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BUDAPEST BUSINESS SCHOOL
FACULTY OF INTERNATIONAL MANAGEMENT AND
BUSINESS INTERNATIONAL ECONOMICS TRAINING PROGRAM
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INTERNATIONAL BUSINESS DEVELOPMENT SPECIALIZATION

THE EFFECTIVENESS OF THE U.S. TRADE POLICY AND ITS
JUSTIFIABLE TRADE POLICY TOOLS

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LIST OF ABBREVIATIONS

AD/CVD	Antidumping and Countervailing Duty
BIS	Department of Commerce, Bureau of Industry and Security
CACR	Cuban Assets Control Regulations
CCL	Commerce Control List
CDA	Cuban Democracy Act
CEO	Chief Executive Officer
CPA List	Cuba Prohibited Accommodations List
DHS	Department of Homeland Security
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
ECFR	Electronic Code of Federal Regulations
ECP	Export Compliance Program
ECRA	Export Control Reform Act
EMCP	Export Management and Compliance Program
EO	Executive Order
FEMA	Federal Emergency Management Agency
FFC	Foreign Funds Control
FTI	Office of Terrorism and Financial Intelligence
IEEPA	International Emergency Economic Powers Act
ISA	Iraqi Sanctions Act

ISDCA	International Security and Development Cooperation Act
ITAR	International Traffic in Arms Regulations
ITSR	Iranian Transactions and Sanctions Regulations
JCPOA	Joint Comprehensive Plan of Action
LIBERTAD	Cuban Liberty and Democratic Solidarity Act
MLB	Major League Baseball
NGO	Non-governmental Organization
NKSR	North Korea Sanctions Regulations
PPE	Personal Protective Equipment
OAC	Office of Anti-boycott Compliance
OFAC	Department of the Treasury, Office of Foreign Assets Control
OIF	Office of International Finances
SCP	Sanctions Compliance Program
SDN	Specially Designated Nationals and Blocked Persons List
TDO	Temporary Denial Order
TWEA	Trading With the Enemy Act
UNPA	United Nations Participation Act
USMCA	United States-Mexico-Canada Agreement
USML	United States Munitions List
USTR	United States Trade Representative

INTRODUCTION

In the lack of international trade the effectiveness of economies is narrowed down to a limited scope. Although some countries attempt to get involved in international trade for improving domestic markets and industries, majority of economic development still happens in global spectrum sometimes for the deterioration of local trade. Due to the sometimes sensitive diplomatic relationships between countries – rooting from wars, governmental actions or opposing views of parties – specific practices are often introduced to reflect these connections among the respected states and to set a type of hierarchy. In today's fast changing economy driven by business and money certain threats cannot be avoided and ignored making governments to place higher focus on ensuring that entities are compliant to the laws. Especially, the U.S. has grown into such a strong economy during the past decades that we arrived to a stage where she dictates the trends and speed in world economy. This fact motivated me to dedicate my thesis to the trade policy of the United States while deeply studying the necessary practices to remain compliant to it. On the other hand, trade policy tools backfire on the long term if used in an improper manner. Based on historical data, I aim for the realization of fact that the U.S. governmental agencies responsible for trade policy, work effectively and tirelessly to balance on the thin line between healthy economies and trade wars. In this study I state that trade policy tools control the free movement of goods and services because sanctions are created in order to monitor those entities designated by the U.S. Government, thus transactions can be made only with the approval from higher level in certain cases. Operating within the same customs border in the European Union where most of the trading partners are EU members among themselves, the concept of an extremely strict export regulation in the United States might sound strange to those who are only familiar with the system existing in the EU, but is useful from certain perspectives. As my second hypothesis, I claim that the U.S. trade policy tools are justifiable because they have provided national security over the introduction of certain sanctions and regulations monitored by the responsible federal agencies.

In my personal belief, the importance of this topic is that trade is one of the most complex concepts to be examined in order to gain a clear picture of how our life is functioning as trade, without us even noticing it, interwoven in the world. This work of mine has the main purpose of scrutinizing the different elements of the concept of trade compliance with special focus on the United States' perspective. I attempt to summarize and explain the trade compliance as a whole in general, after that highlighting the unique characteristics applying to the United States illustrated with examples,

and finally I aim for presenting the different sub-areas of the sanctions and violations of trade compliance to give my thesis depth and to link the separate parts. Nowadays, in the global marketplace companies do businesses worldwide. As a result, different trade practices including but not limited to exporting and importing have become an essential part of day-to-day operations. Thanks to the excessive network that relies on global trade, a company which is involved in international businesses needs to ensure that operations have solid global trade compliance. For an organization it is crucial to have an export compliance and management program which will be introduced and discussed further in Chapter 3.

Trade compliance is an always changing set of laws and rules implying the continuous review of the topic. The trade compliance of the United States being in force is relatively new. As it can be observed in the latest years, the U.S. acted as a trend-setter in trade affecting the rest of the world. Resulting from this fact, I find it important to detail what measures can be expected and how these measures change trade between the United States and the sanctioned countries and entities.

The research method that is highly supported by secondary research collection includes literature review of both respected experts in trade and information will be added from the official websites of the Bureau of Industry and Security of the Department of Commerce and the U.S. Treasury's Office of Foreign Assets Control. Materials provided by these agencies help U.S. exporters to remain fully compliant to the regulations, including the list containing designated entities or announcements about the latest sanctions. Export compliance focuses highly on governmental trade policies, and although it is not a new term to come up with, not many studies were made in this field specifying and describing the topic to its core. Companies providing professional help to exporters conducted researches with several well-known experts who have marked their names into trade studies expressing interesting insights that are worth exploring. My statement, whether proved or rejected, is determined examining numerous statistics and case studies covering most of the scenarios where trade compliance fails to succeed due to some circumstances. Using these contents is crucial to carry out a compliant trade activity and to avoid any violation of the laws.

Thought the chapters numerous examples provide real life illustrations to examine and to understand the sanctions and other trade policy tools discussed, together with the mechanism they function with, while emphasizing their meanings and impacts to both civil and official viewpoints. Speaking of the variety of sanctions and regulations, it is worth to keep in mind that there are no identical rules applying to the countries considering the specific reasons stretching behind the creation of the specific OFAC sanction. Trade has been controlled since the existence of commerce and nations have always concerned to ensure a well-functioning economy beneficial for them.

The core objective of a governmental agency is to perform the tasks assigned to it and to maintain an effective and productive working protocol. Encouraged by this, the main motivation of mine for this topic is to examine whether the Office of Foreign Assets Control and the Bureau of Industry and Security function effectively. Nowadays, a sanction or even a total embargo can happen from one day to another making it inevitable to always keep up with the latest changes in international trade policies. Extremely big pressure is caused thanks to the fact that the stage of being sharp and focused all the time to reach that desired effectiveness is stressful, moreover the – even accidentally – omission can result in damages up to an extent where political tensions tend to evolve. In parallel, I also attempt to study the effectiveness of OFAC from the viewpoint of punishment in case any violation happens. Logically, the Office does not work to its full authority until they just issue a new sanction or make amendments to an already existing one, however they have the full responsibility to conduct audits, investigate cases and levy and collect payments for the violation of laws and sentence the violators for years in prison, considering the nature and volume of the crime.

1. TRADE COMPLIANCE

Trade is motivated by the fundamental principle of demand and supply. The word ‘trade’ is a commonly used term in business and it covers an enormously broad scope. Describing ‘trade’ is a rather challenging task thanks to its complexity, nonetheless the following can be stated: trade is the activity in which goods and services are involved for the purpose of selling or buying, in exchange for something of equivalent value, most frequently money. Another type of trade is the so called barter where no money is needed for the payment, instead other goods or services are offered based on previously discussed conditions of the parties taking part in the transaction.

Trade compliance, on the other hand, is even more manifold. A well-known, internationally certified and respected service supply chain giant uses the definition of trade compliance as follows: *‘Trade compliance describes the terms and conditions for all trade between two or more countries, including training, lending, classification, trade risk determination, and duty or tax payments and reviews. In addition, a country may have different trade agreements for every other country it does business with. As a result, the number of potential trade agreements can be equal to every possible pairing of countries and subsequent organizations within a country’* (FlashGlobal, 2016).

A simpler description states that: *‘The trade compliance definition involves the process by which goods move from one country to another in compliance with the laws and regulations of both countries* (Weedmark, 2019). Globalior, the association of global trade compliance professionals even uses a shorter definition: *‘it refers to things that we are allowed to do relating to imports and exports’* (Globalior, 2018).

Trade compliance holds the principle of meeting the requirements of international trade, export and financial laws while it is governed by an array of different tools to formulate the core of trade compliance so these pivotal elements provide companies to avoid violations of any kind. Eight cardinal points can be classified as the necessary components of trade compliance; those elements that are to be implemented and monitored in order to remain compliant: tariff classification, preferential and non-preferential origin, incoterms, licence management, export controls, customs management, screening, and valuation. During exportation proper classification of the item is crucial and it causes a lot of confusion that the United States categorizes items strictly and differently than other countries, for example dual-use or military articles that might fall under the authorization of EAR or ITAR, also licence is needed for the export of such items. The terms preferential and non-preferential origin imply whether there exists a special trade agreement

between the parties resulting in lowered tariffs and duties. Incoterms are unilaterally accepted and used all over the world, which determine the responsibilities and payment obligations of the contracted parties. Getting the necessary licence and permission from the responsible authority can take a lot of time so it is highly recommended to investigate whether your exported item requires or not and if yes, licence must be applied for the transaction. Connected to the classification of the items, export control regulations play a significant role in trade compliance because military, dual-use as well as certain technologies and technical data are controlled by ITAR or EAR concerning the export of such items. Good relations with the respective customs authorities are advantageous in various ways such as fastened bureaucratic procedure and fewer inspections at the borders, also this connection can impact positively our supply chain as well. Continuous screening helps companies to maintain compliance on the long run, and this is a part that many firms neglect and this omission leads them to violate trade compliance resulting in severe payments, export licence denial or imprisonment. As the last step in trade compliance, the proper valuation of the shipment must be determined, which is supervised by the customs authority, to make sure no one is breaching the trade regulations (Melia, 2019).

1.1. Trade compliance in the U.S.

Economic boom reached America and its development left everyone speechless; globalization had rather beneficial effects on the country, with roughly double the size of its economy by the end of the 1990s and since then probably has taken the magnitude of reaching the size four or five times bigger compared to 1998 (Niskanen, 1998). As known from various sources and experienced in real life, the United States makes huge efforts in order to cope with the increasing threats coming hand in hand with the extensive opening of borders and international trade practices. The concept of trade policy has unique elements applied in the U.S. as generally market economies work by the scheme of guaranteeing free trade opportunities for people over their products. On the contrary, the Government of the United States restricts those environments which within trade transactions can smoothly take place. Various respected authors published studies discussing the possible effects of how the States' control over its international trade can either benefit or hinder the improvement of economy. Experts agree on that a considerable of trade sanctions are useful in regard with the continuous progress from the side of the U.S., still there are argues on many other regulations that are simply have been put in force in the arrogant and egoistic endeavouring nature of the United States which characteristics proved by not one but uncountable examples over history. 'Are these disputes bad for America?' can be the question however, time proved that the country has

maintained its status quo dictating the rhythm of global trade. After observing the formulation of trade policy of the U.S., it is obvious that national security objectives are in highlight, so sanctions and limitations can be created or revoked if seem to be applicable. One of the leaders in commerce, America enjoys the privilege not to adapt to other nations rather to affect their economies significantly. Unpredictable, they say, what causes the order from the U.S. Government to place restrictions over a nation, individual or business; among the chances activities relating to narcotics trafficking, dealing with weapons of mass destruction are the most obvious reasons. At the same time the actions of a government, ongoing conflicts in a country or the support or oppression of certain campaigns can also result in the creation of a blockade towards that country or entity.

Taking a look at the economic status of countries sanctioned by the U.S. shows strong evidence supports the fact that it is disadvantageous to be in this ‘special treatment’ category, because it severely damages the trade opportunities of the given country. Despite of the truth that trading does not always involve the U.S. itself directly in the form of a company or an individual, there are specific rules applied to products of US-origin even if it was a part or a component of another country from where the exportation was initiated. Typically, this sanction involves products exported to Cuba of US-origin. Due to the strict embargo placed on the island, no products or services can be exported to Cuba from a third country which contain US- origin parts, components, counterparts, development, technology, information or technical data over a certain ratio in that product or service that generally would need a licence from one of the governmental agencies, regardless of the categorization of that particular item or service. This example proves the authority of the United States over the free movement of goods that are limited by applying trade policy tools. Department of Commerce and the U.S. Treasury jointly monitor the current situation in international politics, economy and trade in order to shape its own regulations and sanctions. Despite the fact that chances to breach trade compliance are extremely high due to its complexity, from the viewpoint of the government the extended trade policy tools are one of the greatest achievements of the United States. By applying these measures, the U.S. is able to ensure that no international transaction happens without the knowledge of the United State. Majority of these policy tools are established to represent international relations and, in some cases, to ‘punish’ a country. Embargoes are trade policy tools used to control exports and imports into a specific country. Throughout history many countries introduced total or partial embargo on another nation however, undoubtedly the United States keeps the record in terms of current sanctions.

Divided into categories, export and import rules fall under the scope of one of the following 3 groups, all found in the Code of Federal Regulation. These are Title 15, the Export Administration Regulations; Title 22, the International Traffic in Arms Regulations; and Title 31, the Office of Foreign Assets Control. Covered by these sets of regulations, four groups can be differentiated by the nature of transaction. Firstly, the most common activity is the export or import of tangible items, controlled technology or source code abroad. In this content, export and import means sending or taking such restricted items to another country. Secondly, the collaboration with foreign entities are monitored including companies, educational institutes, individuals, financial organization and, basically, every character entering to the business sphere. Additionally, not only collaboration with organizations, individuals and countries, but any kind of interaction is carefully investigated upon federal force. The final subdivision of regulations is connected to ‘*sharing, or transferring in any ways proprietary confidential or otherwise controlled information, source code, or technology with foreign nationals located in the U.S. or abroad*’ (Cornell University, 2020). This last one causes the most brainstorming as the development of technology and digital world has gotten to a point where either stealing deliberately or accidentally leaking out information has become easier than ever.

Agency	Regulatory field
The Office of U.S. Trade Representative (USTR)	principal advisor on trade policy chief U.S. negotiator administration of U.S. law
Department of Commerce (DOC)	monitoring non-agricultural trade functions
International Trade Administration (ITA)	providing market researches and business connections conducting AD/CVD investigations
Bureau of Industry and Security (BIS)	license administration and law enforcement for dual-use item
Economic Development Administration (EDA)	providing firms trade adjustment assistance
Bureau of Economic Analysis (BEA) Census Bureau	collection and analysis economic data
The U.S. Department of Agriculture (USDA)	promotion and regulation of U.S. agricultural trade
Animal and Plant Health Inspection Service (APHIS)	prevention of plant and animal pests and diseases entering the U.S.
Food Safety and Inspection Service (FSIS)	regulation of export and import of U.S. meat, poultry and egg products
Foreign Agricultural Service (FAS)	administration of U.S. agricultural export financing and assistance
U.S. Department of State (DOS)	supervision of U.S. economic and trade relationships

U.S. Department of the Treasury	chief international economic policy advisor leading currency provision negotiations
Office of Foreign Assets Control (OFAC)	supervision of sanctions and embargoes
Export-Import Bank (Ex-Im Bank)	financing and insuring U.S. exports of goods and services
Office of Anti-Boycott Compliance (OAC)	monitoring anti-boycott violations
Office of Non-proliferation and Trade Compliance	regulation of weapons and alliances
Office of Terrorism and Financial Intelligence (TFI)	regulation of terrorism, drug kingpins, money laundering

1. Table 1: Summary of the U.S. trade agencies and their regulatory fields
Source: FAS, 2018

The following part aims to introduce the key trade agencies of the United States and to highlight the crucial roles in which they are contributing to the healthy functioning of the economy. First of all, the aforementioned Office of the U.S. Trade Representative, who acts as chief negotiator in U.S. trade, advises the President on trade matters and coordinates the interagency trade policy as its head. The establishment of USTR is based on the honest motivation to draw a balancing line between national and foreign trade policy interests clashing from time to time. Non-agricultural trade operations are managed by the Department of Commerce dividing the huge scope into several sub-branches including the Economic Development Administration responsible for Trade Adjustment Assistance (TAA) for firms; data collection belongs to the Bureau of Economic Analysis and Census Bureau, while the Bureau of Industry and Security is in charge for dual-use items' licenses with the duty to carry on investigations on possible harms and threats of certain imports affecting national security. A separate agency exists to collect information, conduct researches and promote U.S. exports worldwide to make it more attractive for foreign investments. All in all, the International Trade Administration supplies the information necessary for other departments to operate effectively. ITA is also concerned with the inquests of antidumping and countervailing duty to identify potential chances of unfair trade practices. The U.S. Department of Agriculture having a major role in regulating and promoting agricultural products of US-origin and has a final word in negotiations related to agriculture as well. Under this agency we can find three divisions consisting of the Animal and Plant Health Inspection Service preventing plant and animal diseases and pests from entering U.S. borders, the Foreign Agricultural Service working for the accurate administration of export finances and assistance related to agricultural export transactions, and finally the Food Safety and Inspection Service which bears the legal power over the regulation

of U.S. poultry, meat and egg products including imports to the U.S., too. The main task of the U.S. Department of State is to run the U.S. Bilateral Investment Treaty in close cooperation with USTR, as well as to manage the responsibilities over trade and economic relationships through its embassies and bureaus. Export-Import Bank represents one of the biggest federal supports for U.S. jobs through financing and securing U.S. export to secure services (FAS, 2018). Making a cross-cutting understanding to the complexity of U.S. trade policy, it is inevitable to mention the numerous branches of governmental power providing guidance or in case of violation, imposing punishment over its scope. As straightforward as it is at first sight, it gets extremely complicated and contradictive at second glance. On the highest level the Constitution grants Congress primer decision-making over trade policy focusing on levying tariffs and regulating foreign trade. On the contrary, rooting from the ultimate power of the Congress in these matters, the President has no specific authority in trade issues, yet holds the power of decision-making in foreign affairs. Putting this system into a simpler context, the President of the United States negotiates treaties with other nations, and within the scope of the particular treaty the concerning agency has the legal authority granted by the President to issue, revoke, implement or amend trade policies, and adjust tariff rates. Harmonizing the cooperation between the agencies, the Office of U.S. Trade Representative stands at the top of hierarchy making sure that everything works smoothly along with the aim to gather input on the interests in trade from public and private stakeholders for the purpose of a unified point of view. Appendix 1 describes the hierarchy and reporting responsibilities of the Bureau of Industry and Security of the U.S. Department of Commerce, one of the most significant agencies in foreign trade issues. On the organization chart we can observe that the organization is divided into two branches export administration and export enforcement, and within them all categories of trade compliance have a separate agency to focus on a specific area. The Office of Anti-boycott Compliance dealing with anti-boycott laws, the Office of Non-proliferation and Treaty Compliance handling weapon and alliance questions or the Office of Enforcement Analysis who examines the effects of the enforcement of trade policy. The other powerful agency that is empowered to make sure trade compliance is met, is the Office of Foreign Assets Control under the U.S. Treasury however, in this case the hierarchical connections can cause misunderstanding at first. The Office of Terrorism and Financial Intelligence is responsible for the supervision of non-proliferation, drug kingpins, money laundering, terrorism and any other activities that are considered to be a national threat to the United States. Due to its stretched scope that FTI covers, it is logical to subordinate OFAC under this Office to administer and enforce economic and trade sanctions (U.S. Department of the Treasury, 2019).

2. OFFICE OF FOREIGN ASSETS CONTROL

2.1. The Office of Foreign Assets Control

Throughout history the United States had developed an incredibly widespread network of governmental bodies that controls every area of trade and economy. The long lists of official agencies are responsible for continuously being aware of the current situations happening worldwide politically, economically, ecologically and culturally.

The U.S. Department of the Treasury plays a vital role by conducting different researches and papers for public use to contribute to articulating and formulating public policies, and to give an exact statement about the position of the Treasury regarding a vast area of microeconomics issues. The Treasury is, additionally, in charge to carry out statistical studies and reports concerning the economic development in the United States and world economies, both looking at the current and prospective aspects. The thoughtful examination of the actual regulations helps the agency to determine the applicable economic policies which can cause challenges for the experts (U.S. Department of the Treasury, 2019).

In spite of the fact that OFAC's name might not sound familiar to a lot of people; it is arguably one of the oldest existing law enforcement agencies of the United States with a history rooting back until the times before the War of 1812, when hostile foreign powers were threatening America. More precisely, American sailors were importuned by Great Britain resulting in levying economic sanctions against the Kingdom by the Treasury – the first authorized trade sanction in the history of the United States (McBride, 2017). Over times the Treasury established numerous agencies to differentiate the tasks they were dealing with for example the Office of International Finances or the Foreign Funds Control; both of them had an important role in World War II with issuing trade sanctions. 1950 meant a milestone in the foreign relations of the U.S. when the People's Republic of China entered into the Korean War and Harry S. Truman, the then president of America, called for a national emergency status and blocked all Chinese and North Korean assets subject to U.S. jurisdiction (Export Compliance Solutions, 2015).

Although people tend to overlook this agency of the U.S. Department of the Treasury, the Office of Foreign Assets Control plays an inevitable and unavoidable role in respect of trade that involves the United States or in some ways is connected to U.S. citizens, goods and services of U.S. origin. Also, in cases when trade takes place within the border of the United States, forgetting about OFAC is one of the biggest mistakes that can be made in trade. *'The Office of Foreign Assets Control ("OFAC") of the US Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States'* (U.S. Department of the Treasury, 2019).

The circles of those who must comply with the OFAC sanction are persons subject to the jurisdiction of the United States of America. It is broadly defined involving many participants. This term covers American citizens and persons with permanent residency regardless of where they are located; also legal entities and individuals located in the United States (including all foreign agencies, representative offices, branches, etc.); corporations organized under U.S. law, together with foreign branches; additionally entities owned or controlled by any of the above, the most significant being foreign-organized subsidiaries of U.S. corporations under TWEA based sanctions.

The Office of Foreign Assets Control exercises exclusive authority over such comprehensive concepts as trade and travel restrictions, as well as prohibitions with embargoed or sanctioned countries, entities and individuals. The fundamental reason behind the creation of OFAC was to ensure that individuals and companies do not engage in businesses with sanctioned countries, terrorist organizations, nationals of certain countries or any other entities specified by name that can be connected to activities related to threats to the United States, for example proliferation of mass weapons or narcotic trafficking (Export Compliance Solutions, 2015). Majority of the OFAC sanction take into consideration only the interest and policy of the United States however among the regulations, we can find others based on international mandates, thus covering a multilateral scope while requiring advanced collaboration with the governments of the allied countries. As mentioned before the Office of Foreign Assets Control owns an extremely powerful role when it comes to international trade acting under Presidential wartime and national emergency powers, additionally specific legislation grants its authority in certain matters. The sanctions of OFAC deal with policies with regard to issues on assets. The Office exercises its power wide-spread over disputes such as making payments and providing any funds or anything of value to those countries,

individuals, entities and companies that are on the embargo list meaning that either any kind of transaction is banned or is allowed only with OFAC licence in special cases. Governmental agencies commonly operate under national laws imposing orders to citizens of the country, which is not the usual procedure in many cases when we examine the legislative power of certain U.S. agencies including OFAC. Despite focusing on the targets of national security in the States, it has the power to impose controls on business transactions of all kinds and to freeze any assets that are under U.S. jurisdiction, even when the given asset is not located within the territory of the United States or if it belongs to a foreigner as per definitions of subjecting U.S. legislation. Another scope assigned to OFAC is the controlling of travels to embargoed countries, also referred to as ‘OFAC countries’ or ‘embargoed destinations’. Lastly, economic sanctions can vary from arm embargoes, assets freezing, trade restrictions or capital restraints (Export Compliance Solutions, 2015). Although all U.S. persons are subject to and must comply with OFAC regulations in order to avoid any violation of the sanctions, we can state that the most endangered segment to fall for any mistake is the so called ‘financial service’ providers including but not limited to banks, insurance brokers, agencies and credit unions. These are entities for which strong anti-money laundering programs are inevitable, and those businesses involved in selling, buying, producing or conducting research on export controlled goods and services, as well as supply chain or logistics service providers operating in connection with the organizations mentioned (eCustoms, 2019).

The Office of Foreign Assets Control published and has continuously updated several lists containing information on sanctions, blocked individuals, countries, entities and transaction available for anyone to help them properly investigate the standards and possible obstacles that might occur before and during a trade deal, so that those working in international business can avoid the violation of the regulations. Among them the most significant ones will be discussed. The United States places enormous effort to restrict and eliminate inhuman, unethical or illegal activities including but not limited to narcotic-trafficking, terrorist activities and the suppression of democratic efforts in given countries. These factors can be considered as the main reason that urged the establishment of OFAC to limit those kinds of transactions not approved and supported by the U.S. Specially Designated Nationals and Blocked Persons List, Consolidated Sanctions List and the Additional Sanctions List are maintained to collect to one database *‘individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific’* (U.S. Department of the Treasury, 2019). This list is frequently referred to as the ‘black list’ by Americans because getting involved in any kind of

transaction with those listed is strictly forbidden. It is required from U.S. importers and exporters to demonstrate due diligence in examining the SDN List before and during transactions with foreign countries and make sure they are not involved with parties that are against the OFAC sanctions programs.

2.2. Trade sanctions

One of the most considerable tools to control international trade is sanctions and over history an increasing trend can be observed as major objective of foreign policy. Since the Second World War the arising of new sanctions shows the tendency that the United States makes huge efforts and careful analyses to protect their markets, furthermore with the issuance of a new regulation or the modification of an already existing one can clearly reflect the relationship between the involved parties. Many people have, on the other hand, concerns regarding the *raison d'être* of these policies. Opposition of the strict trade sanctions believes that the government of the United States arbitrarily creates new regulations for the purpose of showing off its supremacy over other nations or the citizens and entities of that nation. By going forward in this thesis, I make an attempt to give evidence and disprove this conspiracy theory with deeply digging into the reasons behind the policies themselves and the way they affect the overall trade in international aspects for the United States and those having sanctions levied against them.

OFAC controls its scope by sanctions and although the official list issued by the Office of Foreign Assets Control is not the longest we can imagine, surely, they have an impact on international trade policy that goes beyond expectations. Currently in the OFAC database there exist 28 valid sanctions targeting countries, individuals and entities. In this chapter I will list and describe them in brief, with no claim to be exhaustive, then going into deeper examination for the most important ones to understand the logic and significance what they were created for.

First and foremost far the most crucial ones are the Trading With the Enemy Act covering the subject matters of North Korea, Cuba and the Transaction Control Regulations and the International Emergency Economic Powers Act relating to the countries of Zimbabwe, Syria, Sudan, Iran and Burma, to the region of the Balkans and to activities as narcotic-trafficking, non-proliferation, terrorism and diamond trading. The Iraqi Sanctions Act is specifically targeting serious political and terrorist questions Iraq has been facing in recent times. United Nations Participation Act and the International Security and Development Cooperation Act are trying to

encourage nations across the globe to cooperate with a framework enabling the maintenance of certain requirements and security against possible threats. While the first sanction is for Iraq and diamond trading, the latter deals with Iran. Knowing the rather tense relationship between Cuba and the United States that has existed since the Cold War and the regime of Fidel Castro, it is no surprise that there are two laws imposed only on Cuba itself: The Cuban Democracy Act and The Cuban Liberty and Democratic Solidarity Act, from which the latter codifies the Cuban Assets Control Regulations.

Acts that focus on illegal activities irrespective of country are found in the list of OFAC sanctions, limiting the frames of highly condemned business dealings and transactions by the United States. When trading with the countries of Iran, Syria, Sudan, Iraq, North Korea or Cuba, the Antiterrorism and Effective Death Penalty Act cannot be overlooked as that act can result in costly penalties of both administrative and criminal types, not speaking of the possibility of imprisonment for up to 10 years. At the same level the Foreign Narcotics Kingpin Designation Act performs under the similar viewpoint of the elimination of an illegal activity, with the exception that it applies to all countries without exemptions. Last but not least the Criminal Code of the U.S. has the authority to impose five years imprisonment and the payment of a criminal fine of USD 10,000 for the deeds of knowingly and willingly making false statements, similarly for concealing or falsifying material facts during being involved in investigations connected to issues that are under the jurisdiction of the Office of Foreign Control Assets (U.S. Department of the Treasury, 2012).

2.3. Exemptions from OFAC sanctions

While it seems as a contradiction to a lot of people, there exist exemptions from the OFAC sanctions that allow some transactions given all certain requirements are met. When we are searching for a loophole in the system there are three possibilities, respectively of the situation: exemption from the sanction, general licence and specific licence, both issued by the office of Foreign Assets Control. First I would like to explain in details about the three possible ways to get the authorization for trading in certain situation normally banned under OFAC sanction, then about how these licences can be obtained, what they are used for and the impact of having those permissions. As a closing accord for this part of the thesis, I am going to illustrate the different methods through examples.

Exemption

Activities, services and goods that belong to the exemptions are items outside of the scope of Executive Branch's legal authority; consequently the OFAC has no power over it, as well. Simply, by legislation there are certain goods, services, activities of benefits which are exempted from the general sanctions and prohibitions of OFAC. One of the best examples in this segment is travelling as a fundamental human right. For example, U.S. persons cannot be prohibited to enjoy their freedom of movement, thus travel related transactions to and from the country fall into this particular category. It is worth mentioning that other sanctions programs of the United States, such as the ITAR and EAR, work with the same methods: applying the authorization gained by the International Emergency Economic Powers Act. Even though cardinal right of free traveling is granted for U.S. citizens, this liberty over free travelling has a blockade in case of Cuba. The country is the best example when explaining U.S. trade sanctions being embargoed by the States since the 1960s. The Cuba Sanctions affected to a great extent by the Trading With the Enemy Act of 1917 stating that travel is not prohibited in itself, however on the other side the Cuban Assets Control Regulations explicitly lists the 12 categories of travel-related transactions including but not limited to educational purposes with people-to-people contact and journalistic activities. In the lights of mentioned reason the limitation – almost total cease – of U.S. citizens to Cuba was obviously approaching. In January 2015 easing of the regulations were announced to be promising but except opening 19 U.S. airports to serve flights to and from Cuba, legally authorized by Customs and Border Protection, nothing really changed in real life, maintaining the low statistics of American visitors to the island (U.S. Department of the Treasury, 2019).

OFAC General License

In the United States to start to get involved into trade transactions with embargoed countries, the most common way is applying for a general licence from OFAC because certain transactions do not require the previous filling out of the documents, so no individual application is needed. General Licence must be applied when there is no exemption covering the goods or services planned for exportation. The articles in question are authorized by a regulatory arrangement and are listed in the respective Regulations. Generally speaking, this category contains those transactions that are persistent with normal banking practices, providing them the permission to

trade with general licences more often. In the past few years the Treasury has developed a system of utilizing more general licences in its OFAC sanctions in order to perform regulatory flexibility on a higher level (Thompson Coburn LLP, 2020). When an embargo is newly created or amended general licences are usually issued that are to be codified in the CFR. In some cases interpretations are needed for the complete understanding about what the general licence grant authorization from due to the complexity of the regulations and these interpretations issued by OFAC bear legal power over a licence in question. Generally speaking, once the general licence is obtained by a company or individual, repeated application is not necessary anymore if the permission was given out already for that particular type of transaction – although some reporting and notifying conditions are required. The main difference between the Exemption and the general licence is that, as license must be applied from OFAC, the agency has the legal power to withdraw it anytime if the Office sees it right.

OFAC Specific license

Specific licences involve a big amount of bureaucratic procedures with the appropriate licensing agency (Department of State for military items, Department of Commerce for dual-use item and or the Department of Treasury in case of trade with embargoed countries). The specific licence is issued by OFAC on a case-by-case basis considering all the surrounding facts of the given transaction to a certain company or to an individual permitting an activity to be carried out that is generally prohibited under the sanctions and embargo currently placed on countries. Specific licence needs to be obtained in order to export goods or services that are not covered by the conditions of neither the OFAC General Licence nor an exemption from the sanctions. The permission itself may take the form of a licence or a letter and in every case the U.S. Treasury Department stationary disgorge it after the necessary applications are filled out and registered to the Office. The application in itself has strict conditions to be met as the applicant must sign an original letter containing the fact of the release of the blocked funds, which is then has to be handed over to the Office of Foreign Assets Control either via mail or physically taken to OFAC. Specific licenses and letter of authorizations have the characteristic of bearing a control number verifying the legitimate power of the document. From the point of the submission of the papers, OFAC's Licensing Division decides on whether to issue or ban the licence request based on current U.S. foreign policy and national security targets (U.S. Department of the Treasury, 2019).

2.4. Five main categories of OFAC sanctions

The scope of OFAC is huge with no doubt and there are many exemptions from the sanctions, five main categories can be identified based on the nature of the transaction falling under OFAC supervision: terrorism and state sponsors of terrorism, CCL-based controls, freight forwarders, anti-boycott and deemed export violations. This session describes these categories and represents cases for each of them.

2.4.1. Terrorism and State Sponsors of Terrorism

The United States has been continued several trade policies, mainly export control related to fight against terrorism and the organized state support of such activities. These extended controls mean either total or partial embargo that can be a result of the support of terrorism on a state level within that specific country. As of September 2020, the countries of Iran, Syria and Sudan are defined as states where state support of terrorism activities take place, and with the export controls tightened on Cuba and North Korea, these five countries are in the focus of U.S. trade policies. In 2008 North Korea and in 2015 Cuba were removed from the list of countries supporting terrorism but still are subject to all pertinent EAR prohibitions (U.S. Department of Commerce, 2020a). Falling under excessive sanctions, the Treasury's Office of Foreign Assets Control or the Bureau of Industry and Security may not allow the export or re-export of certain goods and services that are usually not controlled otherwise, without special licence to these destination countries. OFAC and BIS jointly monitor and reinforce the sanctions related to terrorism, a procedure that requires high level of collaboration from the two agencies to minimize duplications in workload and to operate in a shorter timeframe. As an example, if the transaction to Iran is in the scope of OFAC, it will issue a licence in every case and it is not needed to apply for a separate licence from BIS; in case an export or re-export is empowered by OFAC and so compliant to the Iranian Transactions and Sanctions Regulations, it becomes automatically subject to EAR managed by BIS. However, there are cases when the transaction is not within the authority of OFAC and may require legal base from BIS. When a transaction is banned on the basis of ITSR and OFAC denies the authorization, any item under EAR rules are prohibited to be exported or re-exported.

The case of Beng Sun Koh, also known as Michael Koh, perfectly depicts how a violation against U.S. trade policy sanctions can be made outside of U.S. territory. He was found guilty for illegally transshipping chromatograph mass spectrometers and electron capture detectors, both classified

under ECCN 3A999. Koh's company, Anh Minh Cuong Co. Ltd. transferred the U.S.-origin items to Iran via Singapore acting on behalf of a national of Iran and his company located in Tehran, Iran's capital. The procedure to send the shipment to Iran was carefully planned; with the help of a freight forwarder company in the United Arab Emirates the goods brought from a Singaporean distributor of a U.S. company were shipped to Iran in the lack of valid export licence authorization from the agencies of BIS or OFAC. The turpitude was revealed and when in early 2019 Koh landed in the United States for his vacation, he was immediately taken into custody in New York. The imposed punishment was reasonable for his violations against U.S. export regulations amounted to a total of 18 months in prison, 12 month of supervised release, and monetary penalties of \$23,025 forfeiture, \$34,000 fine, and a special assessment of \$100. After he served his imprisonment, Michael Koh was deported back to Singapore for the supervised release (U.S. Department of Commerce, 2020a).

Between 2009 and 2012 California-based company Barracuda Networks, Inc. together with Barracuda Networks, Ltd., the wholly-owned subsidiary of the corporation in the United Kingdom carried out illegal activities of exporting and re-exporting equipment and software of U.S.-origin to Sudan, Syria and Iran. The shipments included server backup software, web filters, link balancers and firewall products, articles that require EAR licence. Barracuda US on 26, while the subsidiary on 11 occasions acted wilfully against the regulation with being aware of the violations. Because Syria, Iran and Sudan are designated as 'State Sponsors of Terrorism', the export of the item was illegal and the commodities are considered encrypted item by the Department of Commerce, also controlled for the purpose of national security and anti-terrorism. The penalty was mitigated by the act of self-disclosure of Barracuda Networks and full cooperation in the investigation (U.S. Department of Commerce, 2020a).

2.4.2. CCL-based controls

The export of specific items depends on either multilateral export control regimes (e.g. participation in an international trade agreement such as USMCA) or unilateral foreign policy reasons (own interest of the United States, e.g. OFAC sanctions). The U.S. Government created the Commerce Control List to list those items subject to certain export control regulation. The identified items are controlled in harmony with Part 742 of EAR. This list is considered as one of the most powerful directive of the U.S. to maintain authority over trade issues (U.S. Department of Commerce, 2020a).

On multilateral basis EAR identifies five different categories of items from the viewpoint of export control: nuclear non-proliferation, chemical-biological, missile technology, national security and crime control.

Control regimes applicable to nuclear non-proliferation are implemented according to the provisions of the Nuclear Suppliers Group. Under this category items are controlled by EAR that are considered threats thanks to the strategic importance of them being nuclear-explosives or items that are planned to be used in activities of nuclear explosive nature, and safeguarded or unsafeguarded nuclear activities, directly or indirectly. The awareness of nuclear threats is getting more and more echoes with the rapid improvement of science. The United States implemented strict control regulations on the export and import of those items connected to nuclear weapons and other weapons capable of mass destruction.

Middletown based Peter Gromacki was found guilty for violating the IEEPA with the help of his company Performance Engineered Nonwovens. As the investigation started against him, three Iranian nationals were discovered in the conspiracy as well, and there four of them were involved in illegal export of different items from the United States to Iran and China lacking the necessary export licenses. Among the goods ECCN 1C010 classified carbon fibres were found that can be used for the construction of gas centrifuges that enrich uranium and also for the building of strategic missiles and military aircrafts. During the query, further members of the illegal activity were revealed by Gromacki in the hope reducing his punishment. In 2013 Gromacki and two other co-conspirators, Iranian nationals Amir Abbas Tamimi and Hamid Reza Hashemi, were sentenced to prison, probation and that payment of criminal fine and special assessment of different kinds. Finally, Gromacki's export privileges were denied by BIS for a period of ten years (U.S. Department of Commerce, 2020a).

Controls over chemical and or biological items were issued pursuant to the Australia Group. Certain items that can be used for projects of chemical or biological weapons are under the strict control of EAR together with specific microorganisms, entire chemical plants, lastly toxic chemicals and precursors fitting for the same purpose.

Dr. Thomas Butler, professor of Texas Tech University reported a rather strange case to the FBI in 2003. He claimed that, supposedly from his laboratory thirty ampules of the *Yersinia pestis*, a lethal plague bacterium that has connection to human plague went missing. These specific bacteria are classified under ECCN 1C351 and its exportation to Tanzania is prohibited in the lack of an export licence from BIS. The case triggered bio-terrorism alert in Texas and even the President was contacted about the incident when the investigation began; with the help of federal forces the

illegal exportation of the bacteria to Tanzania by Dr. Butler was proved. Furthermore, he submitted forged documents on the export to a federal agent, a highly condemned action indeed. In the light of his violations, he was sent to jail for two years and required to resign from his position at the university he was teaching. On the administrative penalty side, a \$37,400 civil punishment was imposed additionally with ten years of ban of his export privileges that he accepted (U.S. Department of Commerce, 2020a).

The Missile Technology Control Regime is responsible for the control of missile technology and unmanned delivery systems consisting of unmanned aerial vehicles, which are capability of delivering weapons of mass destruction; these articles are controlled by EAR and bear ECCNs. Parthasarathy Sudarshan, president of Cirrus Electronics LLC arranged the illegal export U.S.-origin microprocessors and electronic components for space launch vehicles and ballistic missile programs to India without the required licences. The receivers in India, Vikram Sarabhai Space Centre and Brahat Dynamics, Ltd., are companies involved in the production of missile and rocket under the authority of the Indian Government, both included on the BIS Entity List. Sudarshan and other officials of Cirrus misled the U.S. vendor by false end-use certificates and the shipments were directed to its final destination through their office in Singapore. The items in question were classified under ECCNs 3A001 and 3A991. The investigation resulted in a 35-month prison sentence, two years of supervised release and a criminal fine of \$60,000. Also, she was imposed a 180-day Temporary Denial Order in 2007, which was extended for an additional 180 days after the first time period. Another member of the conspiracy, Mythili Gopal got punished for a \$5,000 fine, four years of prohibition with the condition of 60 days of home confinement, and 200 hours of community service (U.S. Department of Commerce, 2020a).

National security controls implemented pursuant to the Wassenaar Arrangement. Wassenaar Agreement is the treaty in force to control the trade of conventional arms and dual-used goods and services. Their main focus is on avoiding the situations of these items landing in the hands of terrorists (The Wassenaar Arrangement, 2019). The following case study involves a Chinese national, Si Chen who purchased and smuggled sensitive items of US-origin without the necessary BIS licence, forged official documents and engaged in money laundering activities. She was using a fake passport to rent an office in California where the goods were supposed to arrive to. The purchased items were under the classification ECCN 3A001 containing integrated circuits and other components used in radar and military jamming equipment, alongside with a shipment of communications devices, which are used in space communication application exceeding a value of \$100,000 was smuggled by her to

China and Hong Kong. After the items got in the hands of Si Chen, she immediately shipped the communication devices to Hong Kong and from there transhipped to China. She managed to do this by forging the shipping documents by writing a less-than-original value to them to avoid suspicion and examination at the border. Payments for the goods were paid from an account of a bank based in China which was held by a family member of hers. At the end, the violation came into light and Si Chen was imprisoned for 46 months, for probation of three years together with the payment of \$300 as special assessment. A year later in 2019 Si Chen's export privileges were denied for a period of ten years (U.S. Department of Commerce, 2020a). Comparing the cases that were used to demonstrate some of the possible violations and its consequences, punishments in the national security category are expressed more severely than in other categories. The agencies working in trade and commerce face an extremely high risk for the whole United States when they are dealing with trade activities, either monitoring imports or controlling export and issuing licence. In this sense the diligence of the members and the complex structure of their system are rather amusing than bothering. National security violation via trade actions are regulation by firm hand, and the length of imprisonment rationally increases with the severity of the action in comparison to other types of violations.

Crime control is probably the most easily understandable category of the CCL controls as they cover the conventional ammunition and arms including grenades, pistols, guns, rifles and rocket launchers. Most of the cases such as weapon or arms smuggling are under this scope of the sanctions, and majority of the violations are committed intentionally and knowingly.

U.S. national Patrick Germain was found guilty in connection with illegal export of firearms to Haiti in October, 2018 resulting in the violation of U.S. export regulations. Back in 2016 26 firearms, ammunition and five shotguns with ECCN 0A984 classification were purchased by Germain together with several vehicles including a cargo van capable of transporting the arms. Germain, originally based in Illinois, contracted with a delivery company to take the goods to Miami from where the shipping to Haiti had already been arranged. The crime was discovered as the van seemed to be overweight and the weapons were located because they were hidden in wooden containers which were hollowed out. The culprit was arrested and imprisoned for 23 days, served to two years of supervised release and had to pay a \$100 special assessment (U.S. Department of Commerce, 2020a). Figure 1 represents a typical way of arms smuggling when at the Port of Baltimore two shipping containers were discovered to be filled with rifle optics, guns and ammunition hidden in air compressors.



1. Figure 1: Discovered and confiscated firearms hidden in air compressors
Source: BIS, 2020

2.4.3. Freight forwarders

Complying with the EAR is the main responsibility of the ‘principal parties in interest’ of the trade transaction, referring to the U.S. seller and the foreign buyer. Even though they are the most common and given parties, intermediaries such as banks, brokers and freight forwarders are also responsible for being compliant when acting on behalf of the principal parties. Imposing joint responsibilities, export control documents are examined by both agents, with the expectation that the accuracy for the data given is the same. In trade transactions where freight forwarder is involved, exporters have to consider not only themselves but must not cause any trouble for the agent as well by negligently filling out an export document or it turns out that the entry to the destination country is not supported.

The case of Florida-based package consolidation and shipping service, Access shook the trading world entirely with its 166 administrative violations of U.S. export control laws. Eric Baird, who was the owner and CEO of the company from 2011 until 2013, admitted the violations voluntarily. Access USA worked on the logic to provide U.S. addresses to foreign customers allowing them to get U.S.-origin items with the purpose of export without letting the U.S. vendor know about the final destination of the end-user. Baird confessed that on a regular basis values and descriptions of the shipped items were falsified on the exportation documents to get them out of the borders. If forged document would not have been enough, many of the items were controlled by Commerce Control List for example rifle scopes were named as ‘sporting goods’ or ‘hand tools’, and ‘tools and hardware’ was the labelling for laser sight meant for firearms. The CEO of the company knew

about all the violations, even permitted and encouraged participation in the transactions, which resulted in various breaches like unlicensed export to numerous countries, falsifying documents, misleading officials of governmental agencies and neglecting reporting requirements. After getting an email from his Chief Technology Officer stating ‘I know we are WILLINGLY AND INTENTIONALLY breaking the law’, Baird opted for the reduction of value of item by 25% on export control documentation, in case anything leaks out it will be easy to stop the operation. Parallel, a new function was created with Access USA enabling employees of the company to buy articles while presenting themselves to U.S. merchants as the domestic end users of the goods. At the end the violations were discovered meaning Baird a 24 months of probation and he had to pay \$100 special assessment, a penalty of \$17 million with \$7 million suspended while parallel a denial of export privileges for five years was imposed on him. Access USA as a company itself was levied a fine of 27 million with \$17 million suspended (U.S. Department of Commerce, 2020a).

2.4.4. Anti-boycott violations

Frames for the current Anti-boycott Act of 2018 started to formulate in the 1970s, when the United States introduced measures in order to control U.S. persons’ attendance in economic boycotts of countries that nurture a cordial relationship with the U.S. Provisions of the anti-boycott regulations are written in Part 760 of the EAR and are monitored and executed by the Office of Anti-boycott Compliance. Under these provisions U.S. persons are prohibited from the compliance to specific requirements of unsanctioned foreign boycotts for example they are banned to release information regarding business relationships connected to a boycotted country and it is also the violation of the regulations if someone refuses businesses with certain persons for reasons related to boycotts. Oversea subsidiaries of domestic U.S. companies are considered U.S. persons under the EAR provisions of the anti-boycott regulations. Exporters must apply for documents when they want to do business with a boycotted country; the requests are administered by the Office of Anti-boycott Compliance as boycotts might create obstacles to the transaction. OAC jointly handle the cases with other governmental agencies such as the USTR of the U.S. Department of State and also, officials from the boycotted countries’ governments are involved. Their main task is to remove boycott language from transaction documents including tenders and letter of credits. Generally, the Export Control Reform Act of 2018/Part 760 of the EAR covers all boycotts in countries friendly to the United States imposed by foreign countries, the main attention is focused on the Arab League boycott of Israel (U.S. Department of Commerce, 2020a).

A controlled-in-fact foreign subsidiary of American Bakers Hughes, Inc., the Libyan based Baker Eastern; SA violated the anti-boycott provisions on 22 occasions between 2004 and 2008. Baker Eastern provided a certificate of origin containing prohibited information to the Libyan Customs: one regarding a negative certificate of origin with information about the business relations of the company or another person with or in a boycotted country, and the other one is a blacklist certificate containing information concerning the business relations of Baker Eastern with persons known or believed to be restricted from maintaining any business ties with or within a boycotted country. The second main violation of the anti-boycott provisions is the refuse of certain businesses on the basis of boycott related reason; this condition was also breached by Baker Eastern when they denied business with another person after receiving the requirement of request of a boycotting country. As a special notice, in the certificate of origin a statement on the compliance with the principles of the Arab Boycott of Israel was included. Even though Baker Eastern committed 66 violations in total, due to its self-disclosure, a civil penalty of only \$182,325 was imposed on the company (U.S. Department of Commerce, 2020a).

2.4.5. Deemed export

Technological development shows incredible progress since the beginning of the 21st century leading countries to its best potentials in digitalization and automatization reaching a point where owning a technology poses a lot of dangers as well, and without doubt it is obvious that countries pay more attention to these newly developed technologies. The concept of deemed export is considered one of the trickiest part of U.S. trade policy. Having said that we have to mention that the reason behind it is the fact that the concept of deemed export exists only in the United States, thus others might not be familiar with this unique category. Information and technology proved to be tools threatening global security to an extent that the U.S. considered it necessary to impose regulations over the controlling of them. The Bureau of Industry and Security defines deemed export as the '*release of controlled technology to a foreign person*'. By definition this means the deliverance of controlled technology counts as an export to the person's country or countries of nationality (U.S. Department of Commerce, 2020b). The Bureau of Industry and Security provides export licence for deemed export because as a sensitive trade transaction it is necessary. Connected to controlled technology, the most concerned organizations are institutions carrying out studies and researches of high importance including universities, high technology research and development centres, firms of bio-chemical portfolio, also the sectors of medical and computer businesses (Purdue University, 2010). As an example, if a university student of foreign nation with a valid

visa is enrolled in a faculty in air science, an export licence may be required in case the material released contains controlled technology or technical data. Exempted from the ‘deemed’ export rule are those individuals – students or employees who either have U.S. citizenship or permanent residence status evidenced with a permanent resident visa (Green Card), and also those who are granted as ‘protected individuals’ under 8 U.S.C. 1324b(a)(3) of EAR. Section 734.8 of the Export Administration Regulations defines fundamental research as *"basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community"* implying that it is an exemption from the scope of deemed export, thus no EAR licence required. In case a research is conducted for which the information used is available for public, it is considered to be an exemption, as well (BIS, 2020).

EAR specially defines persons who are exempted from the sanctions, including that except people with ‘protected status’ granted by EAR, all individuals in the U.S. are subject to deemed export regulations who are staying within the borders of the United States as *‘tourists, students, businesspeople, scholars, researchers, technical experts, sailors, airline personnel, salespeople, military personnel, diplomats, etc.’* (BIS, 2020). Protected status can be applied on political asylum holders and political refugees. Another definition of fundamental research was issued by EAR in more details stating that: *"Fundamental research" means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons. It is distinguished from proprietary research and from industrial development, design, production, and product utilizations, the results of which ordinarily are restricted for proprietary and/or specific national security reasons’* (Electronic Code of Federal Regulations, 2020). Fundamental research is considered to be published in scientific journals and available for public use regardless if the result of the research is accepted or rejected by that journal.

Violation of deemed export regulations occur relatively frequently due to its complexity and the following case study shows how easy it is to make the mistake. Atmospheric Glow Technologies, Inc., a company engaged in airspace research and airplane industry between January 2004 and May 2006 in Tennessee, was punished for violating the EAR’s deemed export regulation with transactions that would have required licence. On the basis of the allegations, a highly respected Professor Emeritus of the University of Tennessee J. Reece Roth transferred controlled technical data subject to EAR to Chinese and Iranian foreign nationals. The data in question was connected to a project of plasma actuator development planned for a military unmanned aerial vehicle the

U.S. Air Force contracted for. Given the sensitive nature of the technical data, it is controlled by the International Traffic in Arms Regulations and would have required deemed export licence as foreign nationals were involved. After two years for the transmit of controlled technical data, Professor Roth was found guilty upon the Conspiracy and Arms Export Control Act that he violated on 18 points. The collective inquest was helped by the Air Force Office of Special Investigation of the United States (AFOSI) and the Federal Bureau of Investigation (FBI) and Roth was sentenced to an imprisonment of 48 month in 2009 which he started in 2012 after several rejected appeals (U.S. Department of Commerce, 2020a).

Similar case happened with the company Maxim Integrated Products, Inc. (Maxim), which reportedly committed 31 exports and re-exports without licence to Russia, Ukraine, Estonia and China between 2002 and 2005. The company revealed integrated circuits and related components of national security control with ECCN 3A001 and 3E001, respectively. Items having ECC numbers are categorized as dual-use items and always require export licence under EAR. However, it was not the only one of the company's violation; an Iranian national employee was provided with controlled technology classified as ECCN 5E992 and, to a Chinese employee technology with ECCN 3A001, both related to the development of electronic components. Although Maxim submitted the request for a deemed export licence but only regarding the Chinese national employee, meanwhile the release of controlled technology had already happened. This action of the firm implied a civil penalty of \$192,000 to be paid in 2008 (U.S. Department of Commerce, 2020a).

3. EXPORT CONTROL AND MANAGEMENT PROGRAMS

Any companies dealing with international businesses in their profile have to make efforts to avoid the slightest chances to violation the trade regulations. The safest way to accomplish this target is the establishment of a strong sanction compliance program within the company and to make sure this agenda becomes a routine for the employees. Fortunately, besides Office of Foreign Assets Control, numerous professional organs gave out Export Management and Compliance Programs encouraging entities to apply compliance programs by the means of providing templates, giving advice and collecting the fundamental pillars of a good compliance program that has to be kept in mind. In our case the most relevant program is issued by OFAC naming those elements of a SCP advisable to maintain in an organization and companies are free to choose from the components that how they will be incorporated into the company's everyday operations. The aim of trade compliance programs is to minimize the possible occurrence of violation of any regulation; having a compliance program in place does not protect us from mistakes itself; it cannot be taken granted as a 100 percent guarantee.

The importance and usefulness of the structured framework is undeniable making it easier to maintain compliance to trade sanctions. OFAC released its compliance programs in May, 2019 built up on five fundamental components: management commitment, risk assessment, internal controls, training, testing and audition. Similar to the Office of Foreign Assets Control, the Bureau of Industry and Security issued an official guideline to provide those companies eager to implement a compliance program into the business' operation on a daily basis. To this guideline party screening and corrective measures are added as separate topics easy to forget about however as extremely crucial as all of the others to secure the segments guaranteeing that we are committed to run compliance program on a hundred percent level. Although when building and implementing a program into the corporation there is a suggested order to follow the elements, however some of them can be swapped or even done in parallel without deteriorating the quality of the project. Maintaining an export management and compliance program benefits our company in multiple ways. A really advantageous yield is a form of protection against actions when the business violates the regulations, wilfully or not, however, having an ECP in place equals to a mitigation factor regarding the severity of the punishment. Usually, in case of administrative penalty the amount of money to be paid is reduced and special assessment is rarely required to pay, while the time imprisonment, if charged, is lessened or switched to supervised probation. Additionally, export licences are not likely to be suspended which is the most important thing from the

company's viewpoint. Of course these mitigations are provided once the business promises enforced trainings to employees and takes corrective measure in order to avoid violations in the future. Moreover, export compliance program functions as a sign for businesses in the supply chain of the company that the enterprise is responsible and it is safe to engage into business with that business (U.S. Department of Commerce, 2017). We cannot forget the fact that it is the same wish of our current and possible future partners to comply with the regulations including choosing members of the supply chain wisely because their actions will affect our company. With compliant businesses among our partners, the more likely to build a secure and smoothly operating chain of supply not exposed to the risk of committing violations. The benefits of this business model usually results in less administrative and bureaucratic paperwork, enhanced effectiveness and a safer environment to work in.

The very first step on the road to implement an export management and compliance program, the business needs to have the determination to start the project. Therefore commitment is necessary from the executive management of the company to launch the program and start to structure the guideline for it. This is an important decision as once the company is committed everyone there should start to follow the rules, but as soon as the decision is made the business can sketch the main points of the agenda. Every organization needs to tailor ECP suitable for them, which depends on a lot of conditions from the size of the company through the nature of the business to the volume of exports, just to mention a few. Considering these unique characteristics of the firm, we have to keep in mind that there are no two exact same ECPs because it needs to be created and adjusted specifically for the needs of the organization. The guideline published by the Bureau of Industry and Security provides help for structuring the program itself but does not grant the agenda itself; it is the responsibility of the management to decide on the rules to be followed (U.S. Department of Commerce, 2011).

First and foremost the most essential element of the program is management commitment because it will determine the success of the whole EPC. Employees appreciate when they see the management acting as role models so if we want people to follow the rules, they have to demonstrate as a good example. The involvement of senior management including the president, senior managers, Chief Executive Officers or other workers in high position empowers employees to commit themselves more to the goal of the organization. One of the best methods is to have someone from the senior management mentioned beforehand to sign the Management Commitment Statement that states the commitment towards export policies and the best practises pursued by the company. By signing the statement, employees are ensured of the support from top to bottom within the organization and officers tend to adjust to the new rules more flexibly when

they see the management involved. This document publishes the importance of export compliance to employees and staff and emphasises the commitment to comply with the conditions of the Export Administration Regulations. The commitment statement ought to be reviewed annually, making amendments if necessary, and then making it available to the employees to read and sign it so that they are aware of the changes, while they can refresh their memories on the topic. Many companies attach the management commitment statement to the beginning of the written export compliance program as a reminder (U.S. Department of Commerce, 2017). It should be highlighted to the staff of the organization that each and every member's commitment is needed for the success and that everyone has a role in the program. In parallel, it is important to advertise ECP not only within the company but in the circle of external parties including stakeholders, business partners, affiliates, subsidiaries, logistic service providers, suppliers, freight forwarders and consultants, so every contractor in the company. The statement does not have an exact template that is used in the United States, organizations draw up their document but all the necessary information should be included into it. In Appendix 2 we can see an example of a management commitment statement containing all the relevant data about the ECP such as the assured commitment of the company, the main purpose and significance of export compliance in connection to national security reasons, and potential penalties in case of violation. Appendix 3 illustrates how an employee acknowledgement should be structured; even though it is really short, it is crucial for employees to sign it. This stage is really important to precede all of the others including the preparation of the program itself, as without the commitment the whole success of the project is doomed.

Trade policy is a complex topic with many aspects that needs extra focus and there are a lot of possibilities to breach a rule. In the United States items are classified under several sets of regulations and all of them should be observed otherwise we might run into an error in the program causing difficulties. The number and types of risks have to be collected and organized into groups which will help to come up with ideas that might be applicable for similar hazards. Risk assessment takes a long time because during the procedure of gathering the risks new ones can turn out to be relevant for the business or new sanctions and regulations have been implemented since the establishment of the EPC. In order to cover all possible dangers, consulting with experts and checking the official websites and publications of the agencies of the United States dealing with trade policy issues are highly recommended. In most of the cases it turns out that many more risks are relevant for our organization than we thought, approximately a total of 50 (U.S. Department of Commerce, 2011). Risks should be identified precisely to avoid any misunderstanding or misinterpretation, and they should be paired with the optional methods that help to mitigate those

hazards so to ease the danger the organization is exposed to. Once all the obstacles are identified it helps a lot if they are categorized based on whether it has a low, a medium or high risk impact for the company. Starting from high to low, the mitigation factors should be implemented into the program because it is natural that specific risks will enjoy priority over others and the best way to visualize it is a risk matrix. BIS structures risks common in business to three bigger groups containing export item related, organization operations related and customer(s) related risks. Within these collecting areas, numerous other subgroups are defined to pay attention to, so in more details we can separate business related, compliance program related, customer related risks, vulnerabilities connected to certain countries, to the commodity itself, hazards regarding the end-use of the item, and dangers in the shipping or processing procedure (U.S. Department of Commerce, 2011).

COMMON RISKS

EXPORT ITEM	ORGANIZATION OPERATIONS	CUSTOMER(S)
Export without a license	Weak or no compliance structure	Unknown End-User or End-Use
Unauthorized release of sensitive information or controlled technology	Lack of communication within the organization	Unaware of diversion risk
Servicing items located outside the U.S.	Poor relationships with export facilitators	Violating Anti-boycott Laws
	No or Underdeveloped Export Clearance Procedures	

2. Figure 2: Common risks in export compliance
Source: BIS, 2017

Figure 3 shows the categorization of risks by the Bureau of Industry and Security and we can realize that there are a huge number of risks we should consider. Significant ratio of the violations occur due to an incompliance related to the exported item and in most cases because the United States controls goods and services under numerous different sets of regulations. In this sense we can mention whether the item needs a classification due to belonging to dual-use or military items regulated by EAR and ITAR, respectively. The export of classified articles requires licence from the responsible agency. Majority of the item related risks is the result of exporting it without the appropriate authorization; however the prior reason behind it is that the organization is not aware of

the fact that they are exporting goods or services requiring licensing. Avoidance of this type of risk is easier to monitor when we make sure the item is properly classified and every member of the organization pursues the same attitude towards compliance. Similarly, the same threats shadow technology and technical data; if they are leaked or simply exported to an entity, licence is required in most cases. This is the concept of deemed export and governmental agencies define what is considered sensitive or controlled technology, however without the knowledge of it, several companies can commit a violation. Analysing this risk creating a Technology Control Plan will pay off in the future.

Organizational or operational mismatches hold a new set of risks to be discovered and examined scrupulously. I dare to say these kinds of mistakes appear most rarely but if case they are present, it takes the most time to repair, even the whole reorganization of the company experiencing organizational or operational risks might be needed. Without a clear structure of the export compliance program the project is more likely to fall down, thus a strong system is necessary to deliver the message and importance of the program to every member of the organization. Applying this step results in a smooth operation in a company if an official group is appointed to handle compliance issues; just as helpful as decreasing the length of reporting channels to the responsible people. As an example if the finance team at a lower level bumps into suspicious details yet they have to go through several departments like legal or sales with the reporting process before reaching the compliance team. In case of multinational organization, the question of centralized or decentralized compliance department can mean a crucial decision. Both of the structures have advantages and disadvantages, therefore the company have to balance them taking every specific feature into account that might hinder or boost the program (U.S. Department of Commerce, 2017).

Last but not least the third big set of risks is related to the customer(s) and it is expedient to divide it into subcategories including end user, country and end use. Majority of the country and end user specific risks appear due to the transaction involves embargoed or sanctioned parties listed on the official website of the Office of Foreign Assets Control. Government of the U.S. issues Anti-boycott Laws (EAR Part 760) and the violation of them by trade transactions means penalties. As per previous decision, any transaction with those parties, if permitted, should be paid close attention to from the starting point until the very end. A country can be embargoed like Cuba, Iran or North Korea or due to the current political situation in that specific country, there can be difficulties from export compliance issues. When clearing the identity of the person or company engaged in the transaction, the end use of our products or services needs to be considered. Even though we export items legally, with licence to an unsanctioned entity, if the importer uses the

items for purposes against the U.S. trade policies, we will violate the trade compliance and be punished. The responsibility of making sure the items are not used maliciously is ours but hopefully there are many tools to ease this pressure for example requesting an end use certificate from the buyer.

Once the risks are listed and scrutinized, the ECP needs to be put into a written version in order to have a strong and stable foundation of the program that serves as a guide in compliance issues. This should contain of the relevant data and information including the proper procedures to be followed or the contact persons, and very importantly the defined personnel and tasks. Revisions and updates should be annually or semi-annually for full compliance. The most critical part of the ECP is to describe the process of export authorization which consists of a jurisdiction, a classification and a licence determination part together with a continuous screening over the whole process. Maintaining the recordkeeping requirements are essential for various aspects. First, there are records that need to be submitted to legal forces or they have to be easily available for any reasons. Implementing an effective way to store records from the start into the ECP eases the possible mistakes during the operations. On the other hand, keeping these records in order means an organized system for the organization as well, for example if a similar product is to be exported than previously, using the data from the records fastens the transaction by knowing what kind of documents are needed or what special procedures should take place. In practice, a lot of details are defined during this stage and certain information needs special attention. The person who will take responsibility for the recordkeeping should be clearly identified to avoid misunderstandings and with a straight nomination, it is less likely that records will be lost or, on the contrary, not made at all (U.S. Department of Commerce, 2011). Determining all of the documents and areas requiring recordkeeping and the format they should be maintained are significant. This information can be gathered from the official publications of the BIS or OFAC, regarding of the nature of the case. Some records have templates to be used while other can be freely structured; in the Appendix 4 shows an example of a recordkeeping checklist and on Appendix 5 the template of an item classification sheet is demonstrated. While there are documents that are subject to the free decision of the organization whether to keep or not, there exist recordkeeping requirements of different U.S. Government agencies that is compulsory to align with, otherwise punishment is imposed. The most typical ones, depending on the nature of the transaction itself, the BIS requirement in the EAR Part -762 and the Census requirements in Foreign Trade Regulations – 15 CFR 30.66(c) of the Department of Commerce, Office Foreign Assets Control – 31 CFR Part 501 of the U.S. Treasury; the Department of Homeland Security’s Customs Border and Protection – CFR Part 163; and the Directorate Defense Trade Controls requirement in the ITAR – CFR Part 122.5 issued by the

Department of State (U.S. Department of Commerce, 2017). The time period for which records must be kept is determined by law and varies from document to document. Until this point we can say that the preparation steps are finished and a strong and committed organization is ready to operate in compliance with the ECP and from this point the steps to follow are continuous and not defined in a certain point in time including trainings, audits, party screening, internal controls and corrective actions. The core element in a successful export compliance program is to make sure all and every member of the organization is aware of the agenda and they fully understand its parts to a point they can safely sail among the different procedures. After the first training regarding the ECP intending to introduce the project itself, the changes it will cause and the proper use of the written agenda providing additional trainings are crucial as time goes by. Informed workers reduce the likelihood that violations will occur in the organization and the management has the responsibility to provide the necessary training materials and hold trainings to employees and staff. However, trade policies can change promptly for example a sanctioned is issued, there are additional parties on one of the sanctions lists or our exported item is classified under a different ECCN therefore providing continuous trainings are essential to maintain compliance with the regulations. On the training, the topics of processes, procedures, obligations, responsibilities and consequences, both positive and negative should be described. Training sessions should be organized preferably annually and the management needs to make sure every employee participated which can be checked by signing an attendance sheet. To boost the effectiveness of the education, separate sessions can be provided to different departments focusing on their areas exposed to compliance requirements. Just as knowledge transfers, party screening is not a constant element of ECP but a part needing ongoing monitoring and updates. Its importance cannot be overlooked because for example a party we are regularly export to will be listed on a sanction list, in case one of the members of this other partner's supply chain is defined as a denied entity, we violate the regulation as we neglected to check the compliance of the party as per the newest announcements. Defined person who carries out the screening contributes to the efficiency of the program by guaranteeing that the employee in charge is aware whether the transaction can happen without any violations. Due to the fact that the United States maintains many trade policy tools to control commerce over its scope, governmental agencies released lists of actions, countries, entities and persons to ensure no violation happens because of the lack of official publication that is the reason why the Bureau of Industry and Security and the Office of Foreign Assets Control lists all designated elements (U.S. Department of Commerce, 2011). Internal and external audits are inevitable for a well-functioning export management and compliance program. Conducting regular checking provides enhanced process to discover and find remedies for possible discrepancies in the

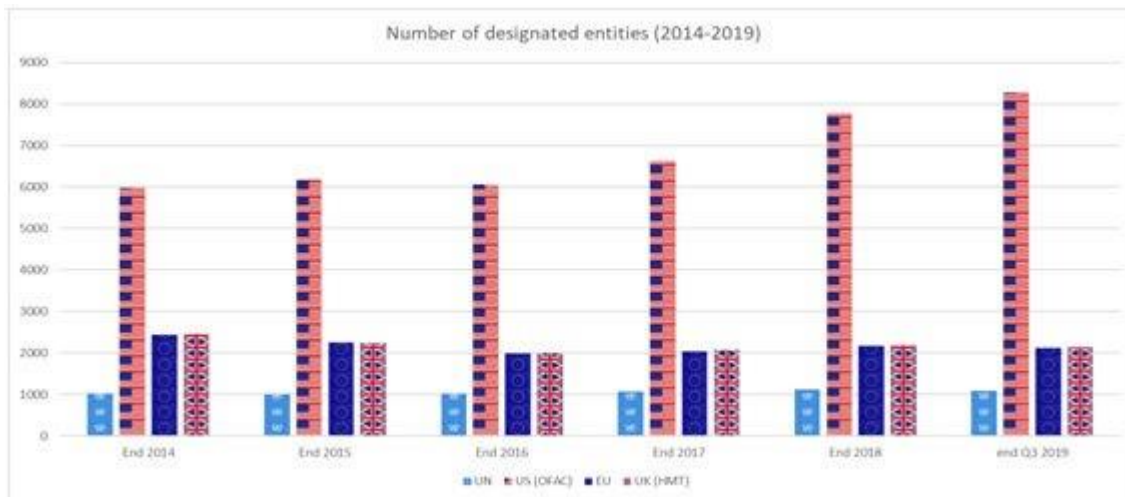
structure of ECP. Formally assessing all elements of the compliance program is the best way to start an audit questioning every parts of the ECP by which we can ensure the integrity of it. Internal audits are just as important as external ones and should be done on a regular basis managed by a specified department and the management together. External audits differ in a way that experienced personnel is required to run the checking because examination from a new aspect can contribute to the best compliance practices. Finally, in an organization applying a good ECP, the procedure of reporting violations and the corrective actions in case of an actual violation are described. Self-disclosure is considered to be an easing factor, therefore it is not advised to try to cover any missteps and report them to the respective agency. The process that shall be followed in this case must be contained in the written ECP to enable employees to act immediately and in accordance of the legal forces. Employees need to understand the importance of self-disclosure and that no negative consequences are linked to the reporting. Once the report of self-disclosure has been made, the organization probably gets a positive judgement thanks to its willingness of cooperation and corrective actions should be started to launch. In harmony with the actions to be taken regulated by governmental agencies, it is the responsibility of the organization to decide what methods they are willing to implement in case a violation happens. Corrective actions include extended audits, modification of the ECP, organizing emergency training to employees, appointing new people responsible for trade compliance, seeking guidance from official organs and examining the documents in recordkeeping (U.S. Department of Commerce, 2017).

4. RECENT CHANGES IN THE U.S. TRADE POLICY

4.1. Overview of the recent changes

At the beginning of 2020, honoured experts working in trade policy and compliance gave out numerous articles discussing the trends for the upcoming year to have an idea about what is possible to befall. Shrutih Tewarie and Anna Annino, both well-known professionals of their fields, scrutinized changes in export related matters and sanctions coming to the conclusion that 2020 will show no mercy to exporters neither in the United States or the exporters doing business in the U.S. (2020). Based on their remarks, the increasing trend of the issuance of new sanctions will continue as in 2019 export controls and sanctions became a pot of turmoil compared to previous years with a total of more than 2,000 new organizations and specific persons listed on the designation list by the Office of Foreign Assets Control subject to sanctions. If it would not be convincing enough for the undeniable tightening happening in trade policy, the Bureau of Industry and Security also added 185 new Entity List designations into its dataset concerned with human rights violations and corruption. In the light of the increase in entities included in one of the ‘block lists’, quite precise picture can be concluded for the year of 2020 and even beyond a tendency can be drawn.

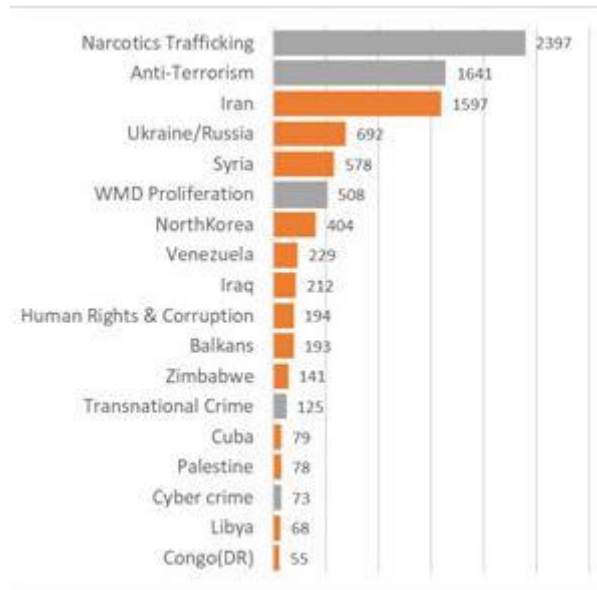
The Association of Certified Sanctions Specialists also conducted a research in February, 2020 putting the new trends in international trade in focus with special details on OFAC sanctions. The study shows that in 2019 the cases investigated by OFAC had its peak since 2014; moreover the number of individual U.S. sanctions cases has tripled in 2019. This outstanding statistics can be derived from two reasons, the first being the tightened sanctions on Iran imposed by the United States due to the Iran Nuclear Deal from which the U.S. announced its withdrawal in 2018. In trade policy circles this phenomenon is frequently referred to as ‘JCPOA effect’. The other reason can be explained as a by-product of the Iranian sanctions because they, although indirectly, yet urged the Office of Foreign Assets Control to look through the sanctions more precisely. As a consequence, in the last 5 years the number of designated entities increased dramatically, by nearly 40% compared to 2016. Interesting to observe that, as seem on Table 2, the number of designated entities shows little to no changes regarding the United Nations, the United Kingdom and the European Union (Sayre, 2020).



2. Table 2: Number of designated entities in the U.S., UN, UK and EU (2014-2019)

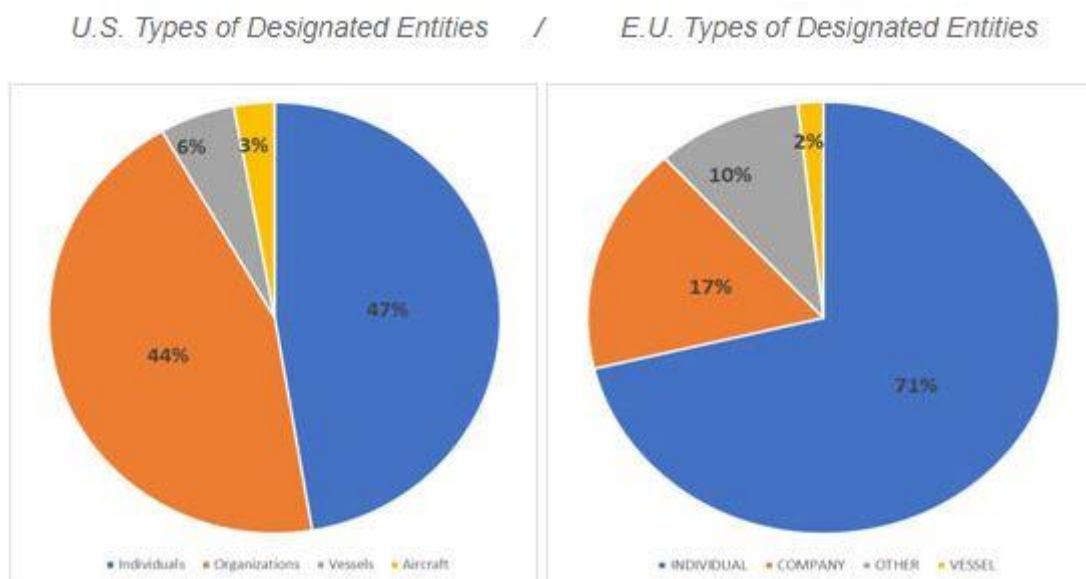
Source: Sayre, 2020

For the highly differing numbers regarding the trends in trade policy in the United States the shift towards unilateral sanctions can be mentioned as the root cause. Most trade policies are built upon the concept of multilateralism, which refers to *'an institutional form that co-ordinates relations among three or more states on the basis of 'generalised' principles of conduct'* (Ruggie, 1992), however, the United States shows persuasive evidence of its preference to unilateralism, defined as the phenomenon when a state ignores multilateral agreements and creates its own hegemonic decisions in foreign policy (Kondoh, 2019). In the multilateral scenario participants strongly support that sanctions are more effective when implemented by more states together while under the unilateral ideology the United States cut ties with these norms and imposes self-centred, so called 'secondary sanction'. With the inauguration of President Donald Trump in 2016, the number of cases that were affected thanks to the sharp change to unilateral trade policies has increased but as Trump did not win the presidency in 2020, new changes are about to happen. The new President of the U.S., Joe Biden in charge from January 2021, has already expressed his wish to join the Iran Nuclear Deal again; current sanctions against Iran will need to be transformed. Many of the OFAC sanctions are implemented 'without delay', as the data software provider, Accuity has examined the data of last year. On October 14, 2019 Executive Order 13894 was issued on Turkey that blocked five Turkish entities from the day of issuance, however nine days later the measures were rescinded. This example represents the ultimate authority of the OFAC in trade policy matters that provides the power to the United States to control transactions to its own taste (Sayre, 2020).



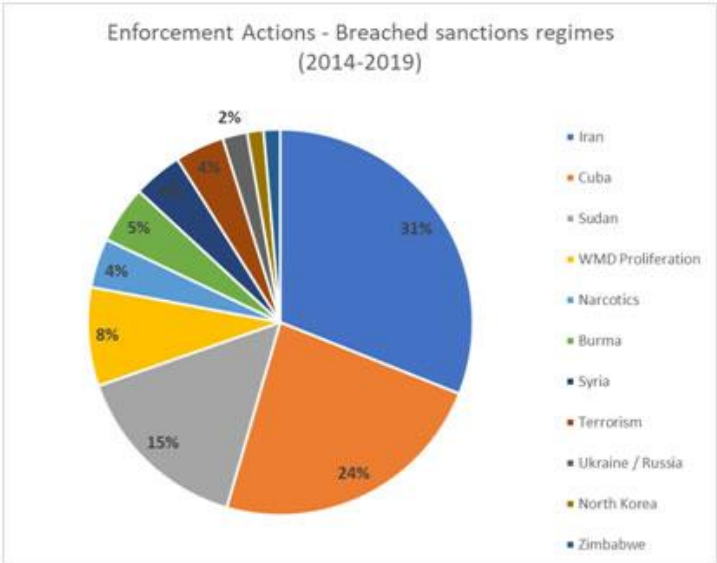
3. Table 3: U.S. Designated Entities per Sanctions Regime in 2020
Source: Sayre, 2020

Numerous sanctions are in force covering various areas that need to be controlled and on Table 3 it is shown that the most designations are against narcotic trafficking entities, more than 2,300 followed by anti-terrorism and Iran sanctions, 1641 and 1597, respectively (Sayre, 2020). Completing the details illustrated on Table 3, the proportion of the designated entities divided among individuals, organization, vessels and aircrafts is shown on Table 4.



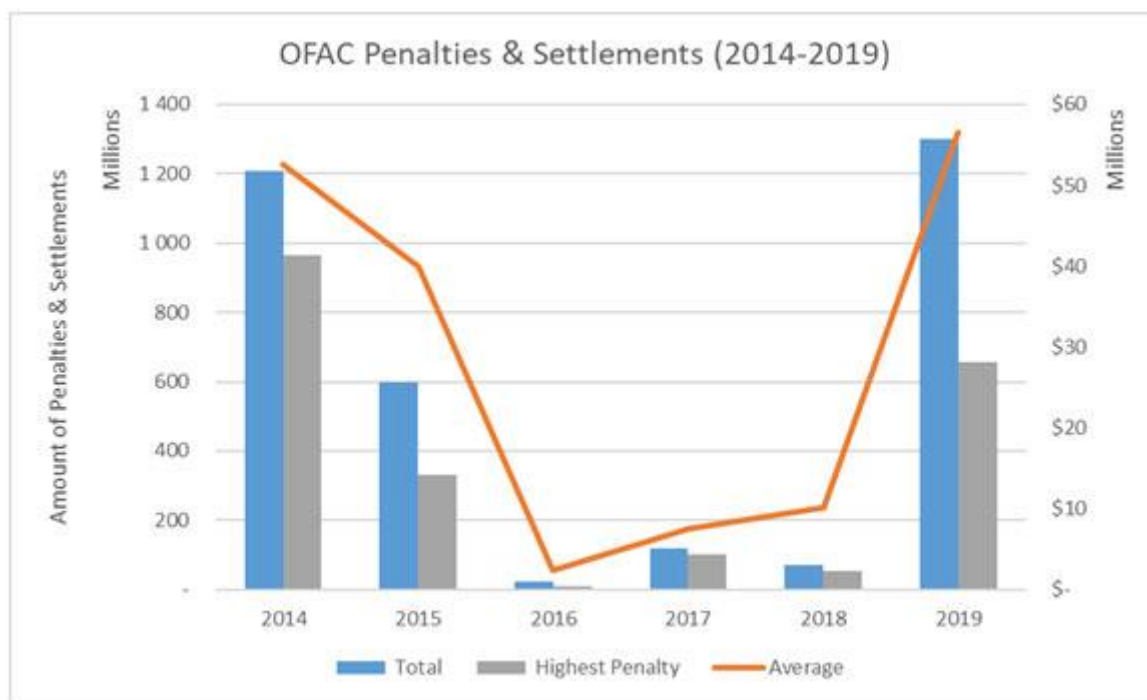
4. Table 4: Proportion of types of designated entities in the U.S. and the EU in 2020 (%)
Source: Sayre, 2020

We can observe that individuals and organizations are nearly equal in number, 47 and 44 percent, which is worth mentioning in comparison with the EU data, where majority of the designated entities are individuals covering nearly half of the whole in the U.S. and three quarter in the EU. 2019 was a really busy year for the Office of Foreign Assets Control due to the increased number of sanctioned issued, which triggered the excessive investigation procedure, and as a result violations were revealed proving the efficiency of OFAC as a trade policy agency. Between 2014 and 2019 more than half of the breaches happened against only two sanctions regimes, Iran and Cuba, positioning the countries into an alerted focus (Sayre, 2020).



5. Table 5: Proportion of breached sanctions regimes between 2014 and 2019 (%)
 Source: Sayre, 2020

The diagram on Table 5 visualizes that against the Iran Sanctions Regime the same amount of breaches were committed against 8 other sanctions regimes altogether. Having executive power, the Office of Foreign Assets Control is authorized to impose severe penalties on guilty parties, moreover the fees are claimed to be extremely high in some cases; the total amount payable in the years between 2014 and 2019 are demonstrated on Table 6. Considering the total amount of the OFAC penalties, a sharp downfall happened by 2016 and it carries a relative stagnation until 2019, when in a single year the penalties to be paid skyrocketed reaching \$1.28 billion. This huge sum was mostly the result of Standard Chartered Bank violating several sanctions regimes totalling to \$657 million, and UniCredit Bank punished for \$611 million. Here we can speak of a historical peak, as it exceeds the record of 2014 when BNP Paribas was fined for \$963 million contributing to a total of approximately \$1.2 billion (Sayre, 2020).



6. Table 6: OFAC penalties and settlements between 2014 and 2019 (in million U.S. dollar)
Source: Sayre, 2020

4.2. The impact of COVID-19 on the Iran Sanctions

While half of the world stopped due to the pandemic situation started at the end of 2019, the effectiveness of the Office of Foreign Assets Control can be measured in terms of loosening on a certain type of sanctions: humanitarian aids. Properly classified exports including primarily medical devices, food and agricultural products aiming to ease the suffering of the citizens of the importing country, have never been restricted completely allowing the execution of some transactions between Iran and the United States, despite of being on the embargo list of the U.S. These types of exports often named as humanitarian export or aid for the purpose of helping humans in need. Nevertheless, the appearance of the COVID-19 pandemic in late 2019 OFAC had to reconsider the foreign policies that have changed due to the virus and they constructed a guidance relating to the step should be taken in the fight against the epidemic. The agenda was issued on April 16, 2020 setting the bullet points of urgent need for revision and amendments fitting the current situation that may occur in the export of humanitarian aid. The topic that has had the most significant attention is the possibility of delays in meeting compliance deadlines arising from technical and resource connected challenges in the midst of a hectic pandemic. To make sure everyone can stay compliant to the OFAC sanctions, a Fact Sheet has been given out detailing the

existing regulations together with an FAQ chapter relevant to humanitarian trade. Iran has been paid special attention since the announcement ensuring the exemption from any secondary sanctions under Executive Order 13902 in Iran's manufacturing industry for those entities involved in the production of medical devices, medicine, as well as sanitation, hygiene, medical care, medical safety, and manufacturing safety products. This additional part of the Fact Sheet overwrites the Executive Order 13902 released earlier in the year, letting *the imposition of secondary sanctions on certain transactions even outside U.S. jurisdiction involving, inter alia, the "manufacturing" sector of the Iranian economy* (Powell, et al., 2020). The guidance provides the full overview of the existing legal authorities holding the power to some kind of humanitarian activities including medicine and medical devices along with other humanitarian goods to be exported to Iran from the United States by a US person, US-owned or – controlled foreign entities, and non-US persons to Iran or the Iranian Government. For these transactions it is required to provide that certain conditions are met including numerous exceptions, exemptions and authorizations to US sanctions law, for example the general licences in ITSR Section 560.530 allowing the export and re-export of medicines, medical devices and commodities of agricultural type. Humanitarian donations are allowed from the U.S. or by a US person to recipients in Iran, except exportations to the Government of Iran, to any person on the SDN List of OFAC and to other, namely define blocked parties complying with the 560.210(b) of the Iranian Transactions and Sanctions Regulations (Lewis, et al., 2020). The last activity covered by the Fact Sheet affects NGOs whether exporting or re-exporting services having connection to specific actions designed for the direct benefitting of Iranian people, including the allocation of articles endowed by the States like medicine and also, services that are health-related under General License E.

In middle of summer, 2020 Arabian countries were facing with the peak of the virus of its first wave, yet the situation in those regions including Iran experienced the severe lasting effects in its economy. Medical equipment exported from the United States to Iran meant a solution to help the Arab country to combat COVID-19 so that certain loosening was allowed by the Fact Sheet. On the other hand, besides the loosening of many OFAC requirements, new ones have been created as well in particularly connected to the epidemic. Among the new sanctions, legal authority is assigned to Personal Protective Equipment restrictions that controls products closely related to the combat of the virus. Issued by the Federal Emergency Management Agency, a segment of exports to embargoed countries has been supervised by not OFAC but FEMA representing the depth of the issue concerning America, however, strong collaboration can be observed between the agencies. Here we still have to mention that absolute supremacy of OFAC over trade sanctions and that in

the absence of its approval, no new restrictions can be issued, regardless of the desperate situation of corona virus. Having the restrictions in place, every player of the export process must comply with it including manufacturers, brokers, distributors, exporters and shippers (Contini & Lamy, 2020). Actions and procedures, nonetheless, apply not only to Iran as an embargoed country but also to the sanctions programs of North Korea, Syria, Venezuela, Cuba and Crimea, although it needs to be kept in mind that the separate OFAC requirements are still valid and have to be combined together with the recently issued ones to guarantee full compliance and avoid any violations of the restrictions, as penalties imposed on them did not cease to exist.

4.3. Cuba

The United States is famously notorious for having several – some say illogical – sanctions against certain issues regarding their foreign trade policy. The most well-known sanctions targeting Cuba have been in place since February 1962 when the issuance of a trade embargo between the United States and the Republic of Cuba came in force by U.S. President John F. Kennedy as a response to specific actions of the Cuban Government that showed the tendency towards the creation of dictatorship. From the United States' side the authority was given to the Departments of Commerce and the Treasury to instruct the implementation of the embargo against Cuba and this embargo is still directed and controlled by these two governmental bodies. Over the last more than 50 years since the embargo has been in force, several amendments and modifications were made, new acts and orders were put in use; creating a dynamic system based on the regulations that functions to its perfection and always aims to react to the current foreign policies between the involved parties.

On the other hand, the amendments and modifications to the embargo mean a lot of cautious actions from both sides. Despite of the loosening of the embargo towards Cuba and trade with Cuba during the presidency of Barack Obama (2009-2017), with the inauguration of President Donald Trump and the pressure of the Republican Party tightening sanctions has been levied on Cuba as a trading partner, among other countries.

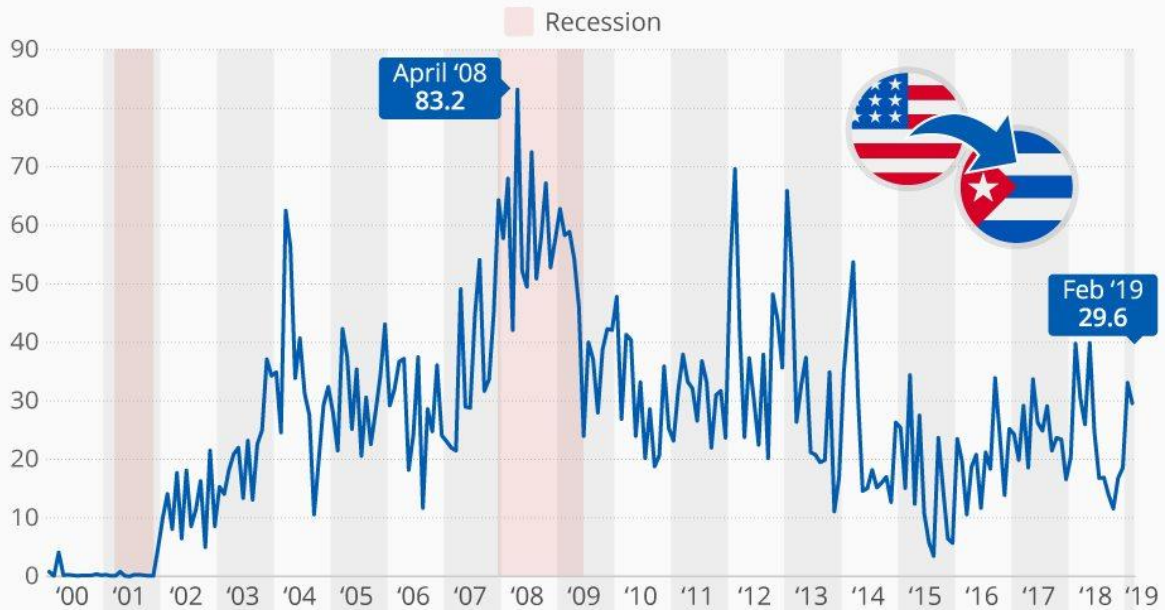
Amongst the latest sanctions issued on Cuba, the Cuba Prohibited Accommodations List was announced on 23rd September 2020 by the Department of Treasury's Office of Foreign Assets Control. This regulation is considered to cover the topics of accommodations in the hand of Cuban citizens, alcohol and tobacco trading and travelling restrictions are a few of the newest regulations. The CPA List includes 433 properties owned by the Government of Cuba or anyone known as part

of the inner circle of such officers that are prohibited to American citizens to stay at during their travels in the island. The majority of the sanctions are the end result of the Cuban communist regime existing in the country since the late 1960s, a phenomenon against which the United States is not hesitant to show its opposite viewpoint and issue additional bans and limitation where it seems appropriate. Income from hospitality industry in Cuba takes more than a fifty percent chunk from the total, however the properties producing this amount are under control of the Cuban Government, Cuban Communist Party leaders, senior regime officers and their families or well-known friends, evidencing the fact of disproportionate distribution of income from hospitality industry from which the government has income at the cost of the netizens of Cuba who are still facing and suffering the existence of the regime. The CPA List limits the possible accommodations to authorized U.S. travellers who are now offered to stay at either privately owned properties or in so called *casas particulares* run and owned by legitimately independent entrepreneurs (Pompeo, 2020). Relating to travelling issues additional sanction were introduced including but not limiting the restrictions on organizing and attending to certain professional conferences and meetings in Cuba, as well as bans on participating in and organizing workshops, clinics, exhibitions, competitions and public performances of certain types within the territory of Cuba. At the same day President Donald Trump decided to announce further restrictions on the import of Cuban cigars and liquors; a decision that can cause noticeable damages to the economy of Cuba as tobacco and alcohol formulate a significant ration in the trade of the island (MercoPress, 2020).

Majority of foreign trade related statistics can be followed on several governmental platforms analysing trends and current data. Looking at the trade information among Cuba and the United States, the latest statistical summary depicts a realistic picture on the tightening restrictions in progress since 2017. The Republic of Cuba, despite its geographical proximity to the U.S., cannot engage in big volume transactions with the States due to the number of trade compliance ban on the country that is more compared to other embargoed countries. In spite of this condition, trade between the countries takes place; in 2018 Cuba imported \$270 million of total value products and services from the U.S., even though the Cuban export to the United States close to zero (Buchholz, 2019). On Table 7 the blue line shows how the volume of monthly U.S. exports to Cuba changes between 2000 and 2019. In February, 2008 export reached a record peak due to the recession that happened later that year and the U.S. tried to export as many products as it can because of the closeness and the demand of Cuba.

U.S. Trade With Cuba is Worth Millions

U.S. monthly exports to Cuba (in million U.S. dollars)



Source: U.S. Bureau of Economic Analysis

statista

7. Table 7: U.S. monthly exports to Cuba between 2000 and 2019 (in million U.S. dollars)
Source: U.S. Bureau of Economic Analysis, 2020

In the light of this knowledge it is ordinary for Cuba to reach only the 137th place in total trade value based on the statistics of August, 2020 totalling to an amount of \$132.68 million. The Executive Order does not prohibit the exportation of certain agricultural products, medical equipment and medicine, thus the top U.S. export items show a well-oiled connection based on the trade of live animal, mainly chicken and other poultry and further agricultural product including soybeans (the United States is the world's first soybean producer), corn and prepared or preserved meat. Taking the sanctions into consideration, not much place remained for technological items; we can see on the list that no military item and only one dual-use item, cell phones and related equipment got into the top 10 export categories.

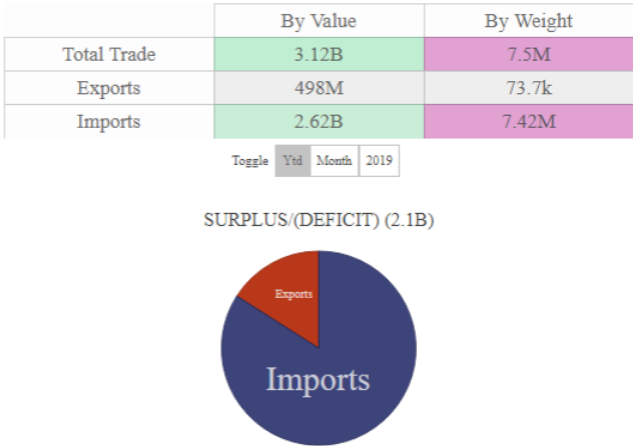
Importing from Cuba is on another level from viewpoint of difficulty because of the sanctions prohibiting the importation of Cuban origin product to the United States as part of their policy fighting against the oppression exercised by the Cuban government over its citizens. Although military and dual-use items are very strictly controlled among the countries, we can conclude that mostly agricultural and food related product can be imported to Cuba from the United States

proving that the OFAC sanctions are not against Cuba itself, as a country, but targeting the avoidance of possible misuse of the exported articles in the island. By allowing trade to this relatively narrow extent, the U.S. actually helps the citizens obtaining a better quality of life, all in all considering these cases as humanitarian export not banned by regulations. Summing it up, given these conditions, the low volume of Cuban export to the U.S. is expected and has stagnated during the last decade.

Compared to last year, trade between the U.S. and Cuba shows a fall back by 45.46 percent equalling to \$132.68 million which is collected by WorldCity, one of the most significant and trustworthy analyses companies dealing with U.S. information and trends (US Trade Numbers, 2020a). The latest U.S. Census Bureau data presents a fall in U.S. exports to Cuba by 50.98 percent, while an increase of 799.38 percent in U.S. imports from Cuba is visible resulting in a better place (137th) on the trade list of the U.S. compared to last year (139th).

4.4. Iraq

Having Iraq on the U.S. embargo list has a logical reason and it roots back to many years. In the light of the tense atmosphere in the Middle Eastern country, the U.S. army was always involved with Iraqi arms conflicts somehow to ease the situation, yet turned out that succeeding in this chaos is not easy at all.



8. Table 8: Trade balance between the U.S. and Iraq until August, 2020
Source: U.S. Trade Numbers, 2020

Despite of the severe sanctions levied on Iraq, the country ranked 58th place in total trade value with the U.S. based on the statistics of August 2019 with a total of \$3.12 billion. Both export and import were spectacular during this period reaching \$498.17 million and \$2.62 billion, respectively, equalling \$2.12 billion as a deficit. In August 2020 the trade between Iraq and the United States rose to \$3.12 billion according to the latest analysis created by a special agency based on the U.S. Census Bureau data showed on Table 8. Compared to the database of the same period of the previous year, it shows approximately 45 percent lag in total trade analysing the first eight months of 2020. Top export and import products are represented on Table 8 and Table 9 respectively (US Trade Numbers, 2020b).

In details exports to Iraq from the U.S. fell by 41.9 percent and imports from Iraq to the United States also amounted less than 45.31 percent. The outcome of the analysis highlights the fact that the newly issued sanctions on Iraq by the OFAC can dominate the actions of international trade for the U.S. with an embargoed country and great emphasis is placed on the effectiveness of the Treasury and OFAC which makes it possible for the U.S. to keep everything in hand regarding the political view it represents (US Trade Numbers, 2020b).

TOP EXPORTS

Rank	Commodity	YTD
1	Misc. aircraft parts	\$36.45 M
2	Parts for heavy machinery	\$29.65 M
3	Passenger vehicles	\$25.26 M
4	Chicken and other poultry	\$20.59 M
5	Civilian aircraft, parts	\$19.86 M
6	Bombs, grenades, cartridges, parts	\$14.65 M
7	Miscellaneous machines, parts	\$14.25 M
8	Motor vehicle parts	\$14.21 M
9	Meteorological, hydraulic and survey equipment	\$13.81 M
10	Laser-based medical equipment, parts	\$13.51 M

9. Table 9: Top U.S. export products to Iraq in 2020 (in million U.S. dollars)
 Source: US Trade Numbers, 2020

Laws clearly state the prohibition of any U.S. exports to Iraq that is to support the production or development of weapons of mass destruction, yet the top export item was miscellaneous aircraft parts yielding up to \$36.45 million in August 2020. By their natures these aircraft parts are classified as dual-use items and their trade is controlled by the EAR. Among the top export items

the second and third are heavy machinery parts and passenger vehicles which mean that nearly 20 percent of the export of U.S. origin is strongly technology related. Looking more deeply at U.S. exports to Iraq we can be observed that miscellaneous aircraft parts and heavy machinery parts even increased by 67.77 and 50.14 percent compared to last year’s August (US Trade Numbers, 2020b).

TOP IMPORTS

Rank	Commodity	YTD
1	Oil	\$2.61 B
2	Antiques	\$5.17 M
3	Jewelry, parts	\$3.25 M
4	Cell phones, related equipment	\$582,946
5	Sweetened waters	\$133,210
6	Vegetable extracts, pectates, agar, etc.	\$103,243
7	Estimates of low-value imports	\$93,315
8	Lactose, caramel, misc. sugars	\$77,352
9	Misc. vegetables, not frozen	\$60,450
10	Collectors items of historic or botanic interest	\$49,586

10. Table 10: Top U.S. import products from Iraq in 2020 (in million U.S. dollars)
Source: US Trade Numbers, 2020

Examining the import side to the United States, oil takes the lead by having more than 99 percent of total imports from Iraq with an amount of \$2.61 billion. Middle-Eastern countries are in an advantageous position because of their abundant oil resources within their territories that usually take significant part of their export portfolio. This phenomenon has been the reason behind the incredible wealth experienced in this area including Iraq as well. Antiques and jewelleries or parts of jewellery - the second and third on the list – reach millions of American dollars income for the Iraqi government, other than those three segments none of them has a transaction values worth more than one million USD (US Trade Numbers, 2020b).

4.5. Trade violations in the world of cultural products

Concrete cases are going to be assessed in this section for better understanding of the bits and pieces of the OFAC sanctions. Examining these examples, it is obvious what an incredibly huge power the Office of Foreign Assets Control owns with which they can shape the economy of the participants – the United States and the sanctioned country, company or individual – and also influences the whole world economy to an extent insomuch as the position of the U.S. in

international trade in remarkable. Besides the regular activities falling under one of the sanctions there exist incidents in which no one would consider the violation of the laws. The headway of information technology and the digital world have gained a focus that cannot be passed by making it the main focus of the latest regulations in trade policy circles. Living in the fear of getting their federal and confidential information stolen, America has tightened the already existing sanctions, furthermore they were not slothful to announce several new ones, and some of them are capable of ruining the whole sector in matter.

This next session is dedicated to study different cases proving that OFAC regulations affect all fields of life including topics of sport, cosmetics or university education. Speaking of these themes one would wonder: 'How can I violate U.S. export compliance while I am having an online course with my university peers?' or 'Why there are only a few Cuban baseball players in the Major League Baseball?' This collection of examples demonstrates how powerful the system of OFAC is and what are the procedure to maintain the effectiveness placed on the supervision of sanctions and to avoid violating the regulations. Because, even though both insiders and outsider have their opinion about the usefulness of certain sanctions, the Office of Foreign Assets Control operates efficiently and sticks to the sanctions issued by the agency making sure they are in line with the national security and international policy targets.

Under cultural products arts, sports, television, movies and music, among others, are listed. Generally those mass appealing items that represent traditions and certain aspects of materialism and materialistic cultures.

Due to the amendments in existing regulations, sanctions can result in the decrease of its strictness enabling until-then-prohibited actions to happen. This was the scenario witnessed in America's celebrated sport baseball. Before 2015 American airlines must have applied for a Specific Licence in order to launch flights to Cuba, a notoriously embargoed country by the U.S., and the same rule applied to travel agencies booking ticket for U.S. citizens to Cuba. In Cuba, the saint sport of the USA has become more and more popular, not surprisingly entailing numerous Cuban players wanting to try themselves in Major League Baseball where, if the sportsmen are good enough, the desired success, money and fame are there to obtain. This was a clear process until the announcement of the loosening of sanctions: the wannabe professional U.S. baseball player must apply for a specific licence from OFAC allowing him to enter the territory of the States as it is a requirement of the MLB of Cuban citizens. This is the reason why the extenuation brought confusion in the middle of transfer period. Their highly profitable contracts hung in the air for several days, Cuban players were not allowed to travel to the U.S. to their teams as per the new OFAC sanctions put in force. Starting from the exemptions made in favour of the travel agents and

airlines, it turned out that Cuban players are under the broad scope of the regulation and they do not have to apply for an OFAC Specific Licence because the legitimacy of General Licence covers the situation, thus they are already considered to be ‘unblocked’. Happy as it sounds first, the more problematic gets at second. In spite of the official letter from OFAC stating the exemption of the players, MLB suggested the teams not to sign contract with Cuban players until further word from the league’s Commissioner’s Office. The reason behind this reaction of MLB accounted for the cautiousness of the League not wanting to violate any trade compliance policies as verifying the documents and residency of any Cuban prospects that fall under the responsibility of the association. Let us suppose a scenario where the League misunderstood the easing of the sanction and specific licence is still required from the baseball players. Would it happen signing them could lead to MLB violating the Trading With the Enemy Act, one of the strictest trade policy agreements of the U.S. because without a specific licence, Cuban players will not be checked carefully, so to say they could use forged document, acquire residency illegally or commit any other crime – factors that are precluded in case of a specific licence application. Approaching to the end of the transfer period it was a big relief when MLB decided to state its position on the matter letting the then-19-year old Cuban shortstop Yoan Moncada sign contract with a U.S. baseball team. Based on this example, it is unquestionable to declare that the authority of the Office of Foreign Assets Control is present in the mind of concerned parties during decision making as entities want to decide on certain matters only after the clear and official statement from OFAC to avoid violating the laws (Visual Compliance, 2015).

Continuing the line of the previous case study, another incident from the world of sports illustrates a case where the exporting party chose to terminate a contract not to risk any violation. 2018 was the year of FIFA World Cup, which made every nation crazy about it. However, Iran was mad about a totally different reason: the sport brand giant Nike cut all ties with the country one month before the championship. President Donald Trump’s name can be connected to the stricter and increased number of sanctions – during his 4-year presidency more trade compliance issues were discussed than ever before, and thanks to his renewal of Iranian export sanctions together with his decision of withdrawing from the Iran nuclear deal in May, 2018 meant unpredictable turning of the situation in the sport industry as well. As known for over several years, the company is the supplier of more than 60 percent of the soccer cleats for the World Cup, however, due to Trump’s sanctions Nike made the announcement of stopping supplying Iran for the championship hosted by Russia, said the communique, but no determined time was given for the blockade. Nike expressed its concerns that being an U.S. company providing shoes to the Iranian national football team puts

them under a huge threat which Nike does not want to risk. Part of the expert community could not blame the company for its decision as the punishment meted out by OFAC determines a fine up to \$1 million and 20 years in jail for those individuals and companies who bluntly violate current sanctions. In the light of these things, the reaction of Iran's national football team's head coach called the decision unfair. Carlos Queiroz expressed anger over the decision even though Nike only stuck to the rules of export compliance, the company defended itself. Highly respected Iranian professionals spoke up questioning the rationality behind the decision of Nike; the export sanctions guru and former director for Iran at the National Security Council, Richard Nephew mentioned the option of special licences issued for humanitarian good, but in his words, 'shoes usually don't count'. Also, the president of the National Iranian American Council, Trita Parsi referred to the fact that Nike did not specify the legal base on which they were ending business ties with the country, 'since technically they are not selling anything', fulminated Parsi. Undeniably, this chain of events made the world realize the always watching eyes of OFAC that do not let slip anyone or anything under its supervision: 'Better safe than sorry' chosen as a tactic from Nike (Visual Compliance, 2018).

Many people tend to focus only on the export side; however the next example perfectly demonstrates why import compliance is just as crucial. In the beauty industry the labelling of country of origin is a vital point as quality approval might differ in regions or countries. An incorrect marking causes very complicated issues all over the world, not just in the U.S. as most of the countries have their own rules for compliance and quality checking. The trade compliance policy of the U.S. is outstanding in a way that the country prefers not only to refuse that certain material or, if already combined, the beauty product itself, rather considers it a criminal or administrative violation of laws punished by either imprisonment or fine, sometimes both. Being the beauty industry so sensitive, mistakes are more likely to occur than in many other fields, thus no wonder California-based cosmetics company, e.l.f Cosmetics Inc. (ELF) got fined for \$996,080 in 2019 for the infringement of an OFAC sanction (Export Compliance Journal, 2019). The company turned out to be importing 156 shipments of fake eyelash sets that contained components of North Korean origin for over 5 years between 2012 and 2017. This act of ELF breached Section 510.201(c) of North Korea Sanctions Regulations and made OFAC worried as U.S.-based funds could have gone to the Government of North Korea (DPRK) – the party against which majority of the North Korea sanctions are issued. If it would not be enough for the cosmetics company, it was found guilty of lacing an OFAC compliance program, which is strongly advised for companies involved in international transactions. The violation of the sanction probably happened because of

a supply-chain overview error but as it was self-disclosed by ELF after the realization the fine was reduced to \$996,080 from \$40,833,633 and \$2,213,510 of statutory maximum and minimum civil monetary penalties, respectively. More than three quarters of the fake eyelash sets contained North Korean origin materials which were realized by the company as the quality of the products was prior to its origin. Moral of the story, OFAC put ELF under so much pressure that it decided to introduce several measures to avoid incidents like this in the future including trainings for employees in China, where the violations happened, about U.S. sanctions regulations, launching audits for suppliers to verify the country of origin and an upgraded process for supplier audit (Visual Compliance, 2019).

Unlike the previous occurrences, the next case will exemplify how OFAC monitors not only companies but individuals as well, even if the person in question is a famous former NBA player. Dennis Rodman's incident left the American public speechless when he was investigated in regard of violating OFAC sanctions with his present to the North Korean despot. The ex-sportsman was spotted as a guest on Kim Jong Un's 31st birthday celebration party where he did not arrived empty handed but with a bunch of gifts valued more than \$10,000 including items of luxurious brands: European crystals, an Italian suit, bottles of Irish Jameson whiskey, a fur coat to the wife of the dictator and an English Mulberry handbag. Having such a generous person in our circle of friends, everybody would be happy about, however Rodman's kindness might cost him a high price (Visual Compliance, 2014a). Namely, the International Emergency Economic Powers Act of 2010, that covers North Korea, under which bringing luxury goods into the country is illegal (Visual Compliance, 2014b). As per OFAC sanctions export and re-export of items of U.S. origin – except food and defined medicines – require a licence. Given this regulation in force, Rodman's case could be sentenced because of the severe violation of U.S. laws implying a fine of up to \$1 million and twenty years imprisonment.

CONCLUSION

The United States has never really found its place amongst well-known convention since its foundation – a New World for a reason. Meanwhile most nations opt for the application of similar procedures to each other's and follow multilateral trade policy view with a few exceptions; the U.S. sanctions show the extreme importance of unilateral trade compliance in the States creating new legislations for several specific rules. From export to import the U.S. makes sure that any goods and services entering or exiting the border of the country are registered according to the respective regulations and no violation of laws occur. Despite trade policy tools not being the creation of globalization, its excessive use creates situations never seen before. In the past five years numerous changes took place in international trade both globally and in the U.S. specifically. Supported with statistical data and deep researches my hypothesis proved to be true, as detailed throughout the essay. It is clearly visible that trade policy tools applied by the United States exercise control over the free movement of goods and services; in some cases even the free movement of people are restricted. Built on undeniable evidence, we can claim that the agencies of the U.S. Government responsible for trade matters are functioning well, so that regulations and sanctions are issued and penalties for violations are imposed on entities. Several people might still doubt the effectiveness – or even question the whole organization – the trade policy tools including tariffs, embargoes, sanctions speak for themselves in respect to reflect on the current international relations between the United States and other parties. International relations influences economy and trade in these days that a separated organ was established to impose sanctions over entities putting them in position banned from certain activities, thus no business transaction can be concluded without its approval – the Office of Foreign Assets Control has been created to supervise over economic sanctions needed for the unilateral trade policy pursued by the United States. My paper lists excellent examples to prove the legitimate existence of OFAC and its crucial role and usefulness also, the historical significance of trade policy tools and agencies cannot be overlooked. Currently, according to the trade policy of the United States, sanctions and restrictions are justifiable as the main tools to keep the international economic relations at bay regardless of speaking about a specific country or an illegal activity. Although this excessive use of sanctions is the output of the Trump regime from January, 2017, however with Joe Biden, the new president of the United States, measures will appear and disappear following the trends and changes of international trade along with history will show how the economic and foreign political interests of the U.S. influences the repertoire of trade policy tools in the country. Certain limitations hinder the depth and fullness of my thesis because the topic of U.S. trade policy and trade compliance is an

extremely vast area in itself, and considering all of the scope and responsibilities of the agencies in charge, this research lacks the ability to go into more details. Furthermore, with the quickly changing globalized world, sanctions can be issued on a day and then withdrawn a week later for example in case of the restriction imposed on Turkey discussed previously, it is more likely to worth looking at this thesis of mine as a historical summary on U.S. trade policy so far and a compass showing the possible direction into the future of international trade, rather than a fixed point that will prove validity over time from now on. My aim was to prove the competency of the Bureau of Industry and Security and the Office of Foreign Assets Control and the success of these departments regarding the sanctions, moreover the fact that the United States has the ultimate power over the free flow of goods and services to and from o the country through the discussed tools, we can claim the protection it means for national security aspects justify the legitimate existence of such tools.

LIST OF REFERENCES

- BIS, 2020. *www.bis.doc.gov*. [Online]
Available at: <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern/entity-list?fbclid=IwAR1ae8O4aiXTEpgUCnl9CdPqYgrwagBB5yQN3jvbb8T-TDTorB6t7SyLUG0>
[Accessed 12 09 2020].
- Buchholz, K., 2019. *www.statista.com*. [Online]
Available at: https://www.statista.com/chart/17944/monthly-us-exports-to-cuba/?fbclid=IwAR2AEgUb0uwPZD-jDhoJV6HyzMldLpHaW_naVEhPW3STGdPDlGlpDV6N72E
[Accessed 05 11 2020].
- Contini, K. B. & Lamy, A., 2020. *www.sanctionsnews.bakermckenzie.com*. [Online]
Available at: <https://sanctionsnews.bakermckenzie.com/fema-implements-export-restrictions-on-certain-ppe-products-with-immediate-effect/?fbclid=IwAR1sgiwj6-TP2mDJ1cVwF9qKuWFpQR0PY724e6vqMdUx3xW38KoaAUu3M>
[Accessed 30 09 2020].
- Cornell University, 2020. *www.researchservices.cornell.edu*. [Online]
Available at: https://researchservices.cornell.edu/sites/default/files/2020-03/Export%20Control%20Compliance%20Manual_SS%20Clean.pdf?fbclid=IwAR1eCIWFZDVo8cj2XV2uJPtVeW8f-8_er6KNiOCHejVbGEJ_vkL53nouQpE
[Accessed 16 10 2020].
- eCustoms, 2019. *www.ecustoms.com*. [Online]
Available at: https://www.ecustoms.com/about-us/visual-trade-compliance-resources/us-export-controls/?fbclid=IwAR27dQplc0CY8W2iZNg2L_9Q_8m9N1PRZ2p38ulfn2neVzV37uN80YbDVSnQ
[Accessed 22 09 2020].
- Electronic Code of Federal Regulations, 2020. *www.ecfr.gov*. [Online]
Available at: https://www.ecfr.gov/cgi-bin/text-idx?SID=848b2642ff8499c529baa2a3739cf218&mc=true&node=ap31.3.501_1901.a&rgn=div9&fbclid=IwAR0Wtdk1L35eTZkvPzs67BcCJrxX-r-WP0RQqa3XMIImC1tO10TbPYuKSRj4
[Accessed 25 11 2020].
- Export Compliance Solutions, 2015. *www.exportcompliancesolutions.com*. [Online]
Available at: https://exportcompliancesolutions.com/blog/2015/11/13/ofac-the-forgotten-part-of-export-compliance-part-1-of-3/?fbclid=IwAR1VmaLqVNoodPzRbYOTolv_4Kmd1svzMmlNQtmXUSuLrZjgVae5ZRIq2_c
[Accessed 17 09 2020].
- FAS, 2018. *www.fas.org*. [Online]
Available at: https://fas.org/sgp/crs/misc/IF11016.pdf?fbclid=IwAR30qdyW_YQFNDK2-PKNsrKPrOaC145RmIS1-tTSfe771-AQZ_QIQF5-Ss
[Accessed 14 10 2020].
- FlashGlobal, 2016. *www.flashglobal.com*. [Online]
Available at: https://flashglobal.com/blog/what-is-trade-compliance/?fbclid=IwAR0AWzJVHm63ZU2382TFXA4oCP_HzC_nsygSgYab0S44_VZ5mMzGh_7qJKY#:~:text=Trade%20compliance%20describes%20the%20terms%20and%20conditions%20for,for%20eve

ry%20other%20country%20it%20does%20business%

[Accessed 01 10 2020].

Globalior, 2018. *www.globalior.com*. [Online]

Available at: <https://globalior.com/what-is-trade-compliance/>

[Accessed 01 12 2020].

Kondoh, H., 2019. *www.unescap.org*. [Online]

Available at: [https://www.unescap.org/sites/default/files/6-](https://www.unescap.org/sites/default/files/6-1_Kondoh_paper.pdf?fbclid=IwAR3ArQN5zhVTdCF3K9CU1fDzDbWkH5D6sfmFavVNGgaD75FQ3ctrk8zvQeU)

[1_Kondoh_paper.pdf?fbclid=IwAR3ArQN5zhVTdCF3K9CU1fDzDbWkH5D6sfmFavVNGgaD75FQ3ctrk8zvQeU](https://www.unescap.org/sites/default/files/6-1_Kondoh_paper.pdf?fbclid=IwAR3ArQN5zhVTdCF3K9CU1fDzDbWkH5D6sfmFavVNGgaD75FQ3ctrk8zvQeU)

[Accessed 23 10 2020].

Lewis, C. A. et al., 2020. *www.venable.com*. [Online]

Available at: [https://www.venable.com/insights/publications/2020/04/fema-to-temporarily-prohibit-most-exports-of-ppe?fbclid=IwAR0OqXd2BqxRVfhl07Ld-](https://www.venable.com/insights/publications/2020/04/fema-to-temporarily-prohibit-most-exports-of-ppe?fbclid=IwAR0OqXd2BqxRVfhl07Ld-4o1HFZM2egZsdIWOfBgSxolKVnzBgCP4YZS0t0)

[4o1HFZM2egZsdIWOfBgSxolKVnzBgCP4YZS0t0](https://www.venable.com/insights/publications/2020/04/fema-to-temporarily-prohibit-most-exports-of-ppe?fbclid=IwAR0OqXd2BqxRVfhl07Ld-4o1HFZM2egZsdIWOfBgSxolKVnzBgCP4YZS0t0)

[Accessed 24 10 2020].

McBride, J., 2017. *www.cfr.com*. [Online]

Available at: [https://www.cfr.org/background/state-us-trade-](https://www.cfr.org/background/state-us-trade-policy?fbclid=IwAR2GtW43bEyaUrhevixYljBQDIKMdTc4_-UST9EeMxIDqpl3kst636H48IU)

[policy?fbclid=IwAR2GtW43bEyaUrhevixYljBQDIKMdTc4_-UST9EeMxIDqpl3kst636H48IU](https://www.cfr.org/background/state-us-trade-policy?fbclid=IwAR2GtW43bEyaUrhevixYljBQDIKMdTc4_-UST9EeMxIDqpl3kst636H48IU)

[Accessed 01 11 2020].

Melia, M., 2019. *www.napier.ai*. [Online]

Available at: <https://www.napier.ai/post/what-is-trade-compliance-and-why-does-it-matter>

[Accessed 01 12 2020].

MercoPress, 2020. *www.en.mercopress.com*. [Online]

Available at: [https://en.mercopress.com/2020/09/24/new-us-sanctions-on-cuba-ban-on-the-import-](https://en.mercopress.com/2020/09/24/new-us-sanctions-on-cuba-ban-on-the-import-of-)

[of-](https://en.mercopress.com/2020/09/24/new-us-sanctions-on-cuba-ban-on-the-import-of-)

[Accessed 10 10 2020].

Niskanen, W. A., 1998. A Personal Overview of U.S. Trade Policy. *Future Visions for U.S. Trade Policy*, 24 06, pp. 38-45.

Pompeo, M. R., 2020. *www.state.gov*. [Online]

Available at: [https://www.state.gov/announcement-of-the-cuba-prohibited-accommodations-](https://www.state.gov/announcement-of-the-cuba-prohibited-accommodations-list/?fbclid=IwAR0ntgR-nLUDfY_2ktCkwXLse8tFdBhoi6ilUT9MQfSH78QmLTIQ99VmnE)

[list/?fbclid=IwAR0ntgR-nLUDfY_2ktCkwXLse8tFdBhoi6ilUT9MQfSH78QmLTIQ99VmnE](https://www.state.gov/announcement-of-the-cuba-prohibited-accommodations-list/?fbclid=IwAR0ntgR-nLUDfY_2ktCkwXLse8tFdBhoi6ilUT9MQfSH78QmLTIQ99VmnE)

[Accessed 25 10 2020].

Powell, A. J. S., Test, L. S. & Poitras, R., 2020. *www.sanctionsnews.bakermckenzie.com*. [Online]

Available at: <https://sanctionsnews.bakermckenzie.com/ofac-issues-guidance-relating-to-the-provision-of-humanitarian-assistance-to-combat-covid-19-while-encouraging-communication-of-compliance-concerns-related-to-the-pandemic/?fbclid=IwAR17cQIP6OwaHaV2ml8-waZajxsNCjaIA>

[Accessed 24 09 2020].

Purdue University, 2010. *www.purdue.edu*. [Online]

Available at: [https://www.purdue.edu/policies/academic-research-](https://www.purdue.edu/policies/academic-research-affairs/ia2.html?fbclid=IwAR24gL2aoJGuDHLx9JLS1wRy0xJHODMx1Gtt0vPmp0U6_0RkW0ktTlrHoig)

[affairs/ia2.html?fbclid=IwAR24gL2aoJGuDHLx9JLS1wRy0xJHODMx1Gtt0vPmp0U6_0RkW0ktTlrHoig](https://www.purdue.edu/policies/academic-research-affairs/ia2.html?fbclid=IwAR24gL2aoJGuDHLx9JLS1wRy0xJHODMx1Gtt0vPmp0U6_0RkW0ktTlrHoig)

[Accessed 30 10 2020].

Ruggie, J. G., 1992. Multilateralism: the Anatomy of an Institution. *International Organization*, pp. 561-598.

Sayre, A., 2020. *www.sanctionsassociation.org*. [Online]

Available at: https://sanctionsassociation.org/steady-increase-in-ofac-enforcement-a-shift-towards-unilateral-sanctions-a-new-focus-on-international-trade-and-much-more-according-to-accuity/?fbclid=IwAR3TNQV_VZHko6KmcWa5GwwwBBG3Odmjs3l-2f79es94WH6ogc54zvpX_O0
[Accessed 01 11 2020].

Tewarie, S. & Annino, A., 2020. *www.whitecollarlawandinvestigations.com*. [Online]

Available at: <https://www.whitecollarlawandinvestigations.com/2020/01/24/white-collar-year-in-preview-sanctions-export-controls-trends-in-2020/?fbclid=IwAR166Vopqt1zJSqKbhEMFjKeMlsR2KOGTT4v2xSnF2fbQhPPEH1fddpkuAU>
[Accessed 24 10 2020].

The Wassenaar Arrangement, 2019. *www.wassenaar.org*, s.l.: s.n.

Thompson Coburn LLP, 2020. *www.thompsoncoburn.com*. [Online]

Available at: <https://www.thompsoncoburn.com/docs/default-source/publication-documents/trade-compliance-handbook1-29-20163c302326dda26f05acb8ff0000ba5cc9.pdf?sfvrsn=10&fbclid=IwAR0T1b8T1h3Xn7Jgew33l2PGnlpD-Iy5CzOel0T2Wbu7fUTHbMqX7zJEUQ>
[Accessed 14 10 2020].

U.S. Department of Commerce, 2011. *www.bis.doc.gov*. [Online]

Available at: https://www.bis.doc.gov/index.php/documents/compliance-training/export-management-compliance/7-compliance-guidelines/file?fbclid=IwAR2AEgUb0uwPZD-jDhoJV6HyzMldLpHaW_naVEhPW3STGdPDIGlpDV6N72E
[Accessed 02 10 2020].

U.S. Department of Commerce, 2017. *www.bis.doc.gov*. [Online]

Available at: <https://www.bis.doc.gov/index.php/documents/pdfs/1641-ecp/file?fbclid=IwAR1ae8O4aiXTEpgUCnI9CdPqYgrwagBB5yQN3jvbb8T-TDTorB6t7SyLUGO>
[Accessed 22 09 2020].

U.S. Department of Commerce, 2020a. *www.bis.doc.gov*. [Online]

Available at: https://www.bis.doc.gov/index.php/documents/enforcement/1005-don-t-let-this-happen-to-you-1/file?fbclid=IwAR1S8T4YP8t8ufM_xFaeTNxGN5s5m3wPMFHhhH7U07BgBm8tgP0KOssdhxU
[Accessed 21 11 2020].

U.S. Department of Commerce, 2020b. *Deemed Exports*, s.l.: s.n.

U.S. Department of the Treasury, 2012. *www.home.treasury.gov*. [Online]

Available at: <https://home.treasury.gov/system/files/126/facei.pdf?fbclid=IwAR2wYtdGCKQ4H9WCv4Fx7CvjuGhwYWVaOoXNCy7IrtwORh6AtI6-WF4rS8>
[Accessed 13 11 2020].

U.S. Department of the Treasury, 2019. *www.home.treasury.gov*. [Online]

Available at: <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information?fbclid=IwAR0Wtdk1L35eTZkvPzs67BcCJrxX-r->

WP0RQga3XMIImC1tO10TbPYuKSRj4

[Accessed 27 09 2020].

US Trade Numbers, 2020a. *www.ustradenumbers.com*. [Online]

Available at:

https://www.ustradenumbers.com/country/cuba/?fbclid=IwAR2BZcAgViuA4KPbycMJyX9H5MBPZwv6uu62NuaWVUXKZKfrQy7jl_zlwi4

[Accessed 08 11 2020].

US Trade Numbers, 2020b. *www.ustradenumbers.com*. [Online]

Available at:

<https://www.ustradenumbers.com/country/iraq/?fbclid=IwAR0T1b8T1h3Xn7Jgew33I2PGnlppD-ly5CzOeIOT2Wbu7fUTHbMqX7zJEUQ>

[Accessed 08 11 2020].

Visual Compliance, 2014a. *www.visualcompliance.com*. [Online]

Available at:

<https://www.visualcompliance.com/blog/?p=309&fbclid=IwAR1QWZPt8A1N5wzVtrFxcLD3Q6ZHx2IVieJHIMyrkNscGN8L2aBkG2FoiP8>

[Accessed 03 11 2020].

Visual Compliance, 2014b. *www.visualcompliance.com*. [Online]

Available at: <https://www.visualcompliance.com/blog/?p=546>

[Accessed 05 11 2020].

Visual Compliance, 2015. *www.visualcompliance.com*. [Online]

Available at: <https://www.visualcompliance.com/blog/?p=985>

[Accessed 05 11 2020].

Visual Compliance, 2018. *www.visualcompliance.com*. [Online]

Available at: <https://www.visualcompliance.com/blog/?p=1521>

[Accessed 04 11 2020].

Visual Compliance, 2019. *www.visualcompliance.com*. [Online]

Available at: https://www.visualcompliance.com/blog/?p=1738&fbclid=IwAR2AEgUb0uwPZD-jDhoJV6HyzMldLpHaW_naVEhPW3STGdPDIGlpDV6N72E

[Accessed 05 11 2020].

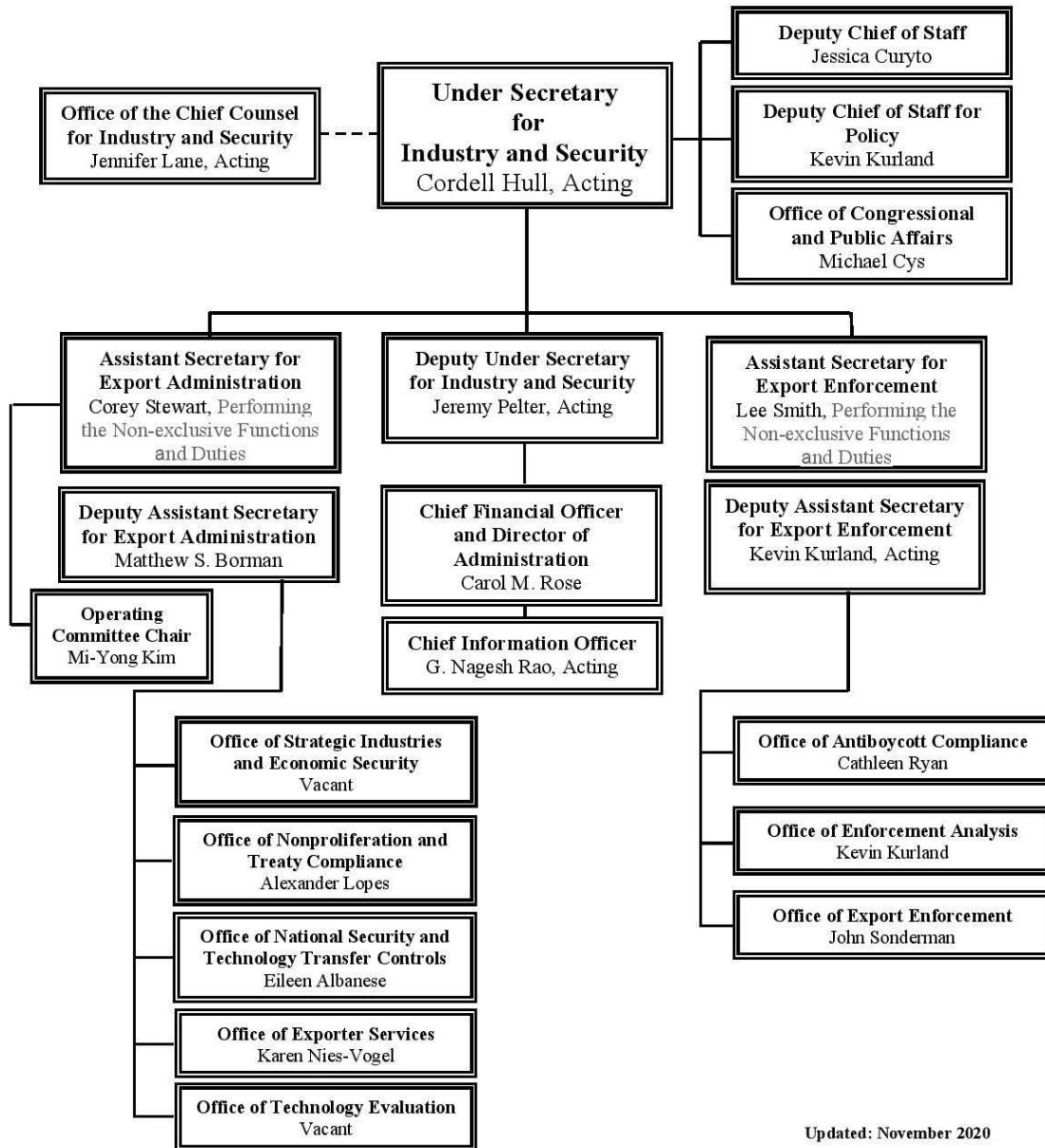
Weedmark, D., 2019. *www.bizfluent.com*. [Online]

Available at: <https://bizfluent.com/facts-6905981-definition-trade-compliance.html>

[Accessed 01 12 2020].

APPENDICES

U.S. Department of Commerce Bureau of Industry and Security



Updated: November 2020

1. Appendix 1: Hierarchical structure of the BIS
Source: U.S. Department of Commerce, 2020

EXAMPLE OF A POSSIBLE MANAGEMENT COMMITMENT STATEMENT

On Company Letterhead

DATE:

TO: All Employees & Contractors
FROM: Name, President/CEO/Chairman
SUBJECT: Export Policy Statement

(Company) is committed to compliance with all export controls in the Export Administration Act and the Export Administration Regulations. This commitment extends to promoting strict compliance on an on-going basis with terms and conditions.

It is (Company) policy that all employees, comply with the United States export policies and regulations. Under no circumstances will exports be made contrary to U.S. export regulations by any individual operating on behalf of (Company).

Employees outside the United States may not re-export any commodity, technology, or software unless appropriate authorization has been obtained, and this includes foreign-produced items that are the direct product of U.S. technology and software and are subject to export controls under the Export Administration Act.

No activities will be undertaken that are in violation of the United States policies which seek to control nuclear proliferation, missile technology, and chemical and biological weapons.

Failure to comply with these regulations may result in the imposition of criminal and/or civil fines and penalties, including jail time and monetary penalties, and employees will be subject to disciplinary action and/or termination.

I ask each of you to take this matter very seriously and to support me in this effort. If you have any questions concerning the legitimacy of a transaction or potential violations, please contact:

Insert Name
Title
Phone
E-Mail

Note: This Statement of Corporate Commitment to Export Compliance will be issued on an annual basis or if necessitated by personnel changes, changes in management, or regulatory changes.

[Responsible Official] is responsible for disseminating this Statement throughout the organization through [Company's] Export Compliance Program Manual updates, incorporation into training and presentations, and posting on the (Company) Intranet and Web site.

President/CEO/Chairman

(SIGNATURE) _____ (DATE) _____

2. Appendix 2: Management commitment statement template
Source: U.S. Department of Commerce, 2017

EXAMPLE OF EMPLOYEE ACKNOWLEDGEMENT

All employees are required to read and sign the following verification statement on an annual basis and submit to the Human Resources Office to be filed in their personnel file.

I, _____, hereby acknowledge that I received, on (DD/MM/YY) (Company) policy statement dated (DD/MM/YY) and signed by (Signing Official), regarding (Company) commitment to export control compliance. I have read such policy statement and will comply with (Company) export compliance policies and procedures in support of (Company) compliance efforts.

Employee Signature _____ Printed name _____

Title _____ Date _____

3. Appendix 3: Employee acknowledgement of ECP
Source: U.S. Department of Commerce, 2017

Element 4: RECORDKEEPING	✓	+	△	N/A
A system is in place to manage records, including record retention.				
Written procedures have detailed step-by-step instructions on what employees are expected to follow.				
Records, in physical-hardcopy and/or electronic form, are retained and maintained in a secured location.				
A designated employee(s) (Name, Contact info) is responsible for management and maintenance of recordkeeping as well as a designated back up person (s).				
Records are maintained per organizational policy (minimum 5 years).				
Employees have access to all the appropriate systems, tools, databases, and records to perform their responsibilities that ensures compliance with recordkeeping procedures.				
Employees understand the importance of their roles related to the overall recordkeeping requirement.				
A Technology Control Plan (TCP) is maintained, if needed.				
A log is maintained for all visitors to the facility.				
Establish procedures on how to properly dispose sensitive medium for more information see "DOC/NIST "Guidelines for Media Sanitization"				
Obtains copies of export documents from freight forwarders.				
The procedure includes a list of records to maintain (not exclusive):				
• SNAP-R (Simplified Network Application Process-Redefined)				
• Export Licenses (Commerce/State/OFAC)				
• Accompanying attachments, rider or conditions				
• Commodity Classifications				
• Commodity Jurisdiction letters				
• Advisory Opinion letters				
• BIS-648P (Notification of Delivery Verification Requirement)				
• BIS 711 Statement by Ultimate Consignee and Purchaser				
• End-user Certificates				
• Copy of all shipments/AES filings				
• Commercial Invoices				
• Sales Orders				
• Shippers Letter of Instruction (SLI)				
• Description of item(s)				
• ECCN(s)				
• License Exceptions or Exemptions				
• Schedule B number(s)/HS numbers				
• Air Waybills and/or Bills of Lading Value of shipments				

4. Appendix 4: Recordkeeping checklist
Source: U.S. Department of Commerce, 2017

Template 1: ITEM CLASSIFICATION SHEET

Item Description	
Technical Specifications	
Agency Jurisdiction	
ECCN Classification Decision	
Contacts Made to Determine Item Classification	
Name/Title of Technical Decision Maker (Engineer)/Date	
Name/Title of Approving Manager/Date	
End-Use of the Item (Civilian or Military?)	
Request for Evaluation Due to EAR Change Made	
Evaluation Decision Date Name/Title of Product Engineer	

5. Appendix 5: Item classification sheet
 Source: U.S. Department of Commerce, 2017