

# CLIENT ALERT

## The Month in International Trade – June 2020

July 9, 2020

*In this issue:*

- **Top Trade Developments**
  - [Coronavirus Resource Center](#)
  - [Latest U.S. Trade Actions/Tariffs and Other Countries Retaliatory Measures](#)
  - [Latest on Section 301 Product Exclusions](#)
  - [U.S. Export Controls and Hong Kong – Change Underway](#)
  - [New Legislation and Guidance Aimed at Addressing Forced Labor in Xinjiang, China](#)
  - [U.S. Government Issues First Designations under the Caesar Act as Part of Larger Set of Designations Targeting the Syrian Government](#)
  - [Key Lessons Learned as UK’s AML Regulator Shows its Teeth](#)
  - [Team Telecom Opposes United States-Hong Kong Communications Link](#)
  - [China Customs Targets Key Industries in Latest Transfer Pricing Enforcement Initiative](#)
  - [BIS Adds Australia Group Decisions to Commerce Control List](#)
  - [President Issues Executive Order Authorizing Sanctions on Persons Associated with International Criminal Court](#)
  - [OFAC Publishes Additional Iran-Related FAQs Related to Executive Order 13902](#)
  - [Customs Rulings of the Week](#)
  
- [Crowell & Moring Welcomes](#)
- [Crowell & Moring Webinars](#)
- [Crowell & Moring Speaks](#)

*This news bulletin is provided by the International Trade Group of Crowell & Moring. If you have questions or need assistance on trade law matters, please contact [Jeff Snyder](#) or any member of the [International Trade Group](#).*

---

### **Top Trade Developments**

#### **Coronavirus Resource Center**

Crowell & Moring has a multidisciplinary working group helping clients navigate the rapidly evolving business, legal and operational issues associated with the COVID-19 pandemic. Our group brings together lawyers and professionals with relevant senior government, industry, and private sector experience across a wide array of practices that intersect with the most critical

issues in this unprecedented crisis. We are helping clients to mitigate risk, to implement practical approaches and sound business solutions, and anticipate and prepare for the opportunities and challenges that are on the horizon.

[Insights](#) – Client Alerts and Thought Leadership broken down by Practice/Industry.

[Webinars](#) - As part of Crowell & Moring’s ongoing effort to keep clients informed about the most significant developments stemming from the COVID-19 pandemic, we are offering a webinar series focused on issues that are immediate in terms of their impact, as well as issues that are just around the corner. Our focus is helping clients to anticipate issues, take proactive steps, develop appropriate responses, and execute sound legal, business and operational plans.

[Re-opening](#) – Practical resources to help navigate re-opening issues and questions.

[Client Resources](#) – Checklists, Guidelines, and Toolkits.

[Representative Matters](#) – Advised on more than 250 COVID-19 matters in a wide array of areas and industries.

[External Resources](#) – External links to government and outside resources.

[Media Mentions](#) – Firm commentary on recent developments and significant trends.

For access to the entire resource center, [please click here](#).

---

### **Latest U.S. Trade Actions/Tariffs and Other Countries Retaliatory Measures**

[Please click here anytime](#) for the latest actions, covered products rate increases, and effective dates.

*For more information, contact: Dan Cannistra, Robert Holleyman, Bob LaFrankie, Spencer Toubia, Ru Xiao-Graham, Cherie Walterman*

---

### **Latest on Section 301 Product Exclusions**

[Please click here anytime](#) for the latest actions regarding Section 301 Product Exclusions.

*For more information, contact: Dan Cannistra, Robert Holleyman, Bob LaFrankie, Spencer Toubia, Ru Xiao-Graham, Cherie Walterman*

---

### **U.S. Export Controls and Hong Kong – Change Underway**

On May 29, 2020, President Trump announced his intention to direct his administration to begin the review and removal of Hong Kong’s special treatment for dual-use export controls. Over the last week, we have seen the U.S. State and Commerce Departments begin to implement these changes through a coordinated series of announcements that, collectively, represent the largest change in Hong Kong’s status under export control laws since the 1997 handover ending British sovereignty.

For more on the changes underway in Hong Kong, [please click here](#).

*For more information, contact: Jana del-Cerro, Jeff Snyder, Clif Burns, Chandler Leonard, Brian McGrath*

---

## **New Legislation and Guidance Aimed at Addressing Forced Labor in Xinjiang, China**

### ***New Business Guidance to Address Supply Chain Risks and Considerations***

The Departments of State, Treasury, Commerce, and Homeland Security issued guidance on July 1, 2020 titled “Risks and Considerations for Businesses with Supply Chain Exposure to Entities Engaged in Forced Labor and other Human Rights Abuses in Xinjiang” (the “advisory”).

The advisory broadly recommends that businesses with potential exposure in their supply chain to the Xinjiang Uyghur Autonomous Region of China (“Xinjiang”) be aware of the reputational, economic, and legal risks involved with conducting business in the region and implement human rights due diligence policies and procedures to address the risk.

The advisory highlights that since March, 2017, more than one million ethnic Uyghurs, Kazakhs, Kyrgyz, and other Muslim minorities have been held in internment camps designed to eradicate the detainees’ cultural and religious identities and to indoctrinate them with Chinese Communist Party ideology. Detainees have been subject to overcrowding, sleep and food deprivation, medical neglect, physical and psychological abuse, forced labor, sexual abuse, denial of religious practices, and forced studying of Communist Party propaganda.

For on the new business advisory, [please click here](#).

*For more information, contact: Caroline Brown, Carlton Greene, Jeff Snyder, Dj Wolff, Frances Hadfield, Brian McGrath*

---

## **U.S. Government Issues First Designations Under the Caesar Act as Part of Larger Set of Designations Targeting the Syrian Government**

On Wednesday, June 17, 2020, the U.S. government designated 39 individuals, including Syrian President Bashar Al-Assad and his wife Asma al-Assad, for sanctions, including the first designations under the Caesar Syria Civilian Protection Act (“Caesar Act” or “Act”). The Caesar Act, named after the codename of a Syrian defector who turned over tens of thousands of pictures of atrocities by the Syrian government against civilians, authorizes blocking and visa sanctions against foreign (non-U.S.) persons knowingly providing support (e.g., financial, material, or technological) or selling or providing certain goods and services to the Syrian government and military and in certain circumstances to other foreign persons in connection with the conflict in Syria.

For more on the Caesar Act, [please click here](#).

*For more information, contact: Caroline Brown, Carlton Greene, Erik Woodhouse, Dj Wolff, Nicole Succar; Tyler Brown*

---

## Key Lessons Learned as UK's AML Regulator Shows its Teeth

Only four months after the United Kingdom's Office of Financial Sanctions Implementation (OFSI) issued a £20.47 million penalty against Standard Chartered Bank (SCB) for alleged violations of the U.K.'s Ukraine- and Russia-related sanctions ([see our alert here](#)), another bank is in the news for regulatory breaches. This time it is the London arm of Commerzbank AG (Commerzbank), which was hit by the United Kingdom's Financial Conduct Authority (FCA) on 17 June with a fine of £37.8 million (\$47.4 million) for failures in its anti-money laundering controls.

The FCA is the UK's conduct regulator for financial services firms. Financial institutions operating in the UK are required to take steps to minimise their risk of being used to facilitate money laundering or terrorist financing. These include taking reasonable care to establish and maintain an effective, risk-based anti-money laundering (AML) control framework, and to comply with applicable Money Laundering regulations.

For more on the FCA's action against Commerzbank, [please click here](#).

*For more information, contact: Michelle Linderman, Nicola Phillips, Carlton Greene, Erik Woodhouse*

---

## Team Telecom Opposes United States-Hong Kong Communications Link

On June 17, 2020, Team Telecom, the multiagency body that reviews certain Federal Communications Commission (FCC) licensing applications for national security and law enforcement concerns, recommended that the FCC deny the portion of the Pacific Light Cable Network (PLCN) submarine cable system application that would have established a direct connection between the U.S. and Hong Kong, citing national security concerns.

Team Telecom recommended that the FCC approve the portions of the application in so far as the undersea cable connects the U.S., Taiwan, and the Philippines, which are separately owned and controlled by subsidiaries of Google LLC and Facebook, Inc. and do not involve People's Republic of China (PRC)-based ownership. The recommendation that the FCC approve those portions of the application is subject to final mitigation agreements negotiated with the parties before the FCC issues an order.

For more on this issue, [please click here](#).

*For more information, contact: Caroline Brown*

---

## China Customs Targets Key Industries in Latest Transfer Pricing Enforcement Initiative

Transfer pricing is a major enforcement priority of China Customs in 2020. In April 2020, China Customs launched a national enforcement action to investigate and audit import transactions between related companies. More than 1000 multinational companies have received notices from China Customs requesting information on their transfer pricing policies and activities.

For more on this enforcement initiative, as well as defensive strategies multinationals should consider in anticipation of a China Customs audit or investigation, [please click here](#).

*For more information, contact: Evan Chuck, David Stepp*

---

## **BIS Adds Australia Group Decisions to Commerce Control List**

The Bureau of Industry and Security (BIS) published a final rule in the Federal Register effective June 17, 2020, amending the Export Administration Regulations (EAR) to implement the decisions made at the February 2020 Australia Group Intersessional Implementation Meeting, and those subsequently adopted pursuant to the group's procedures.

The Australia Group is a multilateral forum consisting of 42 participating countries and the European Union that maintain export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program.

Specifically, this rule amends the following Export Control Classification Numbers (ECCNs) to reflect the AG changes:

- ECCN 1C350 is amended by adding 24 precursor chemicals, as well as mixtures in which at least one of these chemicals constitutes 30 percent or more of the weight of the mixture, to ECCN 1C350.d.
- ECCN 1C351 is amended to add Middle East respiratory syndrome-related coronavirus (MERS related coronavirus).
- ECCN 2B352 is amended by adding a Technical Note to indicate that cultivation chamber holding devices controlled in 2B352.b.2.b include single-use cultivation chambers with rigid walls.

The items addressed by this final rule were not previously listed on the CCL or controlled multilaterally. BIS' notice states that it identified the items now controlled pursuant to this change as emerging technologies that are essential to U.S. national security and for which effective controls can be implemented, "consistent with the inter agency process described in Section 1758 of the Export Control Reform Act of 2018 (ECRA)."

BIS did not, however, provide a notice and comment period prior to issuing this final rule, as required under the Section 1758 ECRA process for identifying emerging technologies for control. As a result, it remains unclear whether the items now controlled as a result of this final rule constitute "emerging and foundational technologies controlled under Section 1758" for purposes of the Committee on Foreign Investment (CFIUS) definition of "critical technologies," under 31 C.F.R. § 800.215(f). In any event, the newly controlled technologies now meet the second prong of that definition because they are controlled on the Commerce Control List pursuant to a multilateral regime (the Australia Group).

*For more information, contact: Jana del-Cerro, Chandler Leonard, Edward Goetz*

---

## President Issues Executive Order Authorizing Sanctions on Persons Associated with International Criminal Court

On June 11, 2020, President Trump signed an [Executive Order](#) (EO) (as yet unnumbered) authorizing blocking sanctions and additional visa restrictions against personnel of the International Criminal Court (ICC).

The White House took the action in response to the ICC authorizing an investigation into alleged crimes by U.S. personnel in connection with the war in Afghanistan. Although no individuals are immediately designated for sanctions under this authority, the EO represents a stark escalation in the fraught relationship between the United States and the ICC.

For more on this issue, [please click here](#).

*For more information, contact: Caroline Brown, Erik Woodhouse, Brian McGrath, Carlton Greene, Dj Wolff, Nicole Succar*

---

## OFAC Publishes Additional Iran-Related FAQs Related to Executive Order 13902

On June 5, 2020, the Department of the Treasury's Office of Foreign Assets Control (OFAC) published [four new Frequently Asked Questions \(FAQs\)](#) related to [Executive Order 13902](#) ("EO 13902") that may be particularly insightful for those companies that still do business involving Iran. The EO, first issued on January 10, 2020, imposed, in part, additional sanctions on entities found to be operating in the construction, mining, manufacturing, or textile sectors of the Iranian economy, or any other sector as may be determined by the Secretary of the Treasury in consultation with the Secretary of State, or have knowingly engaged in a significant transaction for goods or services used in connection with those sectors. More information on the EO can be found [here](#).

The four FAQs, numbered 830, 831, 832, and 833 on Treasury's website, clarify the application of the EO and define key terms. Presumably in response to COVID-19-related questions, OFAC clarified that it will not target Iranian manufacturers of medicines, medical devices, and other products used for personal protective equipment (PPE) and other health-related purposes solely for use in Iran. The remaining FAQs define the four sectors enumerated in the EO – construction, mining, manufacturing, and textile – along with "goods and services used in connection" with those sectors. Finally, the FAQs define "knowingly" and "significant" for purposes of the EO.

For a summary of the four FAQs, [please click here](#).

*For more information, contact: Caroline Brown and Brian McGrath*

---

## Customs Rulings of the Week

- June 8: [Classification of Electronic Smart Watch](#)
- June 18: [Classification of Hy-Genie No Touch Hand Tool](#)
- June 22: [Classification of Zip Line Kit](#)

- July 1: [Classification of the EYENIMAL Pet Videocam](#)

*For more information, contact: Frances Hadfield, Rebecca Toro Condori*

---

## Crowell & Moring Welcomes

**Clayton Kaier** is an International Trade Analyst in Crowell & Moring’s International Trade Group and a resident in the firm’s Washington, D.C. office. He joins Crowell after serving as a Legislative Assistant at a Washington, DC-based law and government advocacy firm, serving as the lead international trade authority. Before that, he was Advisor and Special Assistant at the Office of the Deputy U.S. Trade Representative, where he supported a portfolio including trade and investment relations with Asia, as well as trade negotiations and policy coordination in the areas of services, investment, innovation, intellectual property, the Committee on Foreign Investment in the United States (CFIUS), the special 301 report, and excess capacity. At Crowell, he will provide practice support on import regulatory matters pending before the Office of the U.S. Trade Representative (USTR) and U.S. Customs and Border Protection.

---

## Upcoming Crowell & Moring Webinars

### Cross-Border Digital Asset Payments: What You Need to Know About Regulations in the U.S. and Canada

**Date:** Thursday, July 16, 2020

**Time:** 12:00 PM Eastern Daylight Time

**Duration:** 1 hour

Governments globally are implementing new regulations or broadening old ones in response to the growing popularity of digital assets—particularly as digital assets are more frequently used for cross-border money transfers. The U.S. and Canada are no exception. For platforms in the U.S., Canada, and other locations, new anti-money laundering rules and registration requirements not only present challenges for entities in the space, but also new opportunities.

Please join **Crowell & Moring and McCarthy Tétrault** on July 16th for a live webinar event. This webinar will feature U.S. and Canadian financial services lawyers who will discuss regulatory developments in both the U.S. and Canada, such as amendments to Canada’s Proceeds of Crime (Money Laundering) and Terrorist Financing Act and what it means for money servicing businesses, including:

- **The New Law:** What are the recent changes to Canadian anti-money laundering laws and whom do they apply to?
- **Compliance Obligations:** What requirements and obligations must we comply with?

- **Cross-border Considerations:** What if my business is based in one jurisdiction but providing services to customers who are based in another? What does it take for a digital asset or digital currency business to expand its operations into Canada, or new countries in general?
- **Jurisdictional Reach:** When would a crypto or digital asset business have to comply with foreign securities laws and, in particular, U.S. or Canadian securities laws?
- **Looking Forward:** Can digital currency or digital asset businesses expect to see greater federal oversight over money transmission or anti-money laundering laws? What solutions or efforts have been proposed?

**Moderator:**

- **Ambassador Robert Holleyman**, Partner, Crowell & Moring LLP; President & CEO, Crowell & Moring International LLC; and Former Deputy U.S. Trade Representative

**Speakers:**

- **Michelle Gitlitz**, Partner and Global Head of Blockchain and Digital Assets practice, Crowell & Moring LLP
- **Carlton Greene**, Partner, International Trade and White Collar & Regulatory Enforcement practices, Crowell & Moring LLP
- **Ana Badour**, Partner and Co-leader of FinTech practice, McCarthy Tétrault
- **Dean Masse**, Partner and Co-leader of Structured Finance practice, McCarthy Tétrault
- **Jorge Pesok**, Counsel, White Collar & Regulatory Enforcement and Blockchain and Digital Assets practices, Crowell & Moring LLP

To register for this webinar, [please click here](#).

**Back to Basics: Export 101**

**Date:** Tuesday, July 21, 2020

**Time:** 12:00 PM Eastern Daylight Time

**Duration:** 1 hour

Exporters are subject to a number of distinct regulatory regimes that may be applicable to shipments of commodities, and transfers of controlled data or software, depending on the type of item being sent, the recipient, the country destination, and the end use.

These regimes include the International Traffic in Arms Regulations (ITAR), the Export Administration Regulations (EAR), the Foreign Trade Regulations (FTR), the Office of Foreign Assets Control (OFAC) sanctions regulations, and others.

This session will review the fundamentals of US export compliance for attorneys and business personnel that may be new to export compliance or for those seeking a refresher, and will go over ITAR and EAR jurisdiction and classification, types of export transactions, licensing, deemed exports and technology transfers, customer due diligence, and voluntary disclosures.

**Speakers:** Jana del-Cerro and [Chandler Leonard](#)

To register for this webinar, [please click here](#) and select Back to Basics: Export 101.

---

### **Crowell & Moring Speaks**

On June 8, [Nicole Simonian](#) moderated a Los Angeles Area Chamber of Commerce webinar titled, “The Way Ahead – Opportunities of USMCA.”

On June 12, [Andrew Blasi](#) was featured in a *Thomas Insights* article titled, “[3 Ways Your Workforce Will Define Your Business’ Covid-19 Recovery.](#)”

On June 12, [David Stepp](#) and [Walter \(Sam\) Boone](#) were featured in an *Inside Trade* (subscription required) article titled “Trade Attorneys Advising Companies to Reach USMCA Compliance As Quickly As Possible.”

On June 16, [Andrew Blasi](#) was featured in a *Thomas Insights* article titled, “[3 Ways to Prepare Your Supply Chain For A Post-Covid-19 Trade Rebound.](#)”

On June 18, [Evan Chuck](#) spoke on a virtual panel sponsored by the American Bar Association entitled, “[Dealing with the Asia Pacific Ring of Trade Fire.](#)” This panel, drawn from the corporate world, private practice, NGOs, and international aid agencies provided their views together with proposals for improvement for trade in the Asia Pacific region.

[Caroline Brown](#), [Erik Woodhouse](#), [Brian McGrath](#), and [Carlton Greene](#) authored an article for Law360 on June 20 titled, “[Sanctions Order May Accelerate Decline in U.S.-ICC Relations.](#)”

[Caroline Brown](#) was featured in a June 25 CSO Online article titled “[Data Security Risks Threaten Approval of Chinese Undersea Cable Plan.](#)”

[Caroline Brown](#), [Addie Cliffe](#), and [Jana del-Cerro](#) were featured in a June 25 *Communications Daily* (subscription required) article titled “CFIUS Focuses on Chips, Lawyers Say, Expert Seeks Balanced Approach To China.”

[Ambassador Robert Holleyman](#) and [Clark Jennings](#) authored an Op-Ed for The Straits Times on June 27 titled “[S’pore leads new approach to digital trade.](#)”

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

#### **Jeffrey L. Snyder**

Partner – Washington, D.C.  
Phone: +1.202.624.2790  
Email: [jsnyder@crowell.com](mailto:jsnyder@crowell.com)

#### **Frances P. Hadfield**

Counsel – New York  
Phone: +1.212.803.4040  
Email: [fhadfield@crowell.com](mailto:fhadfield@crowell.com)

**Edward Goetz**

Manager, International Trade Services – Washington, D.C.

Phone: +1.202.508.8968

Email: [egoetz@crowell.com](mailto:egoetz@crowell.com)