Export Enforcement Panel

Moderator: Donald G. Salo, Jr.

Deputy Assistant Secretary for Export Enforcement, BIS

U.S. DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

Bureau of Industry and Security

US Department of Commerce

Export Enforcement Panel



UPDATE 2012

Famous Person – Then & Now



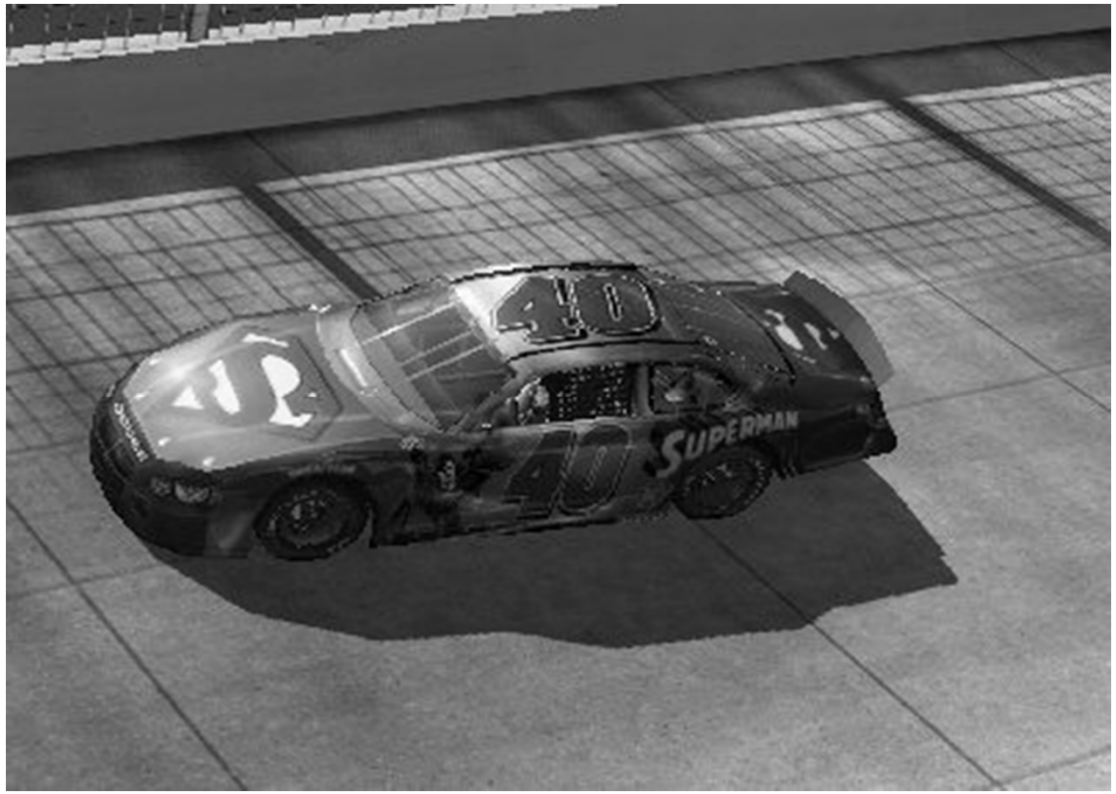


Famous Person – Then & Now





Getting to Update



Getting to Update



Getting to Update



Getting to Update



Getting to Update



Panelists

- **Douglas Hassebrock, Director, Office of Export Enforcement**
- **Kevin Kurland, Director, Office of Enforcement Analysis**
- **Ned Weant, Director, Office of Antiboycott Compliance**
- **Joseph Jest, Enforcement and Litigation Chief, Office of the Chief Counsel for BIS**

Question

What percentage of VSD cases end up being pursued criminally?

Question

What are the jurisdictional requirements of the antiboycott regulations regarding subsidiaries of U.S. companies located in foreign countries?

Question

We saw that given the recent Ericsson $1.7M settlement was also a VSD -- can you provide any details about the case? In other words, why did Ericsson de Panama receive such a high penalty for a VSD? Are you concerned this will discourage VSDs?

Question

How does BIS target companies for end-use checks? In particular, what is the timeframe for conducting pre-license checks?

Question

What is the main factor in the Government's decision to take a case criminally versus administratively?

Question

The section of the EAA authorizing the antiboycott regulations is written broadly so as to cover all boycotts. What other countries are being boycotted and should we be concerned about them?

Question

I was contacted by one of your compliance analysts requesting documents for a Post-Shipment Verification. While retrieving the documents, we realized that we did not apply for the required license. Do I submit a VSD?

Question

When a company discovers violations or potential violations that may fall within the jurisdiction of multiple agencies, such as BIS and OFAC, does it need to make a voluntary self-disclosure to each agency in order to receive mitigation credit for the VSD?

Question

Recent press has shown your very aggressive investigative actions regarding internet monitoring software. Do you see this as a trend for export enforcement cases?

Question

If a U.S. company owns an interest in a venture doing business in a boycotting country what are the U.S. company's obligations with respect to reporting boycott requests received by the venture?

Question

What factors does BIS use in deciding what monetary penalties and other sanctions to seek in export control cases?

Question

It seems as though the charges in proposed charging letters and charging letters published on BIS's website have gotten longer and more detailed. Why is that?

Question

Will Export Control Reform change the strategic direction of the Office of Export Enforcement?

Question

My company has repeatedly received tenders from boycotting country X with the following: "The laws of boycotting country X regarding the boycotting of Israel apply to this agreement." Can we bid on this tender without violating U.S. antiboycott laws?

Question

How will STA change EE's enforcement priorities?

Question

Is there a rule of thumb as to when BIS will seek charges against a parent company with one or more subsidiaries and affiliates that have engaged in a scheme to violate the EAR or in a series of similar EAR violations?

Question

I work for a European sub of a U.S. company. We assemble our product in Europe with no material sourced from the U.S. The goods are then shipped from Europe to the Middle East. However, the technology we use is completely of U.S. origin. Are these goods in U.S. commerce for the purpose of applying the antiboycott regs?

Question

Why do you bother us requesting documents for transactions that did not require a license or are not controlled for that country?

Question

A U.S. freight forwarder imports product into Malaysia, which requires an import license for Israeli goods. Can the freight forwarder ask if the goods are of Israeli origin? Can the freight forwarded indicate to Malaysian customs that the goods are not of Israeli origin?

Question

In a couple of recent cases, BIS has suspended the majority of the civil penalty. Is this a new trend? Why bother imposing a penalty if you are going to suspend most of it.

Question

Will the Information Triage Unit's involvement in the licensing process slow down the processing of my application?

Question

We have heard that BIS's standard settlement template has changed over the last few years. What changes have been made and why has BIS made changes?

Question

If I receive a document with what appears to be a boycott request, but I'm not sure if it exactly fits within the regulation, should I just report it anyway? Is there any negative consequence to me (as the U.S. exporter) to reporting a possible boycott request?

Question

I noticed in a recent press release that MKS was not the target of an investigation even when its rogue sales person was misusing BIS licenses and diverted controlled commodities. Where does OEE draw the line in deciding not to look at the company and only target the rogue employee?

Question

As the Export Control Reform process moves forward, at what point would BIS obtain jurisdiction to enforce cases involving items that have transitioned from the U.S. Munitions List to the Commerce Control List?

Question

How will OEE use STA certifications in your cases?

Question

The ECR transition rule states that exporters cannot utilize license exception STA unless a consignee previously was subject to an approved license by the Department of State or Commerce. Will the exporter be required to demonstrate such approval upon export?

Question

If a person becomes aware of a violation after the transfer of jurisdiction from State to BIS, to which agency should the violation be disclosed?

Question

How does enforcement of the BIS antiboycott rules differ from enforcement of the Treasury Department antiboycott rules?

Question

The Unverified List has not been updated recently. Does this mean that BIS no longer believes this is a viable list? If so, why doesn't BIS eliminate it, particularly because it appears to be redundant with the Entity List?

Question

Most State Department violations are resolved with no penalty. Will BIS adopt the same enforcement posture?

Questions from the Audience