entity not included in the Treasury action.

BURMA The US, the United Kingdom and Canada have imposed coordinated new sanctions on Myanmar, focusing on senior military officials, including the newly-appointed chief of the air force and those linked to the arms trade in response to the military's brutal crackdown on opponents to its rule.

The US sanctions target three alleged Myanmar arms dealers as well as the companies linked to them, and two businesses controlled by sanctioned arms dealer Tay Zaw.

"Brutality and oppression have become trademarks of the Burmese military regime's rule," said Under Secretary of the Treasury for Terrorism and Financial Intelligence Brian E. Nelson. "Treasury is committed to holding accountable those who are responsible for the ongoing violence and repression.

SUDAN. Sudan's Central Reserve Police (CRP) was designated by OFAC pursuant to Global Magnitsky sanctions on 21 March. According to OFAC, the CRP has used excessive force against pro-democracy protestors in Khartoum.

NIGERIA. (OFAC) has named six Nigerians for raising funds in the UAE to support Boko Haram in Nigeria. The six individuals have been convicted by the UAE Federal Court of Appeals in Abu Dhabi of transferring \$782,000 from Dubai to Boko Haram.

NON PROLIFERATION

NORTH KOREA (DPRK). April 1 OFAC designated the **DPRK Ministry of Rocket Industry (MoRI)** pursuant to E.O. 13382 for being owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, the MID. MoRI has worked with overseas representatives from other DPRK organizations in order to support MoRI procurement goals.

Additionally, OFAC is designating four MoRI -related

trading firms for establishing joint ventures in North Korea, pursuing large scale projects with Chinese firms, exporting North Korean labor, including IT workers, establishing a restaurant in a foreign location, coordinating with DPRK embassy personnel on international trade efforts, and importing large equipment manufactured by a European company to North Korea.

On March 24 OFAC announced further sanctions on five entities and individuals in Russia and North Korea under the **Iran, North Korea , and Syria Non-proliferation Act (INKSNA)** the five were involved in transferring sensitive items to North Korea's missile program.

SYRIA. OFAC sanctioned the Chinese entity Zhengzhou Nanbei Instrument Equipment Co. Ltd f March 24 or supplying Syria with equipment controlled by the **Australia Group chemical and biological weapons nonproliferation regime.** "The ongoing imposi-

tion of INKSNA sanctions against PRC entities calls attention to the role of PRC entities in proliferation and shortcomings in the PRC's implementation of export controls and its nonproliferation track record," according to the Department's announcement

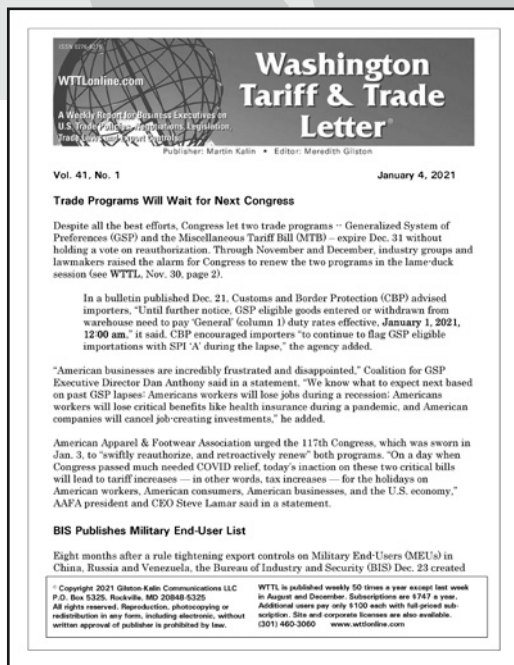
IRAN. On 30 March 2022, OFAC designated Iranian procurement agent Mohammad Ali Hosseini and related entities for their alleged involvement in Iran's ballistic missile program. P.B. Sadr Co., a procurement intermediary for Parchin Chemical Industries, was also listed. Charges included procured **processing machines for nitrile butadiene rubber (NBR)** from China using falsified shipping documents. Hosseini arranged for the purchase and shipment of NBR processing machines, as well as an **inert gas jet milling system** from Chinese suppliers. Jet mills, also known as fluid energy mills, are used in the production of solid missile propellant.

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