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L3Harris Agrees to Settle ITAR Violations

Defense manufacturer L3Harris Technologies of Melbourne, Fla., agreed Sept. 23 to pay a \$13 million civil penalty under a three-year State consent agreement to settle more than 130 charges of violating the International Traffic in Arms Regulations (ITAR). Of the penalty, \$6.5 million will be suspended if “the funds have or will be used for Department-approved Consent Agreement remedial compliance measures,” State said.

Charges include unauthorized exports of defense articles, including technical data in the form of software; the provision of a false Part 130 statement on a Technical Assistance Agreement; the violation of export license provisos; the violation of terms or conditions of multiple licenses and agreements; and various violations caused by systemic administrative issues.

Specific items included technical data in the form of software controlled under U.S. Munitions List (USML) Category XI(d); tactical radios controlled under USML Category XI(b); and T7 Remote Control Vehicle, AN/PLM-4 Radar Signal Simulator and Jagwire Software Plug in controlled under USML Category IV(c), XI(a)(11) and XI(d).

“L3Harris is committed to compliance. As noted in the agreement, the company voluntarily disclosed a majority of the alleged violations, cooperated with the State Department’s review, and began instituting self-initiated compliance improvements prior to the settlement. The agreement will not result in any administrative debarment, interruption of obtaining license authorizations, nor disrupt exports.” Jim Burke, director of global public relations, L3Harris Technologies, wrote in an email to WTTL.

Barclays Pays \$6 Million to Settle FCPA Violations

In another case of using its hiring practices to obtain or retain business, global financial firm Barclays PLC agreed Sept. 27 to pay the Securities and Exchange Commission (SEC)

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more than \$6 million to settle charges that it violated the Foreign Corrupt Practices Act (FCPA) by hiring relatives and friends of foreign government officials in the Asia-Pacific region.

Deutsche Bank agreed in August to pay the SEC more than \$16 million to settle charges that it violated the FCPA by employing similar practices (see **WTTL**, Sept. 2, page 1). Under the latest settlement, Barclays agreed to pay disgorgement of \$3.8 million, prejudgment interest of \$984,040 and a \$1.5 million civil penalty.

Between 2009 and August 2013, businesses within Barclays Asia Pacific Region (APAC) “provided valuable employment to the relatives and friends of government officials and executives of Barclays’ non-government clients in the form of work experience, internships, and permanent positions. At least some of the offers of employment were extended as a personal benefit to those officials and executives with the expectation that the bank would obtain or retain investment banking business,” the SEC order noted.

During that time, “Barclays hired approximately 117 job candidates referred by or connected to foreign government officials or non-government clients. Most of these candidates were hired through an unofficial internship program called the ‘work experience program,’ but some were hired into Barclays’ formal internship program, its graduate program or in permanent positions,” the order added.

U.S., Japan Sign Limited Trade Deals

It was then it wasn’t, then it was again. Under the spotlight of the United Nations General Assembly Sept. 25, the U.S. and Japan signed limited deals on reducing agriculture tariffs and setting digital trade rules that had been a year in the making. While industry groups welcomed the agreements, the deals did not address potential auto tariffs or other sticky subjects, which have stymied a previous deal between the two trading partners.

The two previewed the potential deal at the G-7 meeting in August (see **WTTL**, Sept. 2, page 2). In joint remarks after their meeting in France, Trump said, “We’re very far down the line. We’ve agreed to every point, and now we’re papering it and we’ll be signing it at a formal ceremony.” Prime Minister Abe was restrained and more circumspect.

One agreement will “eliminate or reduce tariffs on certain agricultural and industrial products to enhance bilateral trade in a robust, stable, and mutually beneficial manner between our nations, which together account for approximately 30% of global gross domestic product,” the two countries said in a joint statement. The digital trade deal “establishes high-standard rules in this area, demonstrating the continued leading role that both nations play in global rule-making on digital trade,” they added.

“With the conclusion of these early achievements, the United States and Japan intend to conclude consultations within four months after the date of entry into force of the United States-Japan Trade Agreement and enter into negotiations thereafter in the areas of customs duties and other restrictions on trade, barriers to trade in services and investment, and other issues in order to promote mutually beneficial, fair, and reciprocal trade,” the joint statement promised.

“President Trump and Prime Minister Abe have agreed that these early outcomes will be followed by further negotiations to address remaining areas of interest to each government. The United States and Japan will continue working to achieve a comprehensive trade agreement that results in a more fair and reciprocal trade and economic relationship,” the U.S. Trade Representative’s (USTR) office said in a fact sheet.

“When the agreement is implemented by Japan, American farmers and ranchers will have the same advantage as CP-TPP [formerly Trans-Pacific Partnership] countries selling into the Japanese market,” the USTR fact sheet noted. Of course, that reminds exporters that the administration withdrew from the TPP in one of its first formal acts.

Following the photo opportunity, lawmakers and industry groups responded almost immediately. “Japan has long been a valued and reliable trading partner for soybeans, and we appreciate that the agriculture component of this deal will assure continued market access for our beans and other ag products. As we go through the details of the agreement, we extend a thank you to the Administration for finalizing this deal,” Davie Stephens, American Soybean Association president, said in a statement.

Sen. Ron Wyden (D-Ore.) welcomed the agreements, but echoed many sentiments that the deals do not go far enough. The digital trade principles that the U.S. and Japan agreed to “represent how important digital technology is to our modern economy,” he said. “However, the agriculture deal is not a comprehensive one and there is much more to do to level the playing field in Japan for American workers, businesses, farmers and ranchers. I look forward to this administration moving quickly to address the remaining trade issues our country faces in Japan,” Wyden added.

National Foreign Trade Council (NFTC) President Rufus Yerxa said he was “concerned about the limited nature of the deal, which falls short of the comprehensive nature of traditional U.S. trade agreements as it lacks commitments on non-tariff barriers, intellectual property and other regulatory concerns. Significantly, the agreement also fails to address the threat of damaging and counterproductive tariffs on autos and auto parts, which would be inconsistent with this new deal,” Yerxa said.

Canadian Fuel Company Settles SEC Bribery Charges

Canadian clean fuel technology company Westport Fuels Systems and its former CEO agreed Sept. 27 to pay the SEC more than \$4.1 million to resolve charges of violating the

FCPA by paying bribes to a Chinese government official to obtain business. The scheme involved a cash dividend payment from Westport's Chinese joint venture (JV), of which the largest shareholder was a state-owned entity (SOE-1).

"At the request of SOE-1, Westport, acting through Gougarty and others, agreed to, and did, transfer at a low valuation a portion of Westport's shares in the joint venture to a Chinese private equity fund in which Gougarty and others had been informed that the Government Official held a financial interest," the SEC order noted.

"In exchange, Westport, through Gougarty and others, believed that the Government Official would use his influence to cause the JV to authorize an increased dividend payment of \$3.5 million to Westport and to execute a framework supply agreement between the JV and Westport," it added. Under the settlement, the company agreed to pay a \$15 million civil penalty, prejudgment interest of \$196,000, and \$2.25 million in disgorgement, as well as a two-year period of self-reporting requirements regarding FCPA compliance activities.

"With the investigation resolved and a steadfast commitment to maintaining a culture of integrity, we are able to return our full focus to providing our customers around the world with our clean transportation technologies and products to address the urgent challenges of climate change and urban air quality," said current Westport CEO David Johnson in a statement.

Media Company Pays \$10 Million for FCPA Charges

Quad/Graphics Inc., a Wisconsin-based digital and print marketing provider, agreed Sept. 26 to pay the SEC nearly \$10 million to resolve charges of violating the FCPA by engaging in multiple bribery schemes in Peru and China from at least 2011 to January 2016.

"In one bribery scheme, Quad/Graphics Peru S.A. (Quad Peru) paid or promised bribes to government officials in Peru to win sales contracts from the Peruvian National Institute of Statistics and Information (INEI) and other government municipalities, and to avoid penalties on existing contracts with the Ministry of Education (MINEDU)," the SEC noted.

In another scheme, Quad's subsidiary, Quad/Tech Shanghai Trading Company (Quad/Tech China), "paid or promised approximately \$182,000 in improper payments to employees of private and government customers through sham sales agents to secure business," it added.

"In addition to bribery, Quad Peru also violated U.S. sanctions and export control laws by engaging in commercial transactions with a state controlled Cuban telecommunications company, Empresa de Telecomunicaciones de Cuba S.A. (ETECSA), and violated the FCPA's books and records provisions by creating false records to conceal the transactions," the SEC said.

Under the terms of the settlement, the company agreed to pay \$6.9 million in disgorgement, \$959,160 in prejudgment interest, and a \$2 million civil penalty, for a total of nearly \$10 million. “The conduct at issue — which the Company initially identified through our own internal financial controls and voluntarily self-reported to the authorities — was inconsistent with Quad’s values and policies, took place several years ago, and was limited to a few employees who are no longer with the Company,” a company spokesperson wrote to WTTL via email.

For its part, Justice declined to bring any action against the company under its voluntary disclosure policy. The department cited “our voluntary and prompt self-reporting, our thorough and comprehensive internal investigation, our full remediation, including enhancements to our compliance program, and our full and proactive cooperation with the government,” the company spokesperson added.

TechnipFMC Pays \$5 Million in Foreign Bribery Case

The other shoe dropped Sept. 19 when TechnipFMC plc (TFMC), a global oil and gas services provider, agreed to pay the SEC \$5 million to settle FCPA violations by FMC Technologies, Inc. (FMC) to pay bribes to officials in Iraq.

TFMC and its wholly owned U.S. subsidiary, Technip USA, agreed in June to pay U.S. and Brazilian authorities a combined criminal fine of more than \$296 million to resolve foreign bribery charges by FMC prior to its 2017 merger with Technip S.A. (see **WTTL**, July 1, page 1). Those charges involved two independent bribery schemes: one by France’s Technip S.A. (Technip) to pay bribes to Brazilian officials and the FMC scheme.

From at least 2008 through 2013, FMC Technologies made over \$794,000 in payments to a third-party consultant, which “used at least some of those funds to pay bribes to Iraqi government officials to procure business with Iraq state-owned oil companies,” the SEC noted. “The bribes were paid in connection with FMC Technologies obtaining contracts to provide metering technologies for oil and gas production measurement to the Iraqi government,” it added.

“This conduct dating back over a decade ago, taken by former employees, does not reflect the core values of our Company today. We are committed to doing business the right way, and that means operating with integrity everywhere,” TechnipFMC Chairman and CEO Doug Pferdehirt said in a June statement.

*** * * Briefs * * ***

GLASS CONTAINERS: American Glass Packaging Coalition filed countervailing and antidumping petitions Sept. 25 with ITA and ITC against glass containers from China. Petitions assert dumping margins ranging from 264.13 to 818.57%.

EXPORT ENFORCEMENT: Negar Ghodskani, employee of Iranian company Fanavar Moj Khavar (Fana Moj), was sentenced Sept. 24 in Minneapolis U.S. District Court to 27 months in prison for participation in conspiracy to illegally export-controlled technology, including converters, analog devices and synthesizers, to Iran. She pleaded guilty in August (see **WTTL**, Aug. 19, page 5). OFAC designated Fana Moj in October 2017 under EO 13382, which targets weapons of mass destruction proliferators and their supporters.

MORE EXPORT ENFORCEMENT: Kiet Ahn Mai of Pasadena was sentenced Sept. 19 in Los Angeles U.S. District Court to 18 months' probation for role in scheme to illegally obtain technology and integrated circuits with military applications and export to China without required licenses. Mai pleaded guilty in December 2018 to smuggling. Co-defendant and Los Angeles-area resident Yi-Chi Shih was found guilty in June after six-week trial in same court of conspiracy to violate International Emergency Economic Powers Act (IEEPA) and 17 other charges for role in scheme (see **WTTL**, July 8, page 6). Chips allegedly were shipped to Chengdu GaStone Technology Company (CGTC), Chinese company on BIS Entity List.

RUSSIA: OFAC Sept. 26 designated one entity, three individuals and five vessels participating in sanctions evasion scheme to facilitate delivery of jet fuel to Russian forces in Syria. Maritime Assistance LLC is front company supporting blocked Russian shipping company OJSC Sovfracht. Three Sovfracht employees were indicted in June 2018 in D.C. U.S. District Court on related charges (see **WTTL**, June 18, 2018, page 7). OFAC designated Sovfracht in September 2016 for operating in Ukraine.

IRAN: OFAC Sept. 25 designated six Chinese companies, including Kunlun Holding Company and COSCO Shipping Tanker (Dalian) Co., and five company executives for "knowingly engaging in a significant transaction for the transport of oil from Iran," State said in press statement. Transaction took place after expiration of China's Significant Reduction Exception (SRE) in May 2019. Sanctions do not apply to entities' ultimate parent, COSCO Shipping Corporation Ltd., OFAC said in FAQ published at same time.

VENEZUELA: OFAC Sept. 24 designated four entities in Cyprus and Panama that operate in Venezuelan oil sector and four vessels that transport oil from Venezuela to Cuba. At same time, "in recognition of a demonstrated change in behavior," OFAC delisted two entities Serenity Maritime Limited, Lima Shipping Corporation, two vessels Leon Dias and New Hellas, and one aircraft (N133JA).