



Canada Prosecutes Company for Possible Nuclear Related Export to Iran

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On April 15, 2014 Lee Specialties Ltd. of Alberta, Canada pled guilty to charges and was fined \$90,000 for unlawful exports of Viton O-rings to Iran.¹ In January 2012, the medium-sized firm failed to adhere to national export control laws and arranged an export of 50 of the Viton O-rings (worth \$.30 apiece) to a company in Iran. Viton O-rings are a dual-use specialized rubber good designed to withstand high temperatures and corrosive chemicals and have applications in nuclear energy production and oilfields.² They are in particular resistant to the corrosive effects of uranium hexafluoride and are needed in equipment in Iran's gas centrifuge facilities.

The shipment was stopped at Calgary International Airport customs by an agent who opened the package and discovered the description on the parcel was slightly different than the contents, a controlled good destined for Iran. The Royal Canadian Mounted Police and Canadian Border Services Agency obtained and executed three search warrants against Lee Specialties in February 2013 and later sought charges.³

This case marks the first prosecution under Canada's 2010 Special Economic Measures Act (SEMA) which restricts sensitive and dual-use exports to sanctioned countries. Lee Specialties sold the goods to a firm called Kan Dana Middle East LLC, which stated to Lee Specialties that it had locations in Dubai and Iran. The original order from Kan Dana sought \$6,054.50 worth of

¹ Daryl Slade and Jason Van Rassel, "Red Deer Firm Fined \$90K for violating sanctions with O-ring shipment to Iran," *The Calgary Herald*, April 15, 2014.

<http://www.calgaryherald.com/news/Deer+firm+fined+violating+sanctions+with+ring+shipment+Iran/9737051/story.html>

² Please note that this story has several inaccuracies and appears to contain bias from the point of view of the defense counsel in the case. Carrie Tait, "Mail-Room Mix-Up: How \$0.30 O-Rings Became a \$90,000 Fine," *The Globe and Mail*, April 14, 2014. <http://www.theglobeandmail.com/report-on-business/international-business/african-and-mideast-business/rcmp-charges-alberta-company-over-illegal-shipment-to-iran/article17959104/>

³ Nia Williams, "Canadian Company Charged with Breaching Iran Sanctions Law," Reuters. April 14, 2014. <http://www.reuters.com/article/2014/04/14/us-iran-sanctions-idUSBREA3D1G820140414?feedType=RSS&feedName=worldNews>

fittings, couplers, and O-rings, according to court documents cited by *The Globe and Mail*.⁴ According to a Canadian official with knowledge of the case who preferred not to be identified, discussions went back and forth between a Lee Specialties associate and the Kan Dana agent about whether the goods were intended for Iran or Dubai, but the shipping and billing, or “account” address, for the sale was ultimately given as in Tehran.

The defense counsel for Lee Specialties maintained that an unwitting junior salesperson acted alone and that shipping clerks for the company may have accidentally listed a Tehran address instead of an intended one in Dubai. However, even if this is true, the difference on the description of the goods and the actual content of the package suggests some level of knowing deception. In any case, the judge made a determination of guilt in the case. The existence of Iranian involvement in any order should have been an unmistakable warning to the company and its employees. That the order was apparently not subject to review by internal company deliberations shows in particular that Lee Specialties had an ineffective internal trade control compliance system.

Prosecutors never identified whether the O-rings were destined for a nuclear or oil related end-use in Iran and did not seek the advice of intelligence. Kan Dana Middle East LLC claimed only to be an oilfield producer. But the law does not require such a determination, given the sensitive nature of this type of O-rings.

According to online searches, Kan Dana has not been implicated in previous illicit procurement efforts. However, that is not particularly significant since Iran regularly enlists new front companies to help procure goods as older ones are exposed.

Lee Specialties, at a minimum, failed to exercise due diligence. There were enough “red flags” that it should have refused business that had the classic hallmarks of an Iranian procurement effort that was using a UAE location as a false end user to illicitly procure goods. The company had only recently begun trading internationally and reportedly professed little knowledge of export compliance requirements and procedures, but this excuse is unacceptable, given the widespread availability of information about Iranian illegal procurement schemes and the Canadian government’s strong stance on Iran nonproliferation sanctions.

Although prosecutors should be commended for pursuing this case, the Canadian government overall should be faulted for a lack of focus on illicit nuclear trade. Canada’s lack of adequate outreach to companies and enforcement of export controls, including the use of sting operations to target illicit procurement, may mean that such cases are more common than thought. Lee Specialties’ lawyer has claimed it has now established an effective internal compliance system. It apparently fired the salesperson and two shipping clerks involved with the case. One hopes it is now staffed by people who are trustworthy and knowledgeable about

⁴ “Mail-Room Mix-Up,” April 14, 2014.

the nature of smuggling operations and who report directly to the top leadership of the company.

Canada Must Do Better

This case is one of only a handful of export compliance cases prosecuted by Canada, another being the 2010 case of Mahmoud Yadegari, an Iranian-Canadian citizen sentenced to 20 months in prison for attempting to re-export U.S.-made pressure transducers to Iran.⁵ Yadegari was found to be supplying an Iranian illicit procurement network linked to a front company for Kalaye Electric, which obtains goods illegally for Iran's uranium enrichment program. Yadegari was prosecuted under Canada's United Nations Act, the key law in effect that prohibited exports of sensitive goods to sanctioned countries prior to the imposition of the 2010 Special Economic Measures Act.

Only three prosecutions of Canada's United Nations Act have ever been attempted. In the Lee Specialties case, prosecutors originally brought additional charges under the United Nations Act, but only the SEMA charges were not dropped. Although officials state that Canada is now taking more action against Iranian and other illicit trade, three instances of enforcement do not prove this, particularly given the widespread suspicion that Iran exploits Canada as a source of sanctioned goods and as a transshipment country for goods originating in the United States. This may be due to a lack of a national security priority attached to preventing illicit nuclear trade that includes better coordination of the intelligence agency and law enforcement officials in uncovering such schemes and bringing perpetrators to justice. Canada should make these national priorities.

Canada's export control efforts and laws against sanctioned countries such as Iran are rudimentarily enforced at best; the country is ripe for exploitation by illicit procurement networks and agents seeking to take advantage of a lack of knowledge and seriousness by industry concerning these regulations. Authorities must make examples of companies with fines higher than \$90,000 and include significant incarceration in relevant laws as a penalty for these types of crimes. Lee Specialties according to the industry website Manta.com, has an estimated annual revenue of nearly \$29,000,000. The comparably low penalty is unlikely to deter other companies from selling to Iran.⁶

This case again highlights that Canada needs to conduct additional outreach to companies in order to inform them of export control laws, company internal compliance system requirements, due diligence best practices, and the methods used by Iran to smuggle goods in violation of trade control laws and sanctions. The government also needs to emphasize the

⁵ Andrea Stricker, "Case Study- Yadegari Sentenced to 20 Months Plus Time Served; Worked for Procurement Ring that Supplied Iran's Enrichment Program," (Washington, D.C.: Institute for Science and International Security, August 2, 2010). <http://isis-online.org/isis-reports/detail/yadegari-sentenced-to-20-months-plus-time-served/20>

⁶ <http://www.manta.com/ic/mt682lz/ca/lee-specialties-ltd>

need for companies to be proactive, reporting suspicious inquiries about products to the government.

This illicit export was detected only by chance at the stage of shipping. Other illegal shipments could be leaving Canada for Iran or countries of transshipment concern that are organized by unwitting, hapless companies or more insidiously by knowing employees or illicit procurement agents working for Iran. Canada must intensify its efforts against illicit trade.