The World Export Controls and Sanctions Forum 2017

Washington, DC

16-17 October, at the offices of Hogan Lovells US LLP, Washington DC
Welcome

This year’s Forum events take place against a backdrop of quite extraordinary uncertainty – with many of the issues hitting the headlines of the mainstream press having a direct bearing on the practice of export controls and sanctions practitioners and their advisers:

- The US administration’s relationship with Russia under scrutiny
- Turbulence in the Gulf, and a de facto embargo against the state of Qatar
- The Obama foreign policy legacy, including the JCPOA and Cuba détente, under reconsideration by President Trump
- New fears around cybersecurity and the export of intangibles
- The United Kingdom’s breakaway from the European Union
- Heightened concern about North Korea’s nuclear ambitions and increased pressure on China to assert its influence over president Kim

There is no getting away from the fact that, at a time when business craves policy certainty, the messages from government on key areas such as trade and foreign policy are unclear and sometimes confused, and the multilateral approach to security threats is consequently undermined. If ever there has been a time for industry to demonstrate its potential lead, it is now.

We’re bringing together, in Washington and London, presenters and panellists who are at the top of their game, whether as consultants or senior industry compliance professionals. What each has in common is the rich seam of experience that enables critical decision-making and high-level advice, leading from the front on a shifting terrain:

- Iran, Cuba, Russia: full steam ahead or proceed with caution?
- In light of the Epsilon case, do we approach OFAC differently going forward?
- What’s the company strategy for dealing with controlled intangibles?
- Does North Korea pose a threat to the integrity of my trading operations in East Asia?
- And what is going on in Europe? Export control reforms? What does BREXIT mean?

Across the programmes, you’ll have the opportunity to hear from and engage with leaders at companies including Arconic, Boeing, Ericsson, Flowserve, Google, Marshall, RUAG, ZTE – a spectrum of experience from a range of industry sectors – as well as leading lawyers and consultants from firms and institutions renowned in their respective jurisdictions and internationally for the quality of the advice they give world-beating companies.

Past attendees of WorldECR Forum events know that they provide an unparalleled opportunity to make contacts, learn from peers and mentors, share ideas and concerns, broaden horizons – and take the lead in the increasingly demanding and complex domain of sanctions and export control compliance.

Join us in London and/or Washington. We look forward to seeing you.

As in previous years, there is an optional dinner on the first evening of the Forum, following the drinks reception. To date, this relaxed and informal dinner for speakers, panellists and delegates, held in a local restaurant, has proven a great success. It is optional – there is an additional charge – but it is a fun end to the first day and a great opportunity to build new contacts.

Key dates and offers
Please allow me to draw your attention to the following:

- If you register by 15 September you can save $300
- Additional delegates from the same organisation can save an additional $200
- WorldECR subscribers and past Forum attendees receive a 10% discount.

Tom Blass
Editor, WorldECR
Satish Kini and Carl Micarelli – Sanctions in limbo? A global update

The Administration of Barack Obama was determined to revise long-held (arguably entrenched) US foreign policy positions – and to respond to perceived regional threats posed by the United States’ erstwhile Cold War foe.

Obama’s successor, Donald Trump, sees the world through a different lens and has promised to rip up – or at least revisit – much of the Obama legacy. Meanwhile, his camp’s relationship with Russia has been very much under scrutiny. To date, little with regard to sanctions against Iran, Cuba and Russia has actually changed. (While in the EU, the conversation about Russia is blurred by developments closer to home.) Does this place us in a state of limbo – or is it the calm before the storm?

In their presentation, Satish Kini and Carl Micarelli of Debevoise & Plimpton llp help us understand the undercurrents swirling beneath apparently still waters by outlining:

- Key sanctions developments in the US, EU, and further afield
- The current situation as regards US and EU sanctions in Iran
- The current position of the US in light of the Trump administration’s stance
- The development of other emerging sanctions regimes around the world.

Robert Shaw – Responding to the heightened proliferation threat: Red Flags and next-level due diligence tools

It’s all too easy to forget that effective export controls require more than mere ‘compliance’, but extend to pro-actively engaging with and reducing the divergence and proliferation risks presented by your company and its activities.

Against a background of heightened anxiety about the ability of state and non-state actors to acquire dangerous technologies, Robert Shaw, Program Director, Export Control and Nonproliferation (and Adjunct Professor) at the James Martin Center for Nonproliferation Studies (CNS) in Monterey, will present on:

- The state of play of current proliferation threats and concerns
- ‘Red flags’ – as proliferators pursue increasingly sophisticated means of acquisition

Robert will also be sharing examples of (and answering questions regarding) web-accessible, ready-to-use open source tools that can support enhanced due diligence.

Prior to joining CNS, Robert spent over a decade working in Toshiba America, Inc.’s procurement & export division, specialising in export control compliance and international procurement. He is regarded as a thought-leader in practical steps toward non-proliferation.
Matt Bell – What next for ZTE? New beginnings and a programme for change

Earlier this year, ZTE, the Chinese multinational telecoms company, finally reached an agreement with three US agencies – to the tune of $1.19bn, to settle allegations of export control and sanctions violations resulting from exports to Iran and other countries.

It had been a long and drawn-out process: the fact that ZTE had been placed on the BIS entity list imposed a huge risk to the company, mitigated only by the novel adoption of a Temporary General License enabling US businesses to transact with the Chinese company without fear of penalty. (That burden was removed when the company settled.)

Matt Bell is Deputy Chief Compliance Officer, Chief Export Compliance Officer & Legal Counsel – ZTE Corp. He joined ZTE long after the events occurred that had resulted in the penalty. It now falls to Matt to work with an Independent Compliance Monitor and Auditor over the next seven years of probation while also working to implement a programme of change at ZTE, and to ensure world-class compliance in the wake of a series of events and compliance mis-steps that could have had a devastating effect on the multi-billion dollar company.

Burim Ceni – New guidelines on ‘citizenship’ and technical release: a Swiss multinational’s perspective

In 2016, the ITAR definition of ‘export’ was revised to clarify that any release of technical data in the United States to a foreign person is to be considered to be an export to all countries where that person holds or has held citizenship, or holds permanent residency. (The EAR, by contrast, only considers such a release of technical data to be an export to the foreign person’s last country of citizenship or permanent residency.)

In his presentation, Burim Ceni, senior trade manager at Swiss aviation firm RUAG, describes the impact of that change in approach to licencing requirements triggered by the revision, and the response it necessitated for his company – a Swiss government-owned aviation and defence contractor and service provider with operations in the United States and European Union in addition to (non-EU Member State) Switzerland against the background of RUAG’s expansion of its compliance function.

John Menton – An Irish perspective on EU trade controls: policy and practice

Ireland is the second-largest exporter of software in the world. In his presentation, John Menton, partner at the law firm Arthur Cox in Dublin, will provide an overview of Irish export controls (with a focus on the export of dual-use goods and controls on exports containing encryption).

John will also outline the current practice and procedures of the main Irish export regulator (‘DJEI’) as well as dealing with topics such as voluntary disclosures, potential hidden traps in the transfer of certain encryption products from the US to the EU, and look at the potential impact of Brexit on exporters from Ireland.
Luiz Prado – Intangible technology and tangible benefits: the Google Approach to technology controls

With ever-increasing frequency, intangible technology presents greater export control and related security challenges. What may have once appeared to be of concern only to tech companies, is today a mainstream challenge. Not only is the technology complex, but so is the law. For companies for whom technology is the lifeblood, it is essential to interpret and comply with a rulebook striving to stay on top of its brief.

In this session, Luiz Prado, Legal Specialist, Global Trade Compliance at Google, will present on tangible solutions for intangible challenges, including those arising in

- Internet / cybersecurity
- Encryption
- Deemed exports and other data transfers

Luiz will be outlining recent developments in these areas and their potential to impact on the vibrant technology sector – one of the world’s most vibrant economic drivers.

Lourdes Catrain – Continental Drift...BREXIT, the EU export control reforms, dual-use regulation, and responses to external threats

Change is afoot in Europe. The United Kingdom, a key member of the European Union is, at the bequest of a slim majority of its voters, negotiating its exit. But on what terms? And with what probable impact on export controls and sanctions?

At the same time, export controls in the European Union are set for a major overhaul. While the principles behind the changes have been on the table for some time, only with the publication of a proposal in 2016 was there sufficient detail for industry to really take stock of what EU export control reform means for their future compliance. Would ‘reform’ create a system ‘in parallel’ with Wassenaar? Does the new catch-all push forge new due diligence requirements for exporting companies? What benefits will new licences bring? And what changes can US exporters expect to see in EU dual-use controls?

With the JCPOA continuing to survive (despite the odds) since negotiators announced the advent of Implementation Day, are EU companies taking advantage of the opportunities it creates? What road-blocks are they encountering and what is the impact of recent US non-nuclear related sanctions and prospect of ‘snapback’?

These are some of the issues that Lourdes Catrain, of the Brussels office of Hogan Lovells, expects to be discussing with delegates at this year’s WorldECR Forum in DC. The exact agenda will reflect developments closer to the time – so watch this space.
Barbara Linney – The Power of OFAC. Is it limitless?

The Office of Foreign Assets Control of the US Department of the Treasury – or ‘OFAC’ – has long been viewed as an opaque agency with broad authority that is impervious to challenge: in the sanctions context, it embodies the ‘long arm’ of US law, shaping the destinies of companies and individuals that it deigns to ‘designate’ and sculpting the parameters within which others – both US and non-US – can transact or do business with them.

Rather than challenge OFAC’s allegations – incurring the risk of a shattered reputation or penalties if the challenge were to fail – almost invariably companies, when presented by the agency’s allegations, agree to settle, sometimes for eye-watering amounts.

Has fear of OFAC obscured a clear sight of its authority? And does the recent decision of the US Court of Appeals in the Epsilon case represent a chink in OFAC’s armour?

In a much-needed presentation, Barbara Linney of the law firm Miller & Chevalier Chartered addresses some all-too-infrequently asked questions:

- Must OFAC provide due process rights?
- Are there any other constitutional limits on OFAC’s designation and enforcement powers?
- Do rights and limits differ for US persons and non-US persons?

*Note: the answers are NOT to be found on the FAQs section of the US Treasury website!*

The team in charge of the implementation of Resolution 2231 (2015) – update on Iran

16 January 2016 (Implementation Day) made history. It marked, in effect, the termination of United Nations Security Council sanctions against Iran.

BUT: On the same day, new, specific restrictions established by Annex B to Resolution 2231 (2015) came into force, including on nuclear-related, ballistic missile-related, and arms-related transfers to or from Iran. Resolution 2231 (2015) also endorsed the establishment of a Procurement Channel through which certain transfers of nuclear or dual-use goods, technology and/or related services to Iran must be approved.

Given that these include, potentially, a broad range of dual-use items, materials, equipment, goods and technology, the Procurement Channel must be of great interest to companies exploring the possibility of engaging or re-engaging with Iranian counterparts.

We are fortunate that we will be joined in London and Washington by representatives of the Security Council Affairs Division of the UN Secretariat, who will outline for delegates:

- The specific restrictions (on nuclear-related transfers, ballistic missile-related transfers and arms-related transfers to or from Iran, assets freeze and travel ban) imposed by Annex B
- The functioning of the Procurement Channel (review process, roles of the Security Council, the Procurement Working Group and the UN Secretariat, procedures for submission of proposals)

Companies will make their own assessments of the merits of re-engaging with Iran (and face restrictions based on domicile and corporate structure). But this presentation is essential background for all export compliance officers and advisers.
Ken Burton – Dual identities: How does Boeing manage its mixed ITAR and EAR requirements?

Applying EAR and ITAR regulatory controls to purely commercial or purely military aircraft is relatively straightforward. But when they are combined into a military derivative — commercial aircraft modified for military use with military systems — determination of controls becomes more challenging. When manufacture of those derivative aircraft is taking place in a commercial manufacturing environment, challenges grow further.

US and non-US suppliers, customers, and Boeing employees as well as IT systems and facilities are all affected by the introduction of ITAR-controlled items in the commercial world. Export Control Reform adds additional layers of complexity.

In this session, Ken Burton, a Manager in Boeing’s Global Trade Controls team, explains how Boeing handles these challenges.

Lessons from the C-Suite: changing perspectives on compliance – Panel Discussion

For the astute export control officer prepared to think outside the box, there’s every reason why trade controls can be a platform for rapid career progression in compliance.

What the panellists at this session share is that each now has a senior role in compliance with broad responsibilities for not only export control and sanctions, but business integrity, FCPA and corporate ethics — and each began their careers in the more focused realm of trade compliance.

A change of role and a shift in perspective: ‘As a senior compliance officer, it’s a real-eye opener, because you start to understand how the company really perceives issues which you may previously have understood from a very narrow perspective.’ So says Scott Sullivan, who as Chief Ethics and Compliance Officer of valve and pump manufacturer Flowserve, now sits on the company’s Leadership Team — and heads up this panel discussion.

Scott has worked his way up into the C-Suite having joined Flowserve in 2005 to work in the export control function — and has lead major internal investigations, both on sanctions/export controls — and FCPA matters. He promises a provocative session, discussion and debate is guaranteed! This is a must-attend for those looking to develop professional skills and greater responsibility.
Anthony Capobianco and Lila Rose – Talking with HR: It doesn’t have to be a difficult conversation

Trade compliance and human resources: both are critical functions within a multinational – and each has a growing awareness of the other’s presence! Sometimes, however, each will be coming from a very different position and perspective.

Smooth-running trade compliance strategy and implementation demands a clear path of communication with HR on issues such as

- Visa requirements for non-US employees working with controlled technology
- Deemed export constraints on dual-nationals/third country nationals
- Tracking the citizenship of employees
- Denied party screening and local privacy laws
- R&D and non-US workers

And there’s a conversation to be had when there’s an acquisition in the offing – domestically or abroad – or an internal investigation.

Each function has its own distinct worldview and sense of priorities. Do they have to be incompatible?

In this panel conversation, Anthony Capobianco, partner at law firm Hogan Lovells, and Lila Rose, Global Trade Compliance Manager and Empowered Official at specialty polymer company PolyOne, will outline some of the key issues and challenges that frequently arise in the ongoing conversation between HR and trade compliance, and discuss how resolving sticking points may sometimes demand a shift in perspective.

Gretchen Hund – Finding the nexus: export controls and illicit finance

How can compliance be made more effective? In part, by leveraging tools and learning, and applying them across a spectrum of concerns.

So says Gretchen Hund, Director of the Seattle-based Pacific Northwest National Laboratory, who will explain in her presentation how, by coordinating efforts to counter illicit finance with export control efforts, both could be made more effective – helping governments and private companies reduce proliferation risks and increase supply chain security.

From this perspective, use of financial information when conducting export due diligence could help identify illicit end-users and end-uses of sensitive technology. Similarly, use of export control information could help banks and insurance companies better identify illicit financing trends and red flags.

An important session, with valuable lessons for intelligent and effective compliance.
Johnny Xie – The Beijing perspective: China, export controls and sanctions

China and sanctions are frequently in the news, the country’s government viewed by the United States Administration as the key to bringing North Korea’s nuclear-military ambitions to heel.

Less well-publicised or understood is China’s own perspective, the actions that it has taken in line with the United Nations Security Council, and its own export control regime.

In his presentation, Johnny Xie will discuss the Chinese position vis-a-vis international sanctions, and also outline the major overhaul on the cards for China’s dual-use export control regime – the draft law on which refers explicitly to ‘re-exports’ and ‘deemed exports’ for the first time, raises upper limits on penalties, and also includes guidance on compliance.

This presentation will be greatly valued by anyone seeking to understand the regional dynamics of sanctions, and/or navigating the Chinese export control regime – it will be of crucial importance to compliance officers and others advising on operations in the country.

Johnny Xie, of specialist China trade consultancy, Questoud – whose previous experience includes working both for Chinese Customs and for US corporations and consultancies – is among a handful of professionals able to give a lucid explanation of Chinese export controls and sanctions issues and their impact on non-Chinese businesses in practice.

David Hardin and Stephen Propst – Contemporary challenges in Defense Sector compliance

How are defense contractors responding to a changing world and markets? And what are the compliance challenges associated with doing so?

In this session, David Hardin, Senior Counsel, Global Trade Compliance at Raytheon, and Stephen Propst, a Partner in the DC office of Hogan Lovells, discuss key compliance issues on the defense sector radar against a background of Middle East uncertainty, the JCPOA and security challenges in East Asia, addressing a range of questions, such as:

- How does the impact of US export control reform continue to make itself felt?
- How can export controls and sanctions considerations be woven into a comprehensive approach to compliance?
- How best to establish processes for dealing with parties of concern?
- And – given the potential for a revised alignment of international agreements (and shifting dynamics in the relationships between allies) – what constitutes best practice for undertaking jurisdictional analysis?
Tracey L. Vega – Freight-forwarders, compliance, expectations and responsibilities

The International Federation of Freight Forwarding Associations defines freight-forwarders as the ‘Architects of Transport’. Without them, many exports would never leave the lot. But with so many shipments being handled every day, what can you expect (and what is reasonable to expect) of freight-forwarders as regards helping exporters meet their own compliance responsibilities?

In her presentation, Tracey L. Vega will discuss the balance of responsibilities – and how to take a strategic approach to dealing with freight-forwarding, including:

- Intermediary compliance – how to assess your forwarder’s level of compliance with applicable export control/sanctions/anti-bribery regulations
- Expectations of freight-forwarders regarding export obligations and approvals of controlled goods
- Pitfalls of third-party freight-forwarder pass-through obligations
- Avoiding red flags in delivered duty paid shipments and freight-forwarders as importers of record

Tracey L. Vega, is the Corporate Director, Global Trade Compliance at Arconic Inc, a world leader in lightweight metals engineering and manufacturing in aerospace and defence. She is the former Vice President Global Trade Operations at Choice Logistics, a 3PL providing mission-critical global deliveries in over 90 countries in the high-tech sector.

Satish Kini and Carl Micarelli – Sanctions: deal and transactional implications

The extent – and complexity – of current sanctions implemented or imposed by governments is such that it is beyond the regulators to monitor and enforce. But they are now so embedded in the broader portmanteau of corporate risk that business must police itself. (This was always part of the plan!)

In the context of M&A, this means not only that evaluating sanctions and export control risk is now routinely part of the due diligence process (and not only when doing deals involving ‘sensitive’ parts of the world), but that the compliance function has an active role to play in a company’s transactional activities. But what strategies and best practice should be brought to bear?

In their session, Carl Micarelli and Satish Kini – Debevoise & Plimpton attorneys with extensive experience both of deal-making and sanctions issues – will explore sanctions issues in the corporate/M&A context, including:

- Identifying where responsibility lies in identifying sanctions risks in deals
- Identifying which sanctions regimes impact specific deals
- How sanctions can impact lending agreements; and
- Sanctions-related demands from counterparties

Each is potentially a bottom-line consideration for companies either as targets, acquirors, or when divesting, while the need to understand each of these underscores the value that compliance professionals can add to their company’s corporate activities.
# REGISTRATION FORM

Please register the following delegate(s) for The WorldECR Export Controls and Sanctions Forum 2017

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### HOW TO PAY

1) [ ] I will pay by card on line: please go to


2) [ ] Please invoice me for payment by check or bank transfer.

   Please email your completed registration form to mark.cusick@worldecr.com

   (Please note, to qualify for Early Bird discount, payment must be received by WorldECR by 15 September 2017)

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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 lunch 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 fee.
- 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.