



Ivan W. Bilaniuk

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Ivan is the head of Dinsmore's international dispute resolution and international trade and regulatory compliance practices. Ivan focuses on helping clients realize their business objectives in their international contracting, international commercial disputes, international operations, importing, and exporting. He advises clients working in and with foreign markets in the Middle East, Europe, Africa and Asia on contracting, risk management, managing disputes and international compliance issues including anti-corruption due diligence, export controls and trade sanctions.

He engages in international arbitration of commercial and international government contract disputes under various institutional rules. He also enforces international arbitral awards and foreign court judgments in U.S. courts. Ivan's experience ranges from international arbitration and enforcement matters with hundreds of million dollars at stake, in which he developed strategy and managed a team of attorneys, to smaller litigation and enforcement matters.

Ivan's U.S. regulatory and international compliance practice involves counseling on export controls including the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR), trade sanctions and embargoes administered by the Office of Foreign Assets Control (OFAC), the Anti-Boycott Regulations, Customs regulations, the Foreign Corrupt Practices Act (FCPA), and foreign investment matters involving the Committee on Foreign Investment in the United States (CFIUS). For export transactions, he counsels clients on the full range of compliance issues including questions of jurisdiction, classification, and licensing. For import transactions, he counsels on tariff mitigation, human rights and forced labor supply chain compliance, and compliance with regulatory requirements including issues of classification, country of origin, and marking rules. He also reviews and develops compliance policies and conducts training. Ivan conducts internal investigations of suspected violations and post-acquisition compliance due diligence, prepares any resulting voluntary disclosures to U.S. government agencies, and represents clients in connection with investigations and enforcement matters by U.S. government agencies. Ivan conducts pre-acquisition compliance due diligence, counsels clients with facility clearances on mitigating foreign ownership, control or influence (FOCI), conducts CFIUS jurisdictional analysis for both corporate and real estate transactions, conducts CFIUS mandatory filing analysis for corporate transactions, and prepares notices and declarations for CFIUS inbound investment national security reviews of these transactions. He holds a security clearance from the U.S. Department of Defense.

In his pro bono practice, Ivan has represented low-income tenants in disputes involving the D.C. Tenant Opportunity to Purchase Act (TOPA), as well as low-wage workers in disputes over wrongfully denied unemployment benefits. He also co-organized and was an instructor at an anti-corruption investigation and prosecution workshop held in Kyiv, Ukraine in 2017 for the country's new anti-corruption government institutions. He received the MLA Pro Bono Community Service Award and was named to the Capital Pro Bono High Honor Roll in 2012, 2013, 2015 and 2017.

Ivan began his legal career as a judicial law clerk for Judge F. Bradford Stillman of the U.S. District Court for the Eastern District of Virginia. He entered private practice at a large law firm in Washington, D.C. and joined a global firm via merger. Ivan gained business experience working as a management consultant before law school.

Services

- International Dispute Resolution
- International Trade and Regulatory Compliance
- International Business
- Litigation
- White Collar Defense
- Government Investigations
- Government Contracts
- Environmental, Social & Governance (ESG)

Education

- University of Virginia School of Law (J.D., 2004)
 - Dillard Fellow, legal research and writing program
 - Virginia Journal for International Law
- Harvard University (M.A., 1997)
 - Regional Studies: Russia, Eastern Europe and Central Asia
- Harvard College (B.A., *cum laude*, 1994)
 - Biology

Bar Admissions

- District of Columbia
- New York

Court Admissions

- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. District Court for the District of Columbia
- U.S. Court of International Trade

Affiliations/Memberships

- International Bar Association
 - Arbitration Committee
 - International Trade and Customs Law Committee
 - International Commerce and Distribution Committee
 - Export Controls, Sanctions and Anti-Corruption Subcommittee
- District of Columbia Bar Association
 - Administrative Law and Agency Practice
 - International Law
 - Litigation
- Ukrainian American Bar Association
- Society for International Affairs
- Rebuilding Ukraine Agency, Member, Board of Directors

Languages

- Ukrainian
- Russian

Experience

Defeated Foreign Consultant's Breach of Contract Claims in ICDR Arbitration

Mr. Bilaniuk represented a Fortune 500 company in an International Centre for Dispute Resolution (ICDR) Arbitration defeating over \$10 million in breach of contract claims brought by a foreign consulting company.

Draft International Dispute Resolution Agreements

Mr. Bilaniuk has drafted scores of international dispute resolution clauses for clients across a range of industries tailored to the contract, the specific situation, and the client's business objective. Underlying contract values have ranged from tens of thousands of dollars to hundreds of millions of dollars. A few examples follow.

- Master Service Agreement for a major university system outsourcing its information technology services abroad
- Fortune 100 company's various international contracts
- U.S. information services and cybersecurity company's joint venture agreement with a Middle Eastern company
- U.S. sports equipment company's manufacturing agreement with a Chinese company
- European technology company's agreement with a U.S. representative

International Arbitration Representations of US and Foreign Clients

Mr. Bilaniuk's international arbitration experience includes a range of disputes with U.S. or foreign clients.

- Represented a Fortune 500 company as claimant in an ICC arbitration against a foreign government over a breach of contract dispute for commercial services that resulted in a favorable settlement.
- Represented a Middle Eastern company in an ICC arbitration against a Forbes Global 2000 European company for breach of contract.

Served as US Counsel Managing Local Counsel in Foreign Court Litigation

Mr. Bilaniuk has provided international litigation counsel to clients and managed local counsel in foreign court litigation to achieve the client's objectives in a seamless and cost-effective manner including:

- Advising a multinational company about contractual claims against an industrial equipment supplier for negligent servicing of plant in Middle East; worked with local counsel in Middle East jurisdiction as they litigated matter in court;
- Managing local co-counsel on behalf of a U.S. government contractor in Middle East court litigation against joint venture partner; prevailed in suit; and
- Advising an insurer about defense strategy in certain negligence lawsuits brought in foreign court in light of risks of foreign court-money judgment recognition in U.S. courts.

Successfully Enforced a Multi-Million Dollar International Arbitral Award

Mr. Bilaniuk successfully enforced an international arbitral award for a Fortune 500 government contractor in U.S. court against a European government after multiple years of litigation, including a stay of enforcement and briefing on enforcement of an annulled international arbitral award, after the underlying award had been set aside in a European court. He coordinated with counsel in the defendant's country in the successful appeal to the country's supreme court to have the arbitral award reinstated. In the end, after defendant's appeal, the client's award totaled roughly \$60 million.

Won Favorable Monetary Settlement in Ad Hoc International Arbitration

Mr. Bilaniuk represented a U.S. defense company in an ad hoc arbitration against a Middle Eastern government for breach of contract, employing a strategy that resulted in a favorable settlement of the client's claims.

Won Multi-Million Dollar ICC International Arbitral Award

Mr. Bilaniuk represented a Fortune 500 government contractor, collaborating with local counsel, in a multi-year ICC international arbitration against a European government in a breach-of-contract dispute over technology and public safety systems. Mr. Bilaniuk's client prevailed in an award exceeding \$50 million, defeated over \$200 million in related set-offs, and secured the reversal of the termination of the contract.

Experience

OFAC Trade Sanctions Compliance

Mr. Bilaniuk has wide-ranging experience counseling on trade sanctions and embargoes administered by the Office of Foreign Assets Control (OFAC). He regularly handles the difficult regulatory interpretive issues clients in a range of industries face as they strive to comply with the myriad OFAC list-based and comprehensive sanctions programs.

OFAC Counseling and Licensing

- Advised companies in various industries on protecting IP, in-process transactions, and wind-down of operations in the Russian Federation and scope of OFAC general licenses after Russia's full-scale invasion of Ukraine and the promulgation of the Russian Harmful Foreign Activities Sanctions Regulations; advised on related ESG issues.
- Advised companies on legally structuring transactions for various manufactured goods and IT services in compliance with Venezuela sectoral sanctions and Ukraine/Russia-related sectoral sanctions.
- Advised on and applied for licenses to OFAC for companies across industries for products and services under Iran and Russia sanctions programs.
- Counseled on compliance with facilitation and evading sanctions provisions in various OFAC sanctions programs including for Iran, Syria, Burma, Sudan, and Cuba, for clients in a range of industries and in various scenarios including with respect to parent and subsidiary companies, and to affiliated companies.
- Counseled range of clients such as data services providers and publishers on information/informational materials exception across multiple OFAC sanctions programs.
- Counseled on compliance with Chinese Military-Industrial Complex Company (CMIC) non-SDN List sanctions and regulations.
- Counseled international technology company on Cuban OFAC sanctions compliance and pursuing business opportunities in Cuba.
- Counseled on complex transactions involving Syrian entities about the applicability of a general license under then-existing Sudan OFAC sanctions.
- Counseled technology device manufacturer about scope of a certain OFAC Iran general license and for what activities a specific license would still be required.
- Advised on issues such as OFAC's "Fifty Percent" rule and the scope of general licenses for agricultural commodities, medicine, and medical devices under various sanctions programs.

OFAC Compliance Investigations

- Conducted internal investigation and advised manufacturer in matter triggered by regulator's inquiry about client's internet-based customer support interface indicating customers in Iran, the Crimea region of Ukraine, and other sanctioned countries.
- Conducted internal investigation for IT company, identified OFAC sanctions violations and prepared resulting voluntary disclosure report to OFAC.
- Conducted internal investigation concerning Canadian subsidiary of U.S. service provider and advised service provider about Cuban OFAC sanctions compliance issues and blocking statute issues for its subsidiary. Matter required parallel involvement of Canadian and European counsel.
- Conducted internal investigations for financial service companies concerning transactions with certain Iranian nationals and the scope of the OFAC definition of the Government of Iran; assessed compliance policies and made recommendations.

- Conducted internal investigation for manufacturer sourcing materials from Chinese company amidst concerns about sub-tier supplier sourcing from a Chinese company designated on the Global Magnitsky List for human right violations against the Uyghur minority in China.

Export Control Compliance

Mr. Bilaniuk has wide-ranging experience counseling on export controls, both the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce for dual-use items and technology, the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State for defense articles, defense services, and technology.

EAR and ITAR Compliance Counseling and Licensing

- Advised clients in diverse industries including in aerospace, defense, automotive, information technology, telecommunications, energy, finance, industrial manufacturing, education, research facilities concerning various products, computer hardware, software with encryption, diagnostic equipment, technical data, and emerging technologies on:
 - self-determinations of jurisdiction including issues such as the “fundamental research” exception to dual-use export controls and the de minimis rule;
 - self-classification analysis;
 - formal commodity jurisdiction and commodity classification requests to government agencies;
 - risk-based customer screening based on red flags;
 - best practices in selecting Incoterms given export compliance obligations under the EAR and Foreign Trade Regulations (FTR), and routed export transactions;
 - ITAR brokering rules;
 - antiboycott compliance with respect to transactions with companies in the Middle East; and
 - licensing.
- Advised on transactions to destinations subject to significant export controls and sanctions such as China, Iraq, Sudan, Venezuela, and the Russian Federation.
- Counseled on compliance of sales to Chinese distributors who have Chinese military customers given export controls on Chinese military end users and military end uses.
- Counseled on transactions involving Huawei and Huawei affiliates listed on the BIS Entity List for a range of clients in information technology, telecommunications, and industrial manufacturing sectors; submitted license applications to BIS for such transactions, and secured BIS license.
- Counseled on encryption export controls for a range of IT clients including on the applicability of BIS License Exception ENC for encryption commodities, software, and technology; counseled on implications of certain decontrols.
- Advised a U.S. construction company on compliance with EAR export controls for exports to Africa for solar park project.

- Counseled U.S. manufacturers on negotiations with distributors and representatives in China with respect to international trade compliance and compliance with legal provisions in light of China's blocking regulations targeting extraterritorial application of U.S. law.
- Advised on export control considerations in broad range of agreements with counterparties in various countries, including research and development agreements, supply, technical service, marketing and distribution agreements, technology collaboration, and joint venture agreements.
- Implemented international trade compliance programs, policies and procedures for clients across wide range of industries, engaged in commercial contracting and government contracting.
- Performed export control risk assessments for clients across wide range of industries with existing trade compliance programs providing recommendations for updates and improvements to further mitigate risks, e.g., on processes for auditing existing distributors and onboarding new distributors.

EAR and ITAR Compliance Investigations

- Conducted internal investigation concerning BIS encryption export control violations for IT manufacturer; advised on implementation of new compliance policies; resulting voluntary self-disclosure resulted in no adverse actions.
- Conducted internal investigation for manufacturer concerning exports to Chinese distributors where end users were entities on the BIS Entity List; assisted client in developing improved international trade compliance measures.
- Conducted internal investigation of export compliance of manufacturer's newly acquired subsidiary; voluntary self-disclosures of violations identified to BIS and the U.S. Census Bureau that resulted in no adverse actions.
- Conducted internal investigation of ITAR violations by defense article manufacturer for export of technology to foreign national employees; resulting voluntary self-disclosure to the Directorate of Defense Trade Controls resulted in no adverse actions.

International Trade Due Diligence

Mr. Bilaniuk has extensive experience bringing his deep international trade and regulatory expertise to bear to conduct pre-acquisition and post-acquisition due diligence of target companies' international business on his corporate colleague's M&A deals. He conducts risk-based reviews with his international trade associates based on a given target's level of international business, red flags and other risk factors. Mr. Bilaniuk advises clients on international trade liability risks including with respect to export control, OFAC sanctions, customs, forced labor supply chain, antiboycott and anti-corruption compliance liability risks. If a deal involves a foreign investment, he advises on the need to conduct a Committee on Foreign Investment in the United States (CFIUS) inbound investment national security review jurisdictional analysis. Mr. Bilaniuk has advised different parties in M&A deals:

- Advised acquiring companies about risk issues with target companies;
- Assisted target companies to prepare to respond to due diligence they are likely to face and assisted during due diligence phase in responding to acquiring company's due diligence requests; and
- Advised representation and warranty insurer for M&A deals about extent of international trade due diligence by acquirer and identified concerns.

- Investigated acquiring company about liability risk issues of target company given its significant international business and identified potential violations; conducted additional due diligence of target. Post-acquisition, investigated potential export control, OFAC sanction, anti-boycott, and anti-corruption violations and prepared report detailing violations identified, as well as compliance program and other recommendations.
- Advised technology companies on anti-corruption and other international compliance issues (export controls, anti-boycott) as they entered certain foreign markets in the Middle East and Asia and established joint ventures; conducted FCPA due diligence on potential partners.
- Advised aerospace client on FCPA and as well as other international compliance issues as it pursued opportunities in Middle Eastern country.
- Advised information services/cybersecurity government contractor establishing joint venture in Middle East about export control, anti-boycott, and FCPA issues; supervised local counsel; drafted joint venture agreement with corporate colleagues; developed FCPA compliance program and conducted FCPA due diligence.

CFIUS Reviews

Mr. Bilaniuk has significant experience conducting Committee on Foreign Investment in the United States (CFIUS) inbound investment national security jurisdictional reviews for U.S. and foreign clients on corporate transactions. One reason he is able efficiently to conduct such reviews and lead deals through the CFIUS process is because such work builds on his export compliance practice. Such work is often also a natural extension of the pre-acquisition international trade compliance review of a deal that he already conducted in, inter alia, assessing the export control classification profile of a target company's products and technologies. An export control classification profile of a target company is a critical step in determining whether there needs to be a mandatory CFIUS submission regardless of whether a target company engages in any exporting. Mr. Bilaniuk prepares notices and declarations to CFIUS and also counsels clients with facility clearances on mitigating foreign ownership, control or influence (FOCI) in advance of entering the CFIUS review process. Mr. Bilaniuk also collaborates with colleagues in the real estate practice to conduct CFIUS jurisdictional reviews of real estate transactions involving foreign direct investment in compliance with the CFIUS regulations that pertain to real estate transactions.

- Conducted CFIUS review and advised a UK company on whether its acquisition qualified as an exempted transaction.
- Conducted CFIUS review for European company on its contemplated purchase of U.S. software company.
- Conducted CFIUS review and counseled an information technology company target about how to structure non-controlling investment so as not to trigger CFIUS jurisdiction or mandatory disclosure of investment transaction to CFIUS.
- Advised and represented military aircraft component manufacturer and acquiring foreign company on FOCI mitigation and facility clearance issues before the Defense Counterintelligence and Security Agency (DCSA) and then on preparing CFIUS submission and during CFIUS review process.
- Advised armored vehicle manufacturer about FOCI mitigation and facility clearance issues with respect to proposed parent company and US subsidiary changes.

Customs/Tariff and Forced Labor Supply Chain Compliance

Mr. Bilaniuk has wide-ranging experience on customs compliance counseling, tariff mitigation strategies, and forced labor supply chain compliance.

- Secured exclusions and exclusion extensions through the exclusion process administered by the Office of the U.S. Trade Representative (USTR) for Section 301 tariffs on Chinese-origin goods for multiple clients across industrial manufacturing, electronics, medical device, leisure, and recreation industries for imports on the various Section 301 Lists. Tariff refunds and savings to clients totaled in tens of millions of dollars.
- Counseled range of clients across various industry sectors about correct Harmonized Tariff Schedule (HTS) classifications and counseled on supply chain reengineering and country of origin analysis of production processes for purposes of tariff mitigation.
- Filed actions in the Court of International Trade on behalf of companies in a range of industries challenging the authorization of the U.S. government to levy List 3 and List 4a Section 301 China tariffs and seeking full refund of tariffs paid. Litigation pending.
- Investigated potential Customs violations of importer of importing goods from China subject to antidumping/countervailing duties (AD/CVD) without paying proper duties; confirmed violations and submitted prior disclosure to Customs; Customs closed case with no penalties assessed.
- Advised various clients on Customs marking rules.
- Advised electronics manufacturer about whether imported products sold to the U.S. government qualified as Trade Agreements Act (TAA) compliant by conducting country of origin analysis.
- Assisted clients with respect to seizure of goods by Customs due to apparent violation of export controls.
- Counseled suppliers of OEM auto parts on different options for complex manufacture and assembly processes in China and Mexico of mechanical, electronic, safety auto parts, and engine subassemblies given implications on Section 301 China tariffs, country of origin analysis for NAFTA preferential treatment, marking rules, and United States–Mexico–Canada Agreement (USMCA) automotive rules of origin analysis.
- Counseled importers of goods from China in various industries on the enforcement provisions of the Uyghur Forced Labor Prevention Act (UFLPA) and the significant due diligence expected by the U.S. Government to demonstrate forced labor was not used in all tiers of the supply chain. Assisted with evaluating due diligence results and in update compliance policies and internal controls.

FCPA and Anti-Corruption Compliance

Mr. Bilaniuk has extensive experience counseling on compliance with the Foreign Corrupt Practices Act (FCPA) spanning the major areas of potential FCPA risk including:

1. managing foreign agents and representatives;
2. reasonable travel and entertainment expenses for valid business purposes;
3. who is a “Foreign Official” under the FCPA; and
4. facilitating payments.

In addition, he has experience counseling on compliance with the UK Bribery Act and has been exposed to anti-corruption laws in foreign jurisdictions during the course of cross-border investigations or counseling engagements including when assessing the applicability of the FCPA affirmative defense for actions that are legal under local written law.

FCPA Counseling

- Counseled applied science/technology company about FCPA risks of certain transactions in various markets such as India, Kuwait, and Kazakhstan.
- Advised technology, Fortune 500, and other companies on permissibility of various permutations of sponsored business trips of government delegations to U.S. facilities and myriad other courtesy, hospitality and marketing and promotional expenses.
- Performed due diligence (Level I to III) on potential agents, representatives, and partners in foreign markets such as Pakistan, Saudi Arabia, Afghanistan, Ukraine, for a range of clients including technology companies and advised on issues during contract negotiations.
- Advised technology, Fortune 500, and other companies on myriad FCPA matters including issues such as:
 - permissibility of Saudi agent's proposed commission payment structure;
 - potential buy-out of Middle East royal family joint venture partner;
 - potential transaction with a Middle Eastern country where client's agents had familial ties to ministry awarding work;
 - negotiations over contract for design/build of facility in the Middle East;
 - hiring of foreign market consultant given ties to awarding government agency; and
 - foreign employee requests to do certain types of independent consulting for foreign government agencies.

FCPA Compliance policies

Mr. Bilaniuk has extensive experience working with clients on developing and improving anti-corruption controls and processes, providing risk assessments, and then tailoring programs to address identified risks including compliance policies, questionnaires of employees, due diligence guidelines for vetting agents and representatives, model contracts for agents and representatives, detailed guidelines for gift giving, courtesy, and hospitality. Mr. Bilaniuk has experience performing such work with a range of clients across industries including technology, engineering, applied science/technology, IT design-build, public policy, political consulting, and construction companies.

Anti-corruption Investigations

- Conducted internal investigation of a manufacturer's international sales executives' handling of business with foreign distributors doing business with state-owned companies given certain red flags.
- Advised a U.S. construction company on FCPA compliance with joint venture in Africa to pursue joint major renewable energy contracts; conducted Level III FCPA due diligence on potential partners.

- Represented former executive of Fortune 500 company in FCPA investigation by SEC and DOJ that resulted in closing of case without charges.
- Conducted internal investigation for Fortune 500 government contractor of ex-employee whistleblower's claims of corruption, and other illegal and unethical conduct in performance of service contract in Middle East.
- Conducted investigation of foreign agent's conduct after recommending termination of technology client's agency contract due to FCPA red flags.
- Conducted preliminary anti-corruption and other due diligence on Ukrainian client-sponsor's pre-screening submission to Overseas Private Investment Corporation (OPIC) for financing of construction of facility in Ukraine.

Publications

October 13, 2023

Nearshoring: Mexico Aims to be the New “El Dorado” for Doing Business Abroad

February 23, 2023

The DOJ's Revised FCPA and Corporate Enforcement Policy Enhances Potential Benefits for Self-Disclosure, Cooperation, Remediation

February 1, 2023

Time is Running Out to File an International Investment Arbitration Claim Under NAFTA

June 28, 2022

Uyghur Forced Labor Prevention Act Enforcement Starts on Imports from China and on Imports with China Origin Inputs

October 12, 2021

USTR Announces Process for Reinstating Certain Section 301 China Tariff Product Exclusions

October 12, 2021

Potential Opportunity Remains to Protect the Right to Seek a Refund of List 3 and List 4a Section 301 China Tariffs

March 31, 2020

New ITAR End-To-End Encryption Rule Will Promote Efficient Defense Technical Data Storage and Transmission, But Some Risks Remain

March 30, 2020

Tariff Exclusions on Medical Goods Due to COVID-19 Pandemic, the Exclusion Extension Process, and Other US-China Trade Developments

December 26, 2019

New DOJ Guidance for Companies Considering Voluntarily Self-Disclosing Potentially Criminal Export Control and Sanctions Violations

December 20, 2019

Wait, I Might Be Participating in a Boycott?

October 29, 2019

USTR Announces List 4A Exclusion Request Process and Other US-China Trade Developments

October 4, 2019

Proposed New Rules Implementing CFIUS Reforms

August 22, 2019

USTR Announces List 4 Tariffs on \$300B Imports from China While Continuing to Accept Exclusion Requests for List 3 Tariffs

June 26, 2019

USTR Announces List 3 Exclusion Request Process and Other US-China Trade Developments

May 17, 2019

US Proposes Tariffs on \$300B Imports from China and Other Developments in the US-China Trade Dispute

May 10, 2019

Tariff Increase for \$200B of Chinese Imports Announced and Process for Importers to Request an Exemption Forthcoming

May 10, 2019

New DOJ Corporate Compliance Guidance Gives Corporations Insight into Evaluating Their Programs
Dinsmore on FCA

January 15, 2019

“Introduction” chapter, The ABA’s Contractor’s Guide to International Procurement

The American Bar Association’s Contractor’s Guide to International Procurement

November 21, 2018

BIS Requests Public Comment on Emerging Technologies to be Subject to Increased Export Controls

September 21, 2018

Exemption Requests and Deadlines for US Casualties of the Escalating Trade War