

5 March 2024

LEGAL CONSIDERATIONS WHEN TRANSPORTING ELECTRIC VEHICLES BY SEA

On 26 February, Hill Dickinson published this article saying that the increasing use of electric vehicles (EV) globally in the past decade has led to a rise in the number of EV being transported by sea, resulting in a growing concern about the associated risks. Recent years have seen fires breaking out on cargo ships, car carriers, and roll-on/roll-off (RoRo) vessels engaged in the sea transport of EV.

<https://www.hilldickinson.com/insights/articles/legal-considerations-when-transporting-electric-vehicles-sea>

CAN A BUSINESS LIMIT LIABILITY FOR LOSSES CAUSED BY FRAUD?

On 1 March, an article from Bahamas law firm Parris Whittaker discusses a recent High Court ruling, saying that it is not possible, for public policy reasons, for organisations to avoid liability for a fraud that induced the making of a contract – but can you limit liability in the event of a fraudulent breach?

<https://parriswhittaker.com/news/can-a-business-limit-liability-for-losses-caused-by-fraud/>

EU RUSSIA SANCTIONS: REQUIREMENT FOR CONTRACT CLAUSE FOR EU EXPORTERS PROHIBITING THE RE-EXPORT OF THE GOODS TO RUSSIA AND PROVIDING FOR “ADEQUATE REMEDIES” IN THE EVENT OF A BREACH

On 1 March, Baker McKenzie reported that contracts concluded from 19 December onwards must contain the ‘no re-export to Russia’ clause as of 20 March.

<https://sanctionsnews.bakermckenzie.com/deadline-to-implement-no-russia-clause-under-the-eus-12th-package/#page=1>

AUSTRALIA & CANADA DESIGNATE RUSSIAN OFFICIALS FOLLOWING NAVALNY DEATH

On 5 March, the Global Sanctions blog reported that Australia and Canada had followed the UK and US in designating Russian officials in connection with Navalny’s death.

<https://globalsanctions.co.uk/2024/03/australia-canada-designate-russian-officials-following-navalny-death/>

NEW ZEALAND & JAPAN IMPOSE RUSSIA SANCTIONS

On 5 March, the Global Sanctions blog reported that New Zealand and Japan had both amended their sanctions regimes, targeting Russia.

<https://globalsanctions.co.uk/2024/03/new-zealand-japan-impose-russia-sanctions/>

SWITZERLAND IMPLEMENTS LATEST PACKAGE OF RUSSIA SANCTIONS & UPDATES GUIDANCE

On 5 March, the Global Sanctions blog reported that Switzerland had both adopted the 13th EU sanctions package and its State Secretariat for Economic Affairs (SECO) had updated its relevant guidance.

<https://globalsanctions.co.uk/2024/03/switzerland-implements-13th-package-of-russia-sanctions-updates-guidance/>

The 13th Package is detailed at –

<https://www.dentons.com/en/insights/alerts/2024/march/4/eu-adopts-13th-package-of-sanctions-against-russia>

JAPAN TO IMPOSE ECONOMIC SANCTIONS ON 8 PEOPLE IN RELATION TO HAMAS

On 5 March, NHK reported that Japan has added 8 individuals to its list of economic sanctions in relation to Hamas amid the ongoing conflict in Gaza. Those designated are 5 senior members of Hamas in charge of collecting funds, and 3 money changers who facilitate fund transfers for the group. A total of 22 individuals and 5 organisations related to Hamas are now facing Japanese sanctions.

https://www3.nhk.or.jp/nhkworld/en/news/20240305_18/

US: SCANNERS THAT SPOT SMUGGLED FENTANYL AT THE MEXICAN BORDER SIT UNUSED BECAUSE CONGRESS HASN'T PROVIDED THE CASH TO INSTALL THEM

On 5 March, NBC News reported that US Customs and Border Protection spent millions on the most up-to-date high-tech scanners but many scanners are sitting in warehouses unused because Congress hasn't appropriated funds to install them.

<https://www.nbcnews.com/politics/immigration/border-fentanyl-scanners-unused-congress-provided-no-money-rcna141432>

INDIA: HAWALA NEXUS IN SMUGGLING OF HUMAN HAIR, BETEL NUTS ACROSS INDIA-MYANMAR-CHINA

On 5 March, The Telegraph reported that the Enforcement Directorate has unearthed a *hawala* nexus that used money earned from smuggling of human hair from India to China and other countries to carry out illegal betel nut trade from Myanmar and *vice-versa*. It came to light during a money laundering probe into the smuggling of human hair.

<https://www.telegraphindia.com/india/enforcement-directorate-ed-finds-hawala-nexus-in-smuggling-of-human-hair-betel-nuts-across-india-myanmar-china/cid/2004911>

DEAL ON EU BAN ON PRODUCTS MADE WITH FORCED LABOUR

On 5 March, the EU announced that negotiators from the EU Parliament and Council reached a provisional agreement on new rules that ban products made with forced labour from the EU market. The new regulation would create a framework for enforcing this ban, including through investigations, new IT solutions and cooperation with other authorities and countries. Even when finally approved and published, Member States will thereafter have 3 years to start applying the new rules.

<https://www.europarl.europa.eu/news/en/press-room/20240301IPR18592/deal-on-eu-ban-on-products-made-with-forced-labour>

<https://www.euractiv.com/section/economy-jobs/news/eu-strikes-speedy-agreement-banning-forced-labour-products/>

EU UKRAINE SANCTIONS – AMENDMENT REGARDING THE RIGHTS OF DEFENCE AND THE RIGHT TO EFFECTIVE JUDICIAL PROTECTION

EU Regulation 2024/827/EU amended EU Regulation 208/2014/EU to update the provisions relating to targets' rights of defence and the right to effective judicial protection should be updated.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202400827

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202400828

SEIZURES OF DRUGS IN ENGLAND AND WALES, FINANCIAL YEAR ENDING 2023

On 5 March, the Home Office updated the data online adding the number of fentanyl and fentanyl analogue seizures made by Border Force in 2017 to 2018.

<https://www.gov.uk/government/statistics/seizures-of-drugs-in-england-and-wales-financial-year-ending-2023#full-publication-update-history>

UK: SINGLE TRADE WINDOW (ESTABLISHMENT, OPERATION, AND INFORMATION) REGULATIONS 2024

These Regulations authorise HMRC to establish and operate a new electronic system, the Single Trade Window (STW). STW will be a single platform used to collect and process information that the Government needs from traders about the import, export, or transit of goods. the STW is a part of the 2025 UK Border Strategy. Guidance concerning the submission of relevant information by

traders using the STW will be provided when STW goes live later this year and before the powers in this instrument are exercised.

<https://www.legislation.gov.uk/uksi/2024/285/contents/made>

UK: CARBON BORDER ADJUSTMENT MECHANISM

On 5 March, the House of Commons Library published a briefing explained that a Carbon Border Adjustment Mechanism (CBAM) is a mechanism implemented by governments to account for the carbon cost of producing imported goods, with the ultimate aim of reducing greenhouse gas emissions and supporting global progress towards net zero. The UK Government has said it will be introduced a CBAM, and will consult on the design of a UK CBAM during 2024. Based on the Government's announcements, UK CBAM will be like EU CBAM but there are differences in terms of timescale and scope.

<https://researchbriefings.files.parliament.uk/documents/CBP-9935/CBP-9935.pdf>

UK: FCA CONSULTS ON PLANS TO PUBLICISE INVESTIGATIONS AND AMEND ITS ENFORCEMENT GUIDE

On 4 March, Allen & Overy reported that the FCA is consulting on changes to its approach to publicising enforcement investigations, as well as other changes to its Enforcement Guide. If they come into force, these proposals will impact existing and new enforcement investigations. The article addresses the most common questions clients have been asking since the FCA announced its proposals on 27 February.

<https://www.jdsupra.com/legalnews/faqs-uk-fca-consults-on-plans-to-6184511/>

UK DOMICILE AND NON-DOMS – AN EXPLAINER

On 29 February, the Chartered Institute of Taxation published an updated article which sets out how the domicile rules work and seeks to answer some of the most common questions about them, focusing mainly on income tax and capital gains tax.

<https://www.tax.org.uk/non-doms-explainer-march-2024>

RUSSIA'S PREPARATIONS FOR THE WEST'S SANCTIONS

On 4 March, an article in Lawfare argued that, to effectively target Russia's ability to circumvent Western sanctions, the West must focus on dismantling the infrastructure that permits transnational crime to flourish, better integrate their individual sanctions regimes, and close long-standing gaps in global trade and finance regulations.

<https://www.lawfaremedia.org/article/the-sanctions-busting-architects-moscow-s-preparations-for-the-west-s-sanctions>

UK GUIDANCE: EXPORTING TO IRAN

On 4 March, the Foreign Commonwealth and Development Office published this guidance for British businesses on developing their overseas trade and doing business in Iran.

<https://www.gov.uk/government/publications/exporting-to-iran/doing-business-in-iran-trade-and-export-guide>

EUROPEAN PROSECUTOR SAYS ORGANISED CRIME GROUPS TARGET EU FUNDS

On 5 March, OCCRP reported that the European Public Prosecutor's Office (EPPO) warned in its annual report that serious organised crime continues to inflict substantial harm on the EU budget, estimating the damage at €19.2 billion in 2023.

<https://www.occrp.org/en/daily/18522-european-prosecutor-organized-crime-groups-target-eu-funds>

INTERNATIONAL CRIMINAL COURT: UGANDAN WARLORD MUST PAY \$56 MILLION IN REPARATIONS

On 4 March, OCCRP reported that the ICC deemed a convicted Ugandan warlord liable for more than \$56 million in reparations to his nearly 50,000 victims, who include child soldiers and women subjected to sexual assault. Dominic Ongwen, 44, is a former leader of the Lord's Resistance Army (LRA), a Christian extremist organisation founded in 1987.

<https://www.occrp.org/en/daily/18520-icc-ugandan-warlord-must-pay-56-million-in-reparations>

CANADA: NEW MEASURES FOR REVIEWING FOREIGN INVESTMENTS IN DIGITAL MEDIA SECTOR

On 3 March, Jurist reported that 2 ministers had announced additional measures aimed at strengthening guidelines on foreign investments in the interactive digital media sector.

<https://www.jurist.org/news/2024/03/canada-announces-new-measures-for-reviewing-foreign-investments-in-digital-media-sector/>

WHAT LED TO THE HAITI JAILBREAK – AND CAN DEMOCRACY BE RESTORED?

On 5 March, the Guardian published this Explainer after criminal gangs stormed Haiti's 2 biggest jails and freed more than 3,800 criminals.

<https://www.theguardian.com/world/2024/mar/05/haiti-jailbreak-democracy-state-emergency-prisons-gangs-freed-inmates>

UK: COMPANIES REQUIRED TO MAKE 'LAWFUL PURPOSE' DECLARATIONS

On 4 March, the Law Society Gazette reported that the powers for Companies House to query information and to require companies to give legitimate addresses have come in to force – but full identity checks on company directors will not come in to force for some time.

<https://www.lawgazette.co.uk/law/companies-required-to-make-lawful-purpose-declarations/5118951.article>

UK: CORPORATE CRIMINAL LIABILITY – REFORMING THE IDENTIFICATION DOCTRINE

On 3 March, Eversheds Sutherland published this article saying that, after years of debate, in 2022, the Law Commission published its options paper outlining potential reforms for prosecuting corporates. Subsequently, the Economic Crime and Corporate Transparency Act 2023 (ECCTA) has made 2 significant reforms in this area.

<https://www.eversheds-sutherland.com/en/global/insights/uk-corporate-criminal-liability>

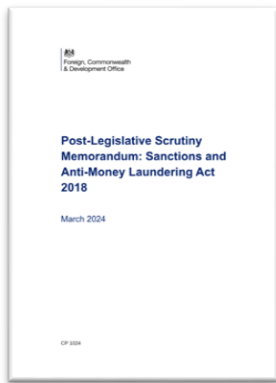
TIGHTER SECURITY FOR IMPORT-CONTAINER CHAIN IN ROTTERDAM

On 5 March, an article in Hellenic Shipping News reported that, from 31 March, all import containers arriving in the port of Rotterdam from Latin America will only be securely and reliably released via the Secure Chain. The new operational approach creates a closed logistics chain that solely comprises familiar, authorised parties. The Secure Chain is part of a broader approach deployed by the public and private sectors to present a united front against drug crime in the port of Rotterdam. The Secure Chain is a joint initiative by the business community and the authorities to boost the digital resilience of current port logistics processes. The secure and reliable release and collection of import containers in the Dutch ports is an important component of this.

<https://www.hellenicshippingnews.com/tighter-security-for-import-container-chain-in-rotterdam/>

UK: POST-LEGISLATIVE SCRUTINY MEMORANDUM: SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

The Foreign Commonwealth and Development Office has published this report which provides a summary and a preliminary assessment of the provisions and implementation of the Sanctions and Anti-Money Laundering Act 2018.



https://assets.publishing.service.gov.uk/media/65e16ea23f6945001d03603d/Post_Legislative_Scrutiny_Memorandum_Sanctions_and_Anti-Money_Laundering_Act_2018.pdf

FORMER LEGISLATOR AND 7 JUDGES AMONG THOSE ARRESTED IN ECUADOR FOR ALLEGED ORGANISED CRIME

On 5 March, La Estrella de Panama reported that a former assemblyman and at least 7 judges are among the 12 arrested in an anti-corruption operation carried out in Ecuador by the Prosecutor's Office and the National Police to dismantle an alleged organised crime plot in the judicial apparatus. This took place entirely in the coastal province of Guayas, whose capital is Guayaquil, the country's most populous city.

<https://www.laestrella.com.pa/mundo/un-exlegislador-y-siete-jueces-entre-los-detenidos-en-ecuador-por-presunta-delincuencia-organizada-GL6296080>

DENMARK – INVESTIGATION INTO IMPORTATION OF AVIATION FUEL FROM INDIA IN POTENTIAL BREACH OF RUSSIAN SANCTIONS

On 4 March, Duane Morris reported that the Danish Business Authority is currently investigating the Danish shipping company Hapag-Lloyd for possible breaches of the EU's Russian sanctions.

<https://blogs.duanemorris.com/europeansanctionsenforcement/2024/03/04/denmark-investigation-into-importation-of-aviation-fuel-from-india-in-potential-breach-of-russian-sanctions/>

JAPAN BANKS FACE FRESH FATF MONEY LAUNDERING TEST AFTER PAST FAILURE

On 28 February, Nikkei Asia reported that Japanese banks' AML measures will face a review by FATF in August 2028, following a previous screening in which the country received a failing grade. This will be the fifth FATF review of Japan and the first since 2019. Japan was rated as a country requiring follow up in the most recent 2019 review, essentially meaning that it did not pass the test.

<https://asia.nikkei.com/Spotlight/Society/Crime/Japan-banks-face-fresh-money-laundering-test-after-past-failure>

HOW BLACK MARKET BOOKIES HAVE SPREAD THROUGH RACING - AND EVEN SOLICIT BUSINESS AT CHELTENHAM

On 21 February, the Racing Post reported how it says that the booming black market is no longer the preserve of shady offshore websites or anonymous figures on encrypted messaging apps, but increasingly operates openly, sometimes fronted by well-known figures, offering high-rolling punters, including owners and trainers, a bespoke, unrestricted betting service, the like of which many can no longer access via the regulated market since the advent of affordability checks.

<https://www.racingpost.com/news/features/in-focus/how-black-market-bookies-have-spread-through-racing-and-even-solicit-business-at-cheltenham-aahEH7S1Drwg/>

OFAC SANCTIONS MEMBERS OF THE INTELLEXA COMMERCIAL SPYWARE CONSORTIUM

On 5 March, OFAC advised that it had designated 2 individuals and 5 entities associated with the Intellexa Consortium for their role in developing, operating, and distributing commercial spyware technology used to target Americans, including US Government officials, journalists, and policy experts. It says that since its founding in 2019, the Intellexa Consortium has acted as a marketing label for a variety of offensive cyber companies that offer commercial spyware and surveillance tools to enable targeted and mass surveillance campaigns. These tools are packaged as a suite of tools under the brand-name “Predator” spyware, which can infiltrate a range of electronic devices through zero-click attacks that require no user interaction for the spyware to infect the device. Once a device is infected by the Predator spyware, the spyware can be leveraged for a variety of information stealing and surveillance capabilities — this includes the unauthorized extraction of data, geolocation tracking, and access to a variety of applications and personal information on the compromised device. The entities are Greek, Irish, Hungarian and North Macedonian.

<https://ofac.treasury.gov/recent-actions/20240305>

<https://home.treasury.gov/news/press-releases/jy2155>

1 NAME REMOVED FROM US GLOBAL MAGNITSKY SANCTIONS LIST

On 5 March, OFAC advised that Angel RONDON RIJO, a Dominican Republic national had been removed from the sanctions lists.

<https://ofac.treasury.gov/recent-actions/20240305>

NEW ZEALAND DESIGNATES HAMAS AS TERRORIST GROUP & IMPOSES TRAVEL BANS ON ISRAELI SETTLERS

On 5 March, the Global Sanctions blog reported that the measures include a travel ban on extremist Israeli settlers who have allegedly committed violent attacks against Palestinians in the West Bank.

<https://globalsanctions.co.uk/2024/03/new-zealand-designates-hamas-as-terrorist-group-imposes-travel-bans-on-israeli-settlers/>

UK: IGOR VIKTOROVICH MAKAROV REMOVED FROM RUSSIA SANCTIONS LIST

On 5 March, a Notice from HM Treasury advised that Igor Viktorovich MAKAROV had been removed from its sanctions lists.

https://assets.publishing.service.gov.uk/media/65e6f2233f69457ff103608f/Notice_Russia_050324.pdf

WTO AGREES ANOTHER 2-YEAR EXTENSION OF THE MORATORIUM ON E-COMMERCE TAXATION

On 5 March, CSIS reported that the 13th WTO Ministerial Conference had resolved that the moratorium is now scheduled to expire on 31 March 2026, or at the 14th ministerial conference, whichever comes first. It is said that India, South Africa, and Indonesia opposed an extension primarily because they want the money the taxes would bring in to their treasuries.

<https://www.csis.org/analysis/fish-are-not-amused>

HOW IRAN, HEZBOLLAH, HAMAS, AND OTHER PROXIES USE NARCOTICS TO FUND THEIR WAR AGAINST THE WEST

On 1 March, Homeland Security Today said that participation of Iran and its terrorist allies in the Middle Eastern drug trade is surprising, not least because use of these narcotics is prohibited by Islam. A question then arises as to how the Islamic fundamentalist Iran maintains one of the harshest drug control regimes in the world, but tolerates drug production, trafficking and consumption by its proxies. It says that the Islamic State and its proxies' billion-dollar recreational drug trade with wealthy countries funds a terrorist machine that boasts ballistic missiles, armed drones and thousands of radical militants who seek little else than the very destruction of these affluent countries.

<https://www.hstoday.us/featured/irans-narco-terrorist-network-how-iran-hezbollah-hamas-and-other-proxies-use-narcotics-to-fund-their-war-against-the-west/>

FRENCH-AMERICAN ART DEALER GUY WILDENSTEIN CONVICTED OF TAX FRAUD

On 5 March, Art Forum reported that Guy Wildenstein, patriarch of the powerful Wildenstein dynasty, had been found guilty of tax fraud and money laundering in Paris. He was sentenced to 4 years in prison, with half the sentence suspended, and the other half as home detention, wearing an ankle monitor. He also received a €1 million fine, had more than €3.4 million of his personal assets seized, and was ordered to pay the French Government all back taxes owed. Other members of the family, notary, a lawyer, and 2 trust-fund managers have also convicted on connected charges.

<https://www.artforum.com/news/french-american-art-dealer-guy-wildenstein-convicted-tax-fraud-550450/>

TERRAFORM LABS CREATOR DO KWON AVOIDS EXTRADITION FROM MONTENEGRO TO THE US — AGAIN

On 5 March, ZyCrypto reported that Do Kwon, the co-founder and ex-CEO of Terraform Labs, has seen the Montenegrin Appeals Court quash last month's Supreme Court decision that would have seen him deported to the US to face fraud charges.

<https://zycrypto.com/terra-creator-do-kwon-avoids-extradition-to-united-states-again/>

MAFIA-LINKED ELABORATE MONEY LAUNDERING AND VAT FRAUD SCHEME INVOLVING THE ALLEGED IMPORT OF FROZEN FISH FROM PORTUGAL AND SPAIN

On 5 March, a news release from Europol advised that it had supported judicial authorities in Italy, Portugal, and Spain in a coordinated operation in which 5 suspects were arrested in Italy and Spain for laundering illicit criminal proceeds by committing VAT fraud on the alleged import of frozen fish from Portugal and Spain. The main suspect is associated with the Cosa Nostra mafia-type criminal organisation.

<https://www.eurojust.europa.eu/news/support-halt-money-laundering-italy-tax-fraud-and-fake-invoices>

FinCEN ISSUES SMALL ENTITY COMPLIANCE GUIDE FOR BENEFICIAL OWNERSHIP INFORMATION ACCESS AND SAFEGUARDS REQUIREMENTS

On 5 March, Keating Muething & Klekamp published an article about a small entity compliance guide from FinCEN that provides an overview of the requirements regarding access to beneficial ownership information by small entities. The Guide only pertains to authorized access by small financial institutions; and "financial institutions" are defined as a bank, broker or dealer in securities, a money services business, a telegraph company, a casino or gambling casino, a card

club, a person subject to supervision by any state or Federal bank supervisory authority, a futures commission merchant, an introducing broker in commodities, or a mutual fund.

<https://www.jdsupra.com/legalnews/fincen-issues-small-entity-compliance-5555697/>

DEA WARNS E-COMMERCE COMPANIES OVER SALES OF PILL PRESSES

On 28 February, Homeland Preparedness News reported that, with the danger posed by illicit fentanyl at the forefront of concerns for drug regulators, the DEA recently wrote to e-commerce companies collectively warning them about the legal dangers of selling pill presses. These presses, the DEA alleged, have been used to make black market fentanyl pills. In recent years, some companies like Amazon and Etsy have outright banned the sale of pill presses and stamps, removing them from their websites following discussions with the DEA. Others, however, have continued to allow their sale or resale.

<https://homelandprepnews.com/stories/81765-dea-warns-e-commerce-companies-over-sales-of-pill-presses/>

CANADA'S AML AGENCY HIT BY A CYBER ATTACK

On 5 March, the Calgary Herald reported that FINTRAC said that it had been managing a cyber incident, but that the incident did not involve the centre's intelligence or classified systems.

<https://calgaryherald.com/technology/canadas-anti-money-laundering-agency-hit-by-a-cyber-attack>

HONG KONG: CORRUPTION AND MONEY LAUNDERING CHARGES OVER ALLEGED BRIBES TO OBTAIN SENTENCE REDUCTIONS

On 5 March, The Standard reported that the Independent Commission Against Corruption has charged 5 people with conspiracy to pervert the course of public justice and money laundering involving the Lai Chi Kok Reception Centre.

<https://www.thestandard.com.hk/section-news/section/4/260940/ICAC-charges-five-with-laundering->

UK: SOLICITORS REGULATION AUTHORITY - SECTORAL RISK ASSESSMENT (AML/CFT) UPDATED

On 5 March, the SRA reported that it had revised and updated its AML Sectoral Risk Assessment, and that firms regulated by it will need to take this into account when assessing their own level of risk.

The updated document draws attention to the following new risks:

- vendor fraud;
- pooled client funds;

- third-party managed accounts; and
- irregular methods of transferring funds.

Other changes include reference to the risk of modern slavery in relation to cash-based industries.

<https://www.sra.org.uk/sra/research-publications/aml-risk-assessment/>

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