



Case Study: How Extraterritorial Enforcement Can Disrupt Iran's Illicit Financing Schemes – the Example of Huawei and Skycom

By Andrea Stricker

December 13, 2018

On December 1, 2018, Canadian officials arrested, following a U.S. provisional arrest warrant request, the Chief Financial Officer (CFO) of Huawei, a major Chinese telecommunications company. Meng Wanzhou is accused by the United States of committing financial fraud charges that violated U.S. sanctions against Iran. The United States gave Canada information leading to the arrest of Meng as she entered a Canadian airport, and will seek her extradition pursuant to their mutual extradition treaty. The Canadian affidavit detailing the circumstances behind Meng's arrest alleges that Meng was part of a conspiracy by Huawei to run what was allegedly a front company used to process financial transactions to Iran. The company, Skycom Tech, a Hong Kong and Iran-based entity that authorities say was controlled by Huawei, allegedly funneled money and loans to Iran from two British banks, HSBC and Standard Chartered, as well as other major financial institutions.¹ Meng is accused of hiding Huawei's relationship to Skycom in order to facilitate these transactions.

The *Wall Street Journal* reported that in addition to major transactions with Huawei by HSBC and Standard Chartered, Citigroup Inc., Australia & New Zealand Banking Group Ltd., DBS Group Holdings Ltd., and Bank of China were also major transaction partners with Huawei, meaning that, if these allegations are proven true, their funds may have ended up in Iran.² U.S. authorities, including the Federal Bureau of Investigation and Treasury Department, have been investigating Huawei's business dealings with Iran since at least 2017, and the Commerce Department issued an administrative subpoena against it in 2016.³ Meng has been released from prison on bail pending the conclusion of extradition proceedings.⁴

¹ Margot Patrick and Eva Dou, "Two British Banks Ensnared in Huawei Dispute," *The Wall Street Journal*, December 9, 2018.

² Ibid.

³ Sheridan Prasso, "Huawei Probe Adds to U.S.-China Trade Tension Ahead of Talks," Bloomberg, April 25, 2018.

⁴ Julia Horowitz, Alberto Moya, and Scott McLean, "Facing Extradition to the US, Huawei's CFO is Released on Bail in Canada," CNN, December 12, 2018.

Skycom Not Distinct from Huawei

According to the Canadian affidavit based on the U.S.-provided information, Meng served on the board of Skycom Tech from 2008 to 2009.⁵ But the affidavit states, “According to the financial statements for Skycom for the years 2009 and 2010, the ‘principal activities of Skycom were engaged in [sic] investment holding and acting as a contractor for contracts undertaking [sic] in Iran.’” Furthermore, “former employees of Skycom have stated, in sum and substance, that Skycom was not distinct from Huawei...” Skycom employees allegedly “had Huawei email addresses and badges, individuals working in Iran used different sets of stationary...for different business purposes, and the leadership of Skycom in Iran were Huawei employees.” The affidavit notes, “Skycom official documents, including several Memoranda of Understanding, bore the Huawei logo.” Documents gathered by law enforcement show that “multiple Skycom bank accounts were controlled by Huawei employees, and Huawei employees were signatories on these accounts between 2007 and 2013.” Allegedly, “Managing Directors” for Skycom were in reality Huawei employees. In 2009, Skycom was purportedly “sold” to another entity, but investigators found that this entity was actually controlled by Huawei until at least 2014.

A Reuters investigation in 2013, which analyzed corporate and other records, found that Meng was allegedly involved in another illicit deal between Huawei, aka Skycom, and Iran. Reuters first revealed the alleged nature of Skycom’s business dealings and Huawei’s role.⁶ At that time, Skycom was implicated in a scheme to sell Hewlett-Packard equipment to Iran. Documents related to the transaction were allegedly marked with Huawei’s logo and stamped “Huawei confidential.” Reuters also found that in 2007, “a management company [Hua Ying Management Co. Ltd.] controlled by Huawei’s parent company held all of Skycom’s shares.” It noted, “At that time, Meng served as the management firm’s company secretary.” Prior to and following that, various individuals and “off-shore companies” with direct or indirect ties to Huawei were majority shareholders. In spite of its alleged, apparent trade and financing relationship with Iran, Huawei told Reuters that its “business in Iran is in full compliance with all applicable laws and regulations including those of the UN.”

Allegedly Moved Money for Iran

The Canadian affidavit states that Meng and Huawei “repeatedly lied about the nature of the relationship between Huawei and Skycom and the fact that Skycom operated as Huawei’s Iran-based affiliate in order to continue to obtain banking services from multinational financial institutions.”⁷ The court filing notes that the motivation for allegedly hiding the nature of Skycom was to avoid U.S. and European Union sanctions on Iran and to be able to process

⁵ Supreme Court of British Columbia, *Affidavit in the Matter of the Extradition Act and the Matter of the Attorney General of Canada on behalf of the United States of America and Wanzhou Meng*, Court File 27761, Dated November 30, 2018, https://www.scribd.com/document/395185754/Surrey-RCMP-Const-Winston-Yep-s-affidavit?utm_source=Risky+Business%3A+Huawei%27s+Iran+Business+Dealings+Catch+Up+With+Them&utm_campaign=UANI+Berlin+Event+3%2F19&utm_medium=email

⁶ Steve Stecklow, “Exclusive: Huawei CFO Linked to Firm that Offered HP Gear to Iran,” Reuters. January 31, 2013.

⁷ *Affidavit*, Court File 27761, Dated November 30, 2018.

dollar or euro-clearing transactions. As a result, an entity labeled “Financial Institution 1” in the affidavit, revealed by Ms. Meng’s lawyer to be HSBC,⁸ allegedly processed “more than \$100 million in financial transactions related to Skycom through the United States between approximately 2009 and 2014.” HSBC was already under investigation for U.S. sanctions violations and had entered into a deferred prosecutions agreement.

Following the Reuters investigation, in September 2013, HSBC asked Huawei about the content of the allegations made in the articles. Allegedly, Huawei extensively denied the links to Skycom/Iran. Meng was allegedly involved in those misrepresentations and authorities gathered considerable oral and written supporting information indicating so. The affidavit states, “Financial Institution 1 [HSBC] risk committees relied in part on Meng’s representations to continue banking Huawei.” The affidavit concludes, “Some of these misrepresentations were made, involved, or resulted in interstate and foreign wire transmissions.”

Lessons

This alleged case shows the extent to which Chinese companies and financial institutions go to facilitate banned Iran business, in violation of UN, individual country, and regional sanctions. The Chinese government is not enforcing its own laws against these types of alleged activities with proliferant states. Another prominent case, that of the company Limmt and Li Fang-wei, proliferation financiers and strategic commodity traffickers detailed in a separate Institute report⁹, shows how China turns a blind eye to companies and banks conducting criminal activities simply because they are favored actors in the economy. It must stop treating its nationals as if they are above the laws of other countries. The United States and its allies should strongly and consistently confront the Chinese government with evidence of sanctions busting activities and sanction and list those individuals and entities.

This alleged case shows that financial institutions cannot take the word of company or bank representatives about their lack of dealings with Iran or North Korea. They need to coordinate closely with state authorities and use open source data to support determinations that their business is licit. HSBC risk committees opted to continue business with Huawei even after the Reuters investigation made available clear open source evidence of its alleged conduct.

The role of Hong Kong in this alleged scheme should be scrutinized. Hong Kong has serial issues with not enforcing controls preventing dual-use trade in strategic commodities and is a hub for illicit finance.¹⁰ It is unclear whether alleged financial transactions to Iran were processed through Hong Kong’s Skycom (Huawei) location, but this possibility should be investigated.

⁸ “Two British Banks Ensnared in Huawei Dispute,” December 9, 2018.

⁹ Andrea Stricker, “A Smuggler’s Use of the U.S. Financial System to Receive Illegal Payments from Iran,” Institute for Science and International Security, Updated February 11, 2011, https://isis-online.org/uploads/isis-reports/documents/Limmt_Li_Fang_Wei_23Oct2009_update9Feb2011.pdf

¹⁰ Kris Cheng, “US Urges Hong Kong to Better Enforce Export Controls and UN Sanctions on North Korea and Iran,” *Hong Kong Free Press*, December 10, 2018.

The long reach of U.S. sanctions enforcement is evidenced by the arrest of Meng. The United States continues to successfully use arrests in third-party countries and extradition to the United States to hold accountable and penalize alleged sanctions violators. It should broaden its use of this tactic where possible.

President Donald Trump recently stated that he might intervene in the Meng extradition or prosecution if it benefited the reaching of a U.S./China trade deal.¹¹ This would be a grave mistake. He should learn from the debacle of President Barack Obama's administration intervening to prevent or slow-walk prosecutions of Iranians held by the United States who were accused of sanctions violations in order to protect the nuclear deal with Iran.¹² The administration also dropped charges against Iranian nationals accused of violating U.S. laws during the deal's implementation and released Iranians serving terms in prison for sanctions and other violations. In the end, this kind of deal-making only encourages Iran's on-going detainments of U.S. citizens based on false charges in order to extract concessions on other matters. In the Meng case, Canada has just seen two citizens arrested arbitrarily in China – a former diplomat and a businessman – likely in retribution for Meng's arrest and to exact some reciprocity in the senior nature of the arrests.¹³ Authoritarian states may regularly, arbitrarily arrest people and link them to state matters, but the United States should resist the temptation to make such linkages and allow people to stand trial for their alleged criminal offenses.

Linking sanctions enforcement cases with other national security or economic matters also allows perpetrators of sanctions evasion schemes to escape penalty and continue their illicit activities. It sends negative messages about the United States' willingness to use such painstakingly-built cases as bargaining chips. In addition, it damages the enforcement of well-established U.S. trade controls and sanctions and leads to a degradation of sanctions regimes against proliferant states.

¹¹ Emily Rauhala, "Trump Says He Would Intervene if Needed in Justice Dept. Case Against Chinese Telecom Executive Accused of Violating Iran Sanctions," *The Washington Post*, December 11, 2018.

¹² See Josh Meyer, "Obama's Hidden Iran Deal Giveaway," *Politico*, April 24, 2017.

¹³ Chris Buckley and Jane Perlez, "Former Canadian Diplomat Detained in China, Adding to Tensions," *The New York Times*, December 11, 2018; Joshua Berlinger, "Second Canadian Detained in China as Diplomatic Spat Intensifies," *CNN*, December 13, 2018.