



Trade Matters

Lowenstein Sandler's Global Trade & National Security Newsletter

March 2024

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1. U.S. Agencies Expand Russia Sanctions

On February 24, the two-year anniversary of Russia's invasion of Ukraine, the Biden administration issued hundreds of new Russia-related export controls and sanctions. The Office of Foreign Assets Control (OFAC) and the Department of State sanctioned over 500 parties, targeting individuals and companies in Russia's financial sector, Russia's military industrial complex, and third-country exporters and transhippers of technology, equipment, and parts to Russia. Correspondingly, OFAC issued four new general licenses, which authorize various wind-down transactions through April 8. The Department of Commerce also added almost 100 parties to the Entity List and expanded the [list](#) of items significant to Russian weaponry that are at risk of being diverted illegally to Russia. Several agencies issued an advisory cautioning that doing business with Russia presents a legal, financial, and reputational risk.

2. Boeing Pays \$51 Million for Export Violation

On February 28, the Department of State Directorate of Defense Trade Controls (DDTC) ordered [Boeing Inc. to pay \\$51 million](#) in fines and remediation for violations of the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR). Boeing entered into a consent agreement requiring it to pay \$27 million to the State Department and spend \$24 million on improvements to its compliance program. The violations included hundreds of unauthorized exports of ITAR-controlled technical data to employees and contractors in 19 foreign countries, including Chinese employees at Boeing facilities in China. DDTC also found that employees fabricated export licenses that resulted in unauthorized exports of defense

Contact Us

for more information about any matters in this newsletter:

Doreen M. Edelman

Partner
Chair, Global Trade & National Security
202.753.3808
dedelman@lowenstein.com

Laura Fraedrich

Senior Counsel
202.753.3659
lfraedrich@lowenstein.com

Abbey E. Baker

Counsel
202.753.3806
abaker@lowenstein.com

Andrew Bisbas

Counsel
202.753.3807
abisbas@lowenstein.com

Christian C. Contardo

Counsel
202.753.3804
ccontardo@lowenstein.com

articles. Boeing disclosed other unauthorized exports of technical data and defense articles.

3. U.S. Manufacturer Pays Largest-Ever Penalty for False 'Made in USA' Claims

On January 26, the Federal Trade Commission (FTC) announced that farm equipment manufacturer Kubota North America Corp. (Kubota) will pay a \$2 million penalty for falsely labeling its replacement parts as "Made in USA." Kubota agreed to pay the amount after the FTC and Department of Justice sued the company. Kubota had been labeling spare parts for tractors and other farm equipment as "Made in USA" since at least 2021, when in reality the replacement parts in question were made entirely overseas. The FTC's regulations prohibit claims that an item is made in the United States unless final assembly or processing occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components are made and sourced in the United States. In recent years, the FTC has begun issuing larger penalties for violations of the Made in USA labeling rule.

4. Guilty Plea to Money Laundering, Sending \$7M of UAV and Missile Components to Russia

On February 12, a Russian-Canadian national, Kristina Puzyreva, **pleaded guilty** to a money laundering conspiracy related to her role in a scheme that sent millions of dollars' worth of technology used in unmanned aerial vehicles (UAVs), guided missile systems, and other weapons to Russia. Puzyreva and her co-conspirators purchased and dispatched \$7 million worth of U.S.-sourced electronics to support Russia's war against Ukraine in violation of U.S. export controls and sanctions laws. FBI Assistant Director-in-Charge James Smith warned that "this plea reminds anyone willing to help the Russian government evade sanctions that the FBI will pursue swift punishment in the criminal justice system." Puzyreva faces up to 20 years in prison; the prosecution against the other two defendants remains pending.

5. U.S. Space Company Completes CFIUS National Security Requirements

After more than two years, U.S. commercial space company **Momentus Inc.** has completed the requirements of its National Security Agreement (NSA) with the Committee on Foreign Investment in the United States (CFIUS). In June 2021, the company agreed to the NSA, which required divestment by its foreign CEO; an upgrade of its export compliance program; the creation of a plan to safeguard protected technical information, systems, and facilities; and the implementation of a third-party monitoring and validation system. The company credits the CFIUS process with "matur[ing] its business procedures much faster than a typical early-stage company and accelerat[ing] capability development." This result reflects that while mitigation can be difficult to navigate, the process does not necessarily have to last forever.

6. Freight Forwarder Avoids BIS Fine After Illegal Exports to Iran

Jeffrey B. Jones
Special Counsel
202.753.3769
jejones@lowenstein.com

Kei Komuro
Associate
212.419.5948
kkomuro@lowenstein.com

Megan C. Bodie
Administrative Specialist
202.753.3809
mbodie@lowenstein.com

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A New York-based freight forwarder, **Cargosave Inc.**, entered into a settlement agreement with the Bureau of Industry and Security (BIS) after admitting that in 2016, it illegally shipped \$17,000 worth of enterprise servers and switches to Iran on behalf of an Iran-based exporter without the required license. Cargosave disclosed the violation and cooperated with BIS, resulting in a separate investigation into another potential export violation by a third party. As a result of the company's cooperation with BIS, the agency issued no fine and suspended a two-year denial of export privileges, requiring that Cargosave have no further export control violations and that it complete export controls compliance training.

7. Importers Continue to Petition for Relief in Section 301 Litigation

On February 12, importers challenging the List 3 and List 4A Section 301 duties submitted their reply brief to the Court of Appeals for the Federal Circuit (CAFC). The importers argue that the United States Trade Representative (USTR) exceeded its statutory authority to “modify” the existing Section 301 action by adding List 3 and 4A items because such drastic action constituted a “transformative” change. The statutory authority to “modify” an existing Section 301 action only allows USTR to make “modest or minor” changes. The importers also claim that USTR did not satisfy Administrative Procedure Act requirements when it neglected to address many of the 9,000 comments it received from companies that opposed the List 3 and 4A tariffs and that the trial court erred in allowing USTR to expand its reasoning on remand. The parties will have a chance to present their oral arguments to the CAFC in the late spring or summer of 2024.

TRADE TIP OF THE MONTH: Time to figure out if your technology is critical or emerging - and why it matters.

On February 12, the White House Office of Science and Technology Policy released an [updated list of critical and emerging technologies](#) (CETs). For each CET category, the White House also provided a list of relevant subfields. Companies should expect items on the list to be subject to stricter export controls and CFIUS review policies. The updated list includes:

- advanced computing;
- advanced engineering materials;
- advanced gas turbine engine technologies;
- advanced and networked sensing and signature management;
- advanced manufacturing;
- artificial intelligence;
- biotechnologies;
- clean energy generation and storage;
- data privacy, data security, and cybersecurity technologies;
- directed energy;
- highly automated, autonomous, and uncrewed systems (UxS), and robotics;
- human-machine interfaces;
- hypersonics;

- integrated communication and networking technologies;
- positioning, navigation, and timing (PNT) technologies;
- quantum information and enabling technologies;
- semiconductors and microelectronics; and
- space technologies and systems.

Additional Resources

- **Article:** "Supply Chain Diligence Under the UFLPA: What You Need to Know for Compliance"
2024
Lowenstein Sandler LLP
Andrew Bisbas
- **Client Alert:** "Don't pop the champagne; the CTA isn't dead ... yet."
March 4, 2024
Anti-Money Laundering Client Alert
Robert A. Johnston Jr., Melissa L. Wiley, Paula A. Ladd, Samantha Sigelakis-Minski
- **Client Alert:** "U.S. Treasury Issues Notice of Anti-Money Laundering Regulations for Residential Real Estate Transfers"
February 16, 2024
Anti-Money Laundering Client Alert
Robert A. Johnston Jr., Paula A. Ladd, Samantha Sigelakis-Minski, Farah Z. Hussain
- **Client Alert:** "Venture Coalition Commitments Encourage Responsible AI Development in Absence of Regulatory Guidance"
February 15, 2024
Lowenstein AI Client Alert
Kathleen A. McGee, Diane Moss, Erich J. Kaletka
- **Client Alert:** "Investment Advisers Beware: The BSA is Coming (Maybe)"
February 15, 2024
Anti-Money Laundering Client Alert
Robert A. Johnston Jr., Paula A. Ladd, Ryan E. Fennell, Samantha Sigelakis-Minski, Farah Z. Hussain

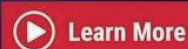


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