

















THE WORLDECR EXPORT **CONTROLS & SANCTIONS FORUM**

14-15 November 2013, The Brewery, London EC1

Official sponsors





Official evening reception sponsor



Welcome



Tom Blass, Editor, WorldECR

I'm delighted to be able to offer you our invitation to attend the first ever WorldECR Export Controls and Sanctions Forum along with its programme of events.

After two years of publishing WorldECR – a publication which we believe successfully meets the need for a journal covering global trends and regulation in export controls and sanctions – we felt that the time was right for us to host an event which would serve as a platform for the exchange of ideas about policy, law, security, enforcement, and compliance.

We're delighted to be able to say that our speakers are amongst the leaders in their field, and that over a packed two days of presentations, panels and discussion, you'll have an opportunity both to hear from thought-leaders and, just as importantly, to contribute to ongoing dialogue on recent developments – from the ramifications of 3-D printing for export control laws, through to the latest events on the everchanging world stage.

Getting to know fellow professionals

During the two days of the Forum, there will be ample opportunities to make new contacts with fellow professionals, including coffee breaks and lunch on both days, plus a drinks reception at the end of day 1, kindly sponsored by Fried Frank, all on site at this excellent venue.

In addition, we will be organising an **optional dinner** on the first evening of the Forum, to follow the drinks reception. This will be a relaxed and informal dinner for speakers and delegates who are staying over in town, held in a local restaurant. It is optional – there is an additional charge – but it should prove a fun end to the day and, again, a great opportunity to build new contacts.

Venue and Hotels

The Brewery is perfectly located in the City of London, easily accessed via public transport, close to a good range of hotels, and steeped in history and character. Please see page 11 for further details about the venue and accommodation choices.

Key dates and offers

Please allow me to draw your attention to the following promotions:

- If you register by 30 September you can save £200.
- Additional delegates from the same organisation can save an additional £100.

Your invitation

As you'll see from this programme of events, we're proposing a packed two days in one of London's most pleasant conference venues and there are further speakers and sessions to be confirmed which we'll let you know about in due course.

I hope you will join us this November.

Tom Blass Editor, WorldECR



Elena Vodopolova, member of the UN Panel of Experts on Iran – UNSC measures on Iran: targeted and universal. Lessons, challenges, perspectives

The UNSC measures are the most comprehensive to have been imposed on Iran. However, there remains an open question as to the extent of their effectiveness. While some measures are watertight, the interpretation of the meaning and the scope of others is the prerogative of member states. Capacities, practices, lessons and challenges differ from state to state and for different actors, in particular those in the private sector. In addition, Iran closely follows each new measure and adapts its procurement techniques accordingly.

These factors underscore the complexity of the task of the UNSC Committee 1737 mandated, *inter alia*, to monitor implementation of UNSC measures and raise their effectiveness.

The UNSC Panel of Experts on Iran was created to assist the Committee in its work. It is an independent expert body charged with processing independent, balanced, fact-based analysis of information gathered from different sources, drafting recommendations, and consulting with Member States and the private sector.

Elena Vodopolova, an expert on the Panel, has extensive experience in non-proliferation and export control. In her presentation Elena will be describing the role and activities of the Panel, the challenges it confronts, and her assessment, findings and conclusions.



John Grayston - How will Europe shape a new control regime?

It isn't just the United States that is revisiting its export control regime: change is afoot in Brussels, where the organs of European Union (The Commission, Council, and Parliament), are thrashing out the future of the EU dual-use export control regime. Will a new regulation amount to a smoother, and less uneven playing field which means that economic operators not being prejudiced by their location within Europe? How will the EU respond to new threats, such as those posed by intangible technologies – or to the kind of 'spyware' that appears to being used against human rights activists by autocratic regimes? And what can be done to reduce the time it takes to update Annex I to the regulation?

John Grayston has practised EU law in Brussels for more than 15 years. In this session, John will address these and related issues, sifting through the key aspects of the multi-faceted Green Paper on the dual-use regime from the perspective of an experienced adviser to businesses exporting dual-use and strategic goods.



Ian Stewart, Project Alpha – current methods in counter-proliferationIan Stewart, head of Project Alpha at King's College, London, will be joining us at the conference.

Project Alpha is a UK government-sponsored initiative that was established to support the private sector in implementing export controls and countering the illicit trade that maintains the prohibited nuclear and missile programmes of countries such as Iran and North Korea.

Ian will discuss the important role that the private sector can play in countering proliferation, and examine some of the internal strategies businesses can adopt to meet the proliferation threat while protecting the bottom line.



Brandt Pasco - Understanding Export Control Reform

So long did it spend in the making, that there was a sense of near-disbelief when the first concrete signs emerged that U.S. export control reform was finally happening. But the first half of 2013 has seen a flurry of activity as the U.S. government undertakes a wholesale restructuring of how it regulates the export of goods and services, and moves many thousands of items, many previously on the U.S. Munitions List, onto the more permissive Commerce Control List.

A higher fence around a smaller yard? That's the intention. A founding member of the National Security Council Task Force on Export Control Reform (and a former adviser on the U.S. delegation to the Wassenaar Arrangement), Kaye Scholer's Brandt Pasco will give conference delegates the low-down on what Export Control Reform really means for businesses on both sides of the Atlantic, what's in store, and how they can take advantage of the opportunities created.



Maya Lester: The sanctions case law of the European Court

In the last few years, the European Court in Luxembourg has given a number of judgments in cases concerning targeted sanctions in the European Union, and in some cases has ordered that the designations of individuals and companies by the European Council should be annulled (for example for a lack of adequate reasons or supporting evidence).

Maya Lester is a barrister at Brick Court Chambers. She has appeared in a large number of these cases (including Kadi, Tay Za, Materi, and IRISL) and is currently in a number of pending cases involving sanctions against Iran, Zimbabwe, Egypt, Tunisia, Syria, and counter-terrorist sanctions.

In her presentation, Maya will explore the recent judgments, their implications, and legal issues that may arise in the future.



David Hardin - Understanding U.S. extra-territorial reach

As the U.S. has sought to increase the effectiveness of economic foreign policy tools, it has increased the extra-territoriality of its jurisdiction over breaches of sanctions and export controls – a critical issue for non-U.S. businesses and financial institutions operating in the global market place. In this session, Miller Chevalier partner and adjunct professor of law at Georgetown University Law Center, will address topic including:

- What exactly is extra-territoriality?
- How and why do U.S. export control and sanction laws apply extra-territorially?
- What are the options available to the U.S. government in enforcing export control and sanction laws extra-territorially?

David will also give an overview of recent cases involving extra-territorial application of U.S. export control and sanctions laws, and outline some of the practical steps available by which companies can avoid extra-territorial application of U.S. export control and sanction laws.



Marian Niestedt – Iran, Syria and the Arab Spring nations: EU sanctions update

The highest-profile and best-reported sanctions of the past year remain those placed upon Iran and Syria and, to a lesser extent, certain of the 'Arab Spring' nations. Indeed, such is the concern among businesses all over Europe about falling foul of the continually developing regulations that many companies have simply chosen to give up trading with the sanctioned countries. In this session, Marian Niestedt of Graf von Westphalen will be taking delegates through the state of play of EU sanctions over Iran, Syria and the 'Arab Spring' nations, and also focusing on the prohibition on making economic resources available to listed persons – one of the most challenging aspects of the EU restrictive measures regime, and one which many economic operators struggle to accurately interpret.

Marian Niestedt, M.E.S., is an attorney and partner at Graf von Westphalen, where he advises companies from all industries involved in foreign trade, EU and German sanctions and export control laws and regulations. He has represented companies and their senior executives before the national authorities and the European Commission as well as before fiscal, civil, criminal and administrative courts all the way up to the Court of Justice of the EU.



Scott Sullivan and Tony Marjoram – the Flowserve experience

Enhancing a compliance programme and completing a government-mandated audit in the wake of a settlement with U.S. regulators can be a massive and complex undertaking, requiring lengthy strategic planning and 'buy-in' from across the company and around the world.

For a company with global operations, the challenge is multiplied. Frequently, it becomes necessary to negotiate conflicts between the laws of different jurisdictions and agencies, and also working with different cultures and practices. And if undertaken without sensitivity, the human cost of such an operation can be as considerable as the cost to the bottom line.



In September 2011, fluid motion control company Flowserve Corporation agreed to settle allegations of sanctions and export control breaches with OFAC and BIS. Scott Sullivan (pictured top), Flowserve's Vice President of Ethics, Compliance & Legal, and UK-based Tony Marjoram, Director, Export Compliance EMA, will outline the steps they took to launch the post-disclosure compliance audit and enhance the company's compliance programme to address ongoing risks, and describe some of the obstacles that they encountered on the way – and how they cleared them.



PANEL DISCUSSIONS

The impact of EU and U.S. export controls and sanctions legislation on (1) EU businesses and (2) non-EU business

Two additional panel sessions, chaired by Iain MacVay (pictured), partner and head of the London Trade and Customs Practice of King & Spalding, will discuss the impact of U.S. and EU legislation on, firstly, EU businesses and, secondly, on non-EU businesses, with particular focus on key trading nations, Turkey, Switzerland and Israel. The two panels will draw on their particular expertise to offer valuable insight for EU companies and the subsidiaries of U.S. and Asian companies.

Panel members include

- Konstantinos Adamantopoulos, a partner in the Brussels office of Holman Fenwick & Willan,
- Sandra Strong, name partner at Strong and Herd in Manchester,
- Dr. Shuki Friedman of the Peres Academic Center, Rehovot, Israel, VP-Compliance solutions, Terrogence Ltd
- Orçun Çetinkaya, partner at Mehmet Gün and Partners, Istanbul, and
- Matthew Parish, a partner in the Geneva office of Holman Fenwick & Willan.



Raphael Barazza – navigating France's (sometimes opaque) export controls regime

France's export controls are regarded as amongst Europe's most stringent, they can be difficult to navigate and sometimes less than transparent.

Many agencies take a role in the regulation of export controls in France; major decisions on export authorisations are typically taken at ministerial level. On the enforcement side, French Customs (*Les Douanes*), armed with formidable investigatory powers, take the lead, while the export of dual-use goods largely falls within the competence of the *Service des Biens à Double Usage* – a team of professionals drawn from government ministries including foreign affairs, nuclear energy, defence and industry.

Raphael Barazza, Paris-based *avocat* à *la cour*, explains the French system and, just as importantly, what business needs to be aware of if its intricacies are to be successfully understood. With Germany, the UK and the U.S., the countries accounting for the largest volumes of investment into France, this will be a presentation not to miss for any company that exports from France.



Mario Mancuso – What those big settlements with the U.S. regulators really mean

The past few years have seen a slew of big fines and settlements by U.S. regulators against non-U.S. entities for breaches of U.S. sanctions and export controls (think HSBC's \$300m fine, BAE's \$79m settlement, Standard Chartered's \$667m fine, and ING's \$619 million settlement). Some of these big pay-outs attracted controversy for a number of reasons, with some questioning the extent to which the law had actually been broken. But looking beyond the headlines, what message are the regulators trying to send?

The Hon. Mario Mancuso, a former senior member of the President's national security and economic leadership teams and now a partner at the DC office of law firm Fried, Frank Harris & Shriver, will share his insights into the real significance of these settlements and what they mean for non-U.S. companies and financial institutions going forward. During his tenure as Under Secretary of Commerce for Industry and Security, he played a pivotal role in key areas and initiatives, including the Committee on Foreign Investment in the United States (CFIUS), economic sanctions, export controls, and critical technology and critical infrastructure policy.



Andrew Smith - Enforcement in the UK

Any business conducting international trade through the UK needs to be aware of its obligation to stay compliant with the UK government's ever-evolving panoply of export and trade controls. Far fewer businesses may be aware of the sanctions that can be imposed for breaching those controls or the risk of a criminal investigation or prosecution. This risk is not merely hypothetical. Last year, a parliamentary report emphasised both the high success rate of criminal prosecutions for breaches and the increasing use of compound penalties in lieu of prosecutions. All export compliance professionals will know the name Christopher Tappin.

Andrew Smith, partner at Corker Binning, will discuss enforcement of export and trade controls in the UK, outlining the risk factors that make a criminal prosecution (as opposed to a civil settlement) more probable; the likely punishment which convicted exporters can expect to receive; and the tactical considerations which businesses should bear in mind if faced with the threat of criminal proceedings, including the issue of compound penalties. Andrew Smith is an experienced criminal litigator who has advised on a range of white-collar criminal and regulatory matters, much of it international in nature. Andrew is ranked as a key individual in the field of Criminal Fraud by *Chambers* 2013.



Yohan Benizri - Sanctions and finance issues affecting business

It is not just the movement of goods that sanctions can prevent. They also restrict the flow of money. In this session, Yohan Benizri of Sidley Austin LLP, Brussels will examine the impact of economic sanctions on cross-border financial flows. He will address the following questions:

- When do financial flows trigger the application of economic sanctions?
- What is the effect of internal or bank policies going beyond legal requirements set down by sanctions?
- Who is liable for what?
- How do you deal with freezing of funds and financial transparency obligations arising from economic sanctions?

Yohan's clients include a number of financial institutions and governments.



Nick Boland – Product classification issues against a background of U.S., EU and national export controls reform: panel discussion

Classifying items in a multi-jurisdictional context can be difficult at the best of times. Against the backdrop of export controls reform in the U.S. and Europe the challenge is magnified. Nick Boland leads a panel discussion on best practice in product classification, formulating solid classification strategies, identifying red flags to potential violations, and responding to errors.

Nick is Director of Solutions Consulting, EMEA at Amber Road. Nick joined Amber Road (formerly known as Management Dynamics) in 2007 and is based in the UK office where he leads the European solutions team. Over the past ten years, Nick has specialized in the supply chain compliance space, helping develop automated Trade Management platforms and strategies that aid clients meet everchanging global regulatory challenges. Leading clients include such names as Adidas, Renault, Infineon, OSRAM and Lonza among many others.



Stacey Winters, Fredrik Hallgren and Scot McManus – Dealing with the challenges faced by Internal Compliance Programmes: panel discussion What should an Internal Compliance Programme look like in 2013 ... and in 2014? In this panel discussion led by Stacey Winters, panel members will discuss the ideal structure of an Internal Compliance Programme that can cope with the myriad changes in export regulations, sanctions, supply chain relationships (supplier and customer), and the challenge of installing a culture of compliance throughout the company with clear lines of responsibility for performance.





Fredrik is the Director of Group Trade Compliance (Group Function Legal Affairs) responsible for the trade compliance programme within the Ericsson Group. As such, it is his responsibility to ensure that the Ericsson Group is well equipped to comply with export controls, sanctions and customs regulations worldwide. This includes governance, steering documents, processes and procedures, IT tools and audits.



Scot is the head of Trade Management for EMEA for Eaton as part of Eaton's Global Trade Management function. Scot has responsibility for all aspects of Trade Management including Export Controls, Sanctions and Embargos and Restricted Party Screening. Scot joined Eaton in 2012 having worked in the Trade Management function for more than 20 years both in industry and as a consultant. Eaton is a diversified power management company providing energy-efficient solutions that help its customers effectively manage electrical, hydraulic and mechanical power.



Rhys Williams – Understanding encryption and export controls

The use of encrypted products is an increasingly ubiquitous part of everyday and business life, and in an age of heightened awareness around the potential – for both good and ill – of digital technology, there's a commensurate need for a clear understanding of controls around the export of encrypted products.

Encryption is used every day by everyone who uses the internet. For example, if you want to publish an Apple or Android app, this will probably contain some form of cryptographic technology. But do you need export clearance?

Even the company employee taking an encrypted laptop abroad on a business trip creates a potential export control breach. And increasingly, issues arise in M&A transactions. If a US company purchases a UK cryptographic business, what potential problems arise in taking the technology back to the mother ship in the US?

Against the backdrop of export control reform in both the United States and Europe, telecoms and encryption expert Rhys Williams explains both how current export controls relating to encryption can impact your business, changes on the horizon, and how best to prepare for them.

'An expert on commercial and regulatory law affecting the telecoms sector.' *Chambers Legal Directory 2012*



Emily Cromwell – cloud computing and data transfer: navigating the intangible minefield

The cloud presents opportunities for cost savings and scalability in data storage. However, these benefits come paired with considerable export control implications, as the nature of the cloud is often at direct odds with export control management tactics. Emily's presentation will cover:

- The implications of export controls on the cloud
- Export control issues arising from the transfer of data
- Update on developing regulations
- Examples of how some export control regimes are addressing the cloud
- What questions should you be asking? What violations could you be committing?
- Practical tips on how to ensure your cloud service providers do not cause you to break the regulations
- How to manage the risks and rewards cloud usage provides

Emily Cromwell is a senior manager at Deloitte where she specialises in complex, global export control matters and regularly helps companies manage the extraterritorial application of the ITAR and the EAR, in conjunction with local export control requirements in North America, Europe and Asia. Emily serves as the cochair of Tech America's Export Control Reform Sub-committee, leading efforts to benchmark corporate activities to manage and implement ECR changes.



Michael Burton, Joiner Burton – Voluntary (and not-so-voluntary) disclosure

The benefits of making a voluntary self-disclosure to the U.S. government of a suspected violation of trade control laws are numerous but the costs must be carefully weighed – while sometimes the choice to make a voluntary disclosure is less than voluntary.

In his presentation, Michael Burton will discuss the pros and cons of making voluntary self-disclosures to the U.S. government of suspected violations, addressing situations where regulatory requirements, agency policy, or external events act as catalysts for disclosures, strongly influencing if not dictating the choice – and invite further dialogue regarding situations under U.S. and non-U.S. law where voluntary disclosure is, well, involuntary.

Michael, a name partner at law firm Joiner Burton, is Co-Chair of the American Bar Association's (ABA) Export Controls and Economic Sanctions Committee of the Section of International Law and a member of the OFAC Practitioners' Group.



Tom Cassels – violations and reputation management

A charge of violating export controls and/or sanctions can bring huge penalties – think Standard Chartered (\$327m), HSBC (\$375m), Raytheon (\$8m) – but, often more worryingly for management, clear and significant damage to business reputation as the resulting furore can hit corporate reputations harder than it does the bottom line. At this stage, exceptional crisis management is as essential as legal advice if relations with regulators, shareholders and customers are to be kept on the level – which demands skills and experience often outside those of most heads of compliance.

Bringing to bear his considerable experience of high-profile proceedings where legal and reputational issues have been closely intertwined, Baker & McKenzie partner Tom Cassels will be talking delegates through the importance of good planning and a cool head before, during, and after a real or potential incident where reputation is at stake. Tom's experience in this area is well established, having acted for a host of high-profile organisations, including the British Olympic Association in its successful defence of sprinter Dwain Chambers' challenge to its selection criteria, Formula 1 race team McLaren Mercedes in high-profile disciplinary and sporting regulatory proceedings, and the BBC Trust on all aspects of its competition and regulatory functions, including defending the challenge to its decision not to air the DEC appeal for Gaza among others.



Craig Tevendale – Contracting clauses and expanding sanctions

Much of the Middle East remains in a period of significant political and social upheaval, one that has been accompanied by a massive spike in the volume of sanctions measures taken against entities in Iran, Syria, Libya, Egypt and Tunisia.

Craig Tevendale, a disputes partner at Herbert Smith Freehills who is fluent in Arabic, will discuss the impact that sanctions have had on the contractual arrangements of private businesses operating in the region, and offer advice on how to effectively mitigate this impact, drawing on real-life case studies from shipping, insurance and oil and gas sectors. Against a background of a claims backlog in arbitration tribunals around the world, Craig will discuss when and whether a declaration of *force majeure* may be valid.

THE WORLDECR EXPORT **CONTROLS & SANCTIONS FORUM**

14-15 November 2013, The Brewery, Chiswell Street, London

REGISTRATION FORM

Please register the followin	g delegate(s) for The Wo	orldECR Export Controls and Sanctions Forum 2013		
Delegate 1		Delegate 2		
NAME		NAME		
POSITION		POSITION		
☐ Conference only ☐ Conference	ence + dinner (please tick)	☐ Conference only ☐ Conference + dinner (please tick)		
Organisation				
Address		Delegate 3		
Address		NAME		
City		POSITION		
Post/Zipcode		☐ Conference only ☐ Conference + dinner (please tick)		
Country		Delegate 4		
Telephone		NAME		
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FEE PER 1ST DELEGATI	F (INCLUDES VAT @ 2	0%)		
REGISTER & PAY BY 30 SEPTEMBER 20 CONFERENCE £1095 + VAT = £1314				
CONFERENCE + DINNER	£1145 + VAT =£1374	£1345 + VAT = £1614		
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Details for bank transfers will be provided when we receive your completed registration form.

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- 4) Pay by card on line: please go to www.worldecr.com/conference-payment

5) Pay by cheque

I have enclosed a cheque made payable to D.C. Houghton Ltd for £_ Please send your completed registration form with cheque to: D.C. Houghton Ltd, Suite 17271, Lower Ground Floor, 145-157 St John Street, London EC1V 4PW, England

Signed Date

Terms and conditions

Please note, by registering for this event you accept the terms and conditions below.

Registration Fee

Your fee includes the attendance at both days of the conference; morning, mid-morning and afternoon coffee and pastries, and chef's table fork buffet on both days; drinks reception on day 1; programme materials.

Registration policy

Delegates may not 'share' a registration without the organiser's authorisation.

Payment policy

Payment must be received in full by the conference date. 'Additional delegate' prices are only available to delegates from the same organisation as the original full-fee delegate.

Cancellations and Refunds

You must notify the conference organiser 48 hours before the conference if you wish to change the delegate.

If you wish to cancel your registration, you can do so incurring the following charges:

Cancellation more than 28 days before the event - full refund less 33% admin

Cancellation between 27 and 6 days before the event – full refund less 50%admin fee.

Cancellation between 5 days before and the day of the event - no refund.

Change of venue

The organisers reserve the right to change the venue should attendance numbers so demand.

Change of speaker and presentation

The organisers reserve the right to change speakers and/or presentations.

Venue and Hotels Nearby

THE VENUE - AND GETTING THERE

www.thebrewery.co.uk

The Venue for the WorldECR Export Controls and Sanctions Forum is The Brewery in Chiswell Street in the City of London. It is a venue steeped in history. Occupying the site of the former Whitbread brewery, the original buildings date back to 1750. Over the years, King George III, Queen Charlotte and Queen Elizabeth II all visited the premises. The last pint was brewed there in 1975.

The Brewery is next to the world-famous arts and cultural centre, The Barbican. It is easily accessed via tube and train and taxi.

The Brewery is little more than a five-minute walk from the following tube stations: Barbican (Circle, Metropolitan, Hammersmith & City lines)

Moorgate tube (Northern, Circle, Metropolitan, Hammersmith & City lines)

Old Street (Northern line)

Visitors coming in from London Gatwick Airport can take the train direct to Farringdon (little more than 8 minutes' walk from the venue) or to London Bridge (where you can get on the tube or take a taxi).

Visitors coming in from London Heathrow Airport can take the Heathrow Express to Paddington and then take a tube (Hammersmith & City line or Circle line) to Barbican.

To find out more, visit www.thebrewery.co.uk.

Hotels nearby

Attached to the Brewery is the Montcalm Hotel (www.themontcalm.com). WorldECR has negotiated a limited number of discounted hotel rooms here - to take advantage of this, please contact the hotel on +44 20 74792232 or by email at reservations@montcalm.co.uk or Groups@montcalm.co.uk, quoting the following code: WORL131113

Within a short walk of the Brewery are The Zetter (www.thezetter.com), The Rookery (www.rookeryhotel.com), South Place (www.southplacehotel.com), Apex London Wall (www.apexhotels.co.uk), and the Citadines Barbican (www.citadines.com).