BIS Hits Wabtec Corporation with $153,175 Civil Penalty for Antiboycott Violations

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On January 29, 2024, the Commerce Department's Bureau of Industry and Security ("BIS") announced a settlement with Wabtec Corporation of $153,175 for violations of the antiboycott provisions of the Export Administration Regulations ("EAR"). There were 43 violations of the anti-boycott provisions by the Pittsburgh-based corporation, which voluntarily disclosed the activity to BIS. BIS noted that Wabtec's cooperation with their Office of Antiboycott Compliance (OAC) and remedial measures significantly reduced the penalty.

BIS indicated that Wabtec violated Section 760.5 of the EAR, which requires U.S. persons to report the receipt of a request to engage in a restrictive trade practice or foreign boycott against a country friendly to the United States. Specifically, Wabtec received and failed to report 43 separate requests from a customer in Pakistan to withhold Israeli-origin goods, which were included as part of their orders, coming into Pakistan.

What is unique about this civil penalty is its size compared to other recent antiboycott penalties, especially given that Wabtec filed a voluntary self-disclosure on the boycotting activity. Given other recent heightened enforcement of antiboycott laws, this may be indicative of a new pattern of antiboycott enforcement by BIS, with more frequent and harsher penalties than before.

As has frequently been the case in antiboycott matters, the customer request involves refraining from use of Israeli-origin goods. Such requests may become more frequent due to rising geopolitical tensions in the Middle East. Any similar requests, relating to Israel or otherwise, must be rejected and reported to OAC. Companies identifying potential violations should consider a voluntary self-disclosure to mitigate damages.

Under part 760 of the EAR, U.S. persons are prohibited from taking certain actions that support or further an unsanctioned foreign boycott, especially towards countries friendly to the United States. This penalty serves as a reminder that U.S. persons **must also report to OAC any boycott-related requests.** Just rejecting the provisions, but failing to report, can result in significant penalties. Companies should ensure internal compliance procedures include procedures to identifying **and** reporting boycott requests.

Please contact our sanctions and export controls team if you require any assistance navigating this development.