

26 March 2024

BVI CABINET APPROVES NEW BELONGER STATUS AND PERMANENT RESIDENCE POLICY

On 21 March, Harneys published an article explaining that the Commission of Inquiry commissioned by the UK Government into governance in the BVI had recommended that there should be a review of processes for the grant of residency and “belongership” status in the BVI, and in particular the open discretion of the Cabinet to make grants. The article sets out some of the key takeaways from the new Policy.

<https://www.mondaq.com/general-immigration/1440508/bvi-cabinet-approves-new-belonger-status-and-permanent-residence-policy>

https://bvi.gov.vg/sites/default/files/resources/belonger_status_and_permanent_residence_policy_for_the_virgin_islands.pdf

<https://www.gov.uk/government/publications/british-virgin-islands-commission-of-inquiry-report>

US: COMPLYING WITH THE CORPORATE TRANSPARENCY ACT IN THE “POSSESSIONS” - AMERICAN SAMOA, NORTHERN MARIANA ISLANDS, GUAM, PUERTO RICO AND THE US VIRGIN ISLANDS

On 25 March, an article from Parsons, Behle & Latimer explains that those working in the Possessions know that some US laws apply to the Possessions; others do not. The Corporate Transparency Act (CTA) is special, in that it applies to the Possessions, but not always in the same way it applies to the US proper.

<https://www.mondaq.com/unitedstates/corporate-and-company-law/1442500/complying-with-the-corporate-transparency-act-in-the-possessions>

MAURITIUS LEGISLATES TO CREATE NEW FINANCIAL CRIMES COMMISSION

On 21 March, The Sovereign Group reported that Mauritius has introduced the Financial Crimes Commission Act to provide for the establishment of a new Financial Crimes Commission, which will be the apex agency in Mauritius to detect, investigate and prosecute financial crimes. FATF advised Mauritius to strengthen its efforts to ensure that money laundering cases were dealt with as a priority and in a timely manner, and the Act is designed to address this recommendation in advance of the next FATF assessment in 2027.

<https://www.mondaq.com/white-collar-crime-anti-corruption--fraud/1438286/mauritius-legislates-to-create-new-financial-crimes-commission>

US: PERSONS DESIGNATED UNDER CERTAIN OFAC SANCTIONS TO BE AUTOMATICALLY SUBJECT TO CERTAIN EXPORT CONTROLS UNDER THE EAR

On 26 March, the Global Sanctions blog reported that the Export Administrative Regulations (EAR) had been amended so that individuals and entities designated under certain OFAC sanctions regimes (Russia, counter-terrorism, proliferation, and counter-narcotics) will also automatically be subject to certain export controls, such as licensing, under the EAR.

<https://globalsanctions.co.uk/2024/03/us-expands-export-controls-on-designated-individuals/>

<https://www.skadden.com/insights/publications/2024/03/new-bis-rule>

RUSSIA DELIVERS OIL TO NORTH KOREA IN DEFIANCE OF UN SANCTIONS

On 26 March, Oil Price.com reported that Russia has supplied oil directly to North Korea this year as both regimes are openly defying UN sanctions on sales of petroleum in response to its nuclear weapons tests. Russia appears to have boosted its oil deliveries in exchange for munitions and other military equipment from North Korea to use in its war in Ukraine.

[https://oilprice.com/Latest-Energy-News/World-News/Russia-Delivers-Oil-to-North-Korea-in-](https://oilprice.com/Latest-Energy-News/World-News/Russia-Delivers-Oil-to-North-Korea-in-Defiance-of-UN-Sanctions.html)

[Defiance-of-UN-Sanctions.html](https://oilprice.com/Latest-Energy-News/World-News/Russia-Delivers-Oil-to-North-Korea-in-Defiance-of-UN-Sanctions.html)

<https://rusi.org/explore-our-research/publications/commentary/blood-and-oil-russian-oil-deliveries-follow-north-korean-weapons-transfers>

DUBAI TANKER OPERATOR TO LIQUIDATE AFTER LOSING UK HIGH COURT BID TO SCUPPER SANCTIONS

On 26 March, TradeWinds reported that the Dubai tanker unit of Switzerland-based Fractal Shipping Russian oil specialist Fractal Marine DMCC has lost a High Court bid to have UK sanctions against it suspended. Lawyers said the company would be forced into liquidation unless the sanctions were lifted.

<https://www.tradewindsnews.com/tankers/fractal-s-dubai-arm-to-liquidate-after-losing-high-court-bid-to-scupper-sanctions/2-1-1617646>

HOW TO REDUCE RISKS OF DIRTY MONEY IN PRIVATE SCHOOLS

On 26 March, The PIE News reported that independent schools in the UK are now under scrutiny due to potential loopholes arising from substantial money transfers, including anonymous donations and payment of tuition fees. It says that the independent school sector presents a glaring loophole in the UK's AML system because it appears that insufficient checks on the source of funds are completed by schools before they accept fees.

<https://thepienews.com/the-view-from/reduce-risks-dirty-money-private-schools/>

UPHOLDING NORTH KOREA SANCTIONS IN THE AGE OF DECENTRALISED FINANCE

On 26 March, an Occasional Paper from RUSI aims to examine cryptocurrency mixers' distinct technical, legal and regulatory dimensions and the challenges they pose to the sanctions regime. The Paper provides detailed background information on North Korea's cyber-criminal statecraft, focusing on North Korean actors' use of mixers to launder illicitly obtained cryptocurrency.

<https://rusi.org/explore-our-research/publications/occasional-papers/upholding-north-korea-sanctions-age-decentralised-finance>

UK REVIEW OF CIVIL LEGAL AID: COMPARATIVE ANALYSIS OF LEGAL AID SYSTEMS IN OTHER COUNTRIES

On 26 March, MoJ published a report which examines policy approaches taken in other legal aid systems. It explores 6 other civil legal aid systems aiming to identify promising approaches, initiatives and lessons that could be adapted to the civil legal aid system in England and Wales - Australia, Canada, Finland, the Netherlands and the USA and, within the UK, Scotland.

<https://assets.publishing.service.gov.uk/media/66015ca6a6c0f7bb15ef9166/rocla-comparative-analysis-legal-aid-systems.pdf>

WORLD TRADE ORGANISATION (WTO): CHALLENGES AND OPPORTUNITIES

On 25 March, a briefing from the House of Commons Library says that, post-Brexit, and in the absence of free trade agreements, which are an exception allowed by the WTO to grant more favourable terms of trade to specific partners, the UK will trade under WTO rules. The UK will then abide by the WTO's standards and agreed tariff rates.

<https://researchbriefings.files.parliament.uk/documents/CBP-9942/CBP-9942.pdf>

OECD: RESILIENT INTEGRITY FRAMEWORKS ARE KEY TO MITIGATING NEW CORRUPTION RISKS FROM GLOBAL CHALLENGES

On 26 March, a new report from the OECD said that anti-corruption and integrity frameworks are improving, but there is a need for renewed efforts to strengthen them globally by prioritising implementation, enhancing data collection, and taking account of emerging risks. It outlines the current performance of countries' anti-corruption and integrity policies and practices and identifies avenues for enhancement. Drawing on new data from the OECD Public Integrity Indicators, it also sheds light on how emerging global challenges are impacting anti-corruption and integrity efforts.



<https://www.oecd.org/newsroom/resilient-integrity-frameworks-are-key-to-mitigating-new-corruption-risks-from-global-challenges.htm>

FORMER HEAD OF CHINA FOOTBALL ASSOCIATION JAILED FOR LIFE FOR TAKING BRIBES

On 26 March, the Guardian reported that Chinese state media says that former chairman Chen Xuyuan accepted millions in return for help with contracting, investment options and event management.

<https://www.theguardian.com/world/2024/mar/26/chen-xuyuan-former-head-of-china-football-association-jailed-for-life-bribery>

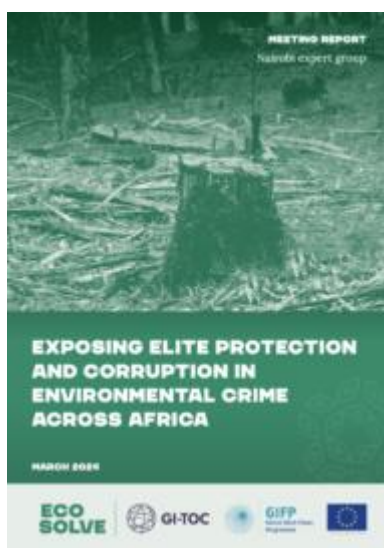
WHAT DRIVES DEMAND FOR MIGRANT AND REFUGEE SMUGGLING IN SOUTH-EAST ASIA? NEW RESEARCH FROM UNODC

On 26 March, the UN Office on Drugs & Crime issued a news release about a new report which found that 1 in 4 of the smuggled refugees and migrants surveyed said that climate-related issues – including flooding, storms, drought, extreme temperatures or livestock or crop disease – influenced their decision to migrate and use smugglers. Corruption both enables and drives migrant smuggling in the region, the research found. 25% of smuggled people surveyed reported giving officials a gift, money or a favour in return for a service. Corruption also drives demand for migrant smuggling, because people think that they need smugglers to help them deal with corrupt authorities. The research goes on to explore the different smuggling routes taken within the region by land, sea and air. The *modi operandi* of smugglers are examined, with the research showing that refugees and migrants or their family and friends initiate contact with the smugglers in 69% of cases, rather than being actively approached by smugglers.

<https://www.unodc.org/unodc/en/press/releases/2024/March/what-drives-demand-for-migrant-and-refugee-smuggling-in-southeast-asia-new-research-from-unodc.html>

EXPOSING ELITE PROTECTION AND CORRUPTION IN ENVIRONMENTAL CRIME ACROSS AFRICA

The Global Initiative Against Transnational Organised Crime published a report in the wake of an event in November involving a regional expert consultation on exposing elite protection and corruption in environmental crime in Africa. In it, participants highlighted the key role of local networks (including youth networks) in raising awareness of the impact of environmental crime and inspiring change. The report says that one of the reasons perpetuating high-level protection by powerful individuals of the criminal economy is the belief that their activities will not be exposed because endemic corruption in the system, and along the supply chains, inherently disguises their activities, while weak oversight shelters them. This is particularly evident in environmental crime, which is often seen as a low-risk, high-reward crime.



<https://globalinitiative.net/wp-content/uploads/2024/03/Exposing-elite-protection-and-corruption-in-environmental-crime-across-Africa-ECO-SOLVE-March-2024.pdf>

2 GUILTY OF SELLING COUNTERFEIT AIRCRAFT PARTS TO CANADIAN AIRLINES

On 14 March, OCCRP reported that 2 men had pleaded guilty in the US to selling counterfeit aviation parts that misled buyers into thinking that they were airworthy. They sold counterfeit airline parts to Canadian airlines and a US Department of Defense contractor, which they fraudulently claimed to be airworthy under US and European regulations.

<https://www.occrp.org/en/daily/18572-two-guilty-of-selling-counterfeit-aircraft-parts-to-canadian-airlines>

US: FATF AML/CFT EVALUATION ENHANCED FOLLOW-UP REPORT

On 26 March, FATF published this follow-up report which, as noted below, upgraded the rating for FATF Recommendation 24. The US now has 9 Recommendations rated Compliant, 23 Largely Compliant, 5 Partially Compliant and 3 Recommendations Non-Compliant. It will report back to the FATF on progress achieved in improving the implementation of its AML/CFT measures in its 5th round mutual evaluation.



<https://www.fatf-gafi.org/content/dam/fatf-gafi/fur/USA-FUR-2024.pdf.coredownload.inline.pdf>

R.1 - Assessing risk & applying risk-based approach	R.2 - National cooperation and coordination	R.3 - Money laundering offence	R.4 - Confiscation and provisional measures	R.5 - Terrorist financing offence	R.6 - Targeted financial sanctions related to terrorism & terrorist financing	R.7 - Targeted financial sanctions related to proliferation	R.8 - Non-profit organisations	R.9 - Financial institution secrecy laws	R.10 - Customer due diligence	R.11 - Record keeping
PC	C	LC	LC	C	LC	LC	LC	C	LC	LC
R.12 - Politically exposed persons	R.13 - Correspondent banking	R.14 - Money or value transfer services	R.15 - New technologies	R.16 - Wire transfers	R.17 - Reliance on third parties	R.18 - Internal controls and foreign branches and subsidiaries	R.19 - Higher-risk countries	R.20 - Reporting of suspicious transactions	R.21 - Tipping-off and confidentiality	R.22 - DNFBPs: Customer due diligence
PC	LC	LC	LC	PC	LC	LC	LC	PC	C	NC
R.23 - DNFBPs: Other measures	R.24 - Transparency and beneficial ownership of legal persons	R.25 - Transparency and beneficial ownership of legal arrangements	R.26 - Regulation and supervision of financial institutions	R.27 - Powers of supervisors	R.28 - Regulation and supervision of DNFBPs	R.29 - Financial intelligence units	R.30 - Responsibilities of law enforcement and investigative authorities	R.31 - Powers of law enforcement and investigative authorities	R.32 - Cash couriers	R.33 - Statistics
NC	LC	PC	LC	C	NC	C	C	LC	C	LC
R.34 - Guidance and feedback	R.35 - Sanctions	R.36 - International instruments	R.37 - Mutual legal assistance	R.38 - Mutual legal assistance: freezing and confiscation	R.39 - Extradition	R.40 - Other forms of international cooperation				
LC	LC	LC	LC	LC	LC	C				

C = compliant | LC = largely compliant | PC = partially compliant | NC = non-compliant

FATF HAS UPGRADED THE US TO “LARGELY COMPLIANT” WITH FATF RECOMMENDATION 24 = WHICH RELATES TO BENEFICIAL OWNERSHIP TRANSPARENCY FOR LEGAL PERSONS

On 26 March, a news release from FinCEN announced that FATF had detailed the US progress in addressing deficiencies in its AML/CFT regime specific to Recommendation 24, including the ongoing implementation of the Corporate Transparency Act, the bipartisan law that requires many companies doing business in the US to report information to FinCEN about who ultimately owns or controls them.

<https://home.treasury.gov/news/press-releases/jy2208>

OFAC SANCTIONS FINANCIAL FACILITATORS AND ILLICIT DRUG TRAFFICKERS SUPPORTING THE SYRIAN REGIME

On 26 March, OFAC advised that it had sanctioned 11 individuals and entities supporting the regime of Syrian President Bashar Al-Assad through the facilitation of illicit financial transfers and trafficking of illegal drugs, as well as the extraction and export of Syrian commodities. Syria has become the leading producer and exporter of Captagon, a highly addictive amphetamine-type stimulant trafficked illegally throughout the Middle East and Europe.

<https://home.treasury.gov/news/press-releases/jy2210>

<https://ofac.treasury.gov/recent-actions/20240326>

OFAC TARGETS QODS FORCE, HOUTHIS, AND HISBOLLAH FINANCE AND TRADE FACILITATORS

On 26 March, OFAC advised that it was sanctioning 6 entities, 1 individual and 2 tankers that are based or registered in Liberia, India, Vietnam, Lebanon, and Kuwait that have engaged in facilitating commodity shipments and financial transactions for the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF), the Houthis, and Hizballah.

<https://home.treasury.gov/news/press-releases/jy2209>

<https://ofac.treasury.gov/recent-actions/20240326>

UK: NOTICE TO EXPORTERS 2024/05: OPEN GENERAL EXPORT LICENCE (EXPORT OF DUAL-USE ITEMS TO EU MEMBER STATES) UPDATED

On 26 March, Notice to Exporters 2024/05 advised that the OGEL had been updated to permit the export of certain items controlled under Schedule 3 of the Export Control Order 2008, to certain destinations. The new Licence takes effect from 1 April, replacing its predecessor.

<https://www.gov.uk/government/publications/notice-to-exporters-202405-open-general-export-licence-export-of-dual-use-items-to-eu-member-states-updated/nte-202405-open-general-export-licence-export-of-dual-use-items-to-eu-member-states>

The Five Pillars of the DOJ's Antitrust Suit Against Apple

Areas in which Apple allegedly engaged in illegal, anticompetitive behavior in the U.S.

DOJ vs. Apple

On March 21, 2024, the U.S. Justice Department sued Apple for **monopolizing smartphone markets**. According to the complaint, Apple engaged in anticompetitive behavior in at least five areas:



Blocking 'Super Apps'



Suppressing **cloud streaming services**



Excluding cross-platform **messaging apps**



Diminishing the functionality of non-Apple **smartwatches**



Limiting third-party **digital wallets**

Apple responded by calling the lawsuit "wrong on the facts and the law", saying that it would vigorously defend against it.
"This lawsuit threatens who we are and the principles that set Apple products apart in fiercely competitive markets."

Sources: U.S. Department of Justice, Apple



statista

<https://www.statista.com/chart/31974/summary-of-the-dojs-antitrust-lawsuit-against-apple>

CHINA FINALISES RULES TO EASE DATA EXPORT COMPLIANCE BURDEN

On 26 March, a Client Alert from Wilmer Hale advised of the final version of the Provisions on the Promotion and Regulation of Cross-Border Data Flows. The Client Alert explains how the new version significantly softens the existing data export compliance rules.

<https://www.wilmerhale.com/en/insights/client-alerts/20240326-china-finalizes-rules-to-ease-data-export-compliance-burden>

ARIZONA COURT RULES MEXICO CAN PROCEED WITH LAWSUIT AGAINST 5 US GUN DEALERS

On 26 March, the Guardian reported that a court in Arizona has ruled that the Mexican Government may proceed in its lawsuit against 5 US gun dealers, who stand accused of facilitating gun trafficking across the border into Mexico. Gun sales are highly restricted in Mexico itself, but the Mexican Government estimates that 200,000 firearms are smuggled over the border from the US every year.

<https://www.theguardian.com/us-news/2024/mar/26/mexico-lawsuit-us-gun-dealers>

US: KUCCOIN CRYPTO EXCHANGE AND 2 FOUNDERS CHARGED WITH CONSPIRING TO VIOLATE THE BANK SECRECY ACT BY FAILING TO MAINTAIN A COMPLIANT AML PROGRAM AND OPERATING AN UNLICENSED MONEY-TRANSMITTING BUSINESS

On 26 March, ZyCrypto reported that KuCoin and its founders, both Chinese citizens, were charged with operating the Seychelles-headquartered exchange as a money-transmitting business with over 30 million customers, but intentionally failed to implement an AML program, leading to the platform being used for “money laundering and terrorist financing”.

<https://zycrypto.com/justice-department-charges-kucoin-and-two-founders-with-multi-billion-dollar-criminal-conspiracy/>

RESOURCING AND IMPROVING OFAC SANCTIONS ENFORCEMENT

On 26 March, the Atlantic Council published this Issue Brief which says that enforcement remains a critical but under-resourced element of economic sanctions; and that the US Congress and the US Treasury should consider updates to its resources, public guidance, and policies to ensure the efficacy of sanctions enforcement as the use of the sanctions policy tool continues to expand.

<https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/sanctions-have-become-a-tool-of-first-resort/>

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