

Season 3- Episode 5

Olga Torres: Welcome back to the Torres Talks Trade podcast. My name is Olga Torres, and I'll be your host today. Today, I'm honored to be joined by a remarkable guest, Alamdar Hamdani, former United States Attorney for the Southern District of Texas and one of the largest U.S. Attorney's offices in the DOJ. Previously, he also served as the Deputy Chief of the Counterterrorism Section with the DOJ's National Security Division in Washington, D.C. He has spent years prosecuting some of the most complex national security and economic crime cases in the country, from export control violations to sanctions evasion and corporate fraud.

In this episode, we'll dive into how the Department of Justice is approaching investigations involving customs, tariffs, export controls, and economic sanctions, especially under the latest DOJ corporate enforcement guidance. This past May, the DOJ Criminal Division published a memorandum emphasizing enforcement in tariff evasion, export controls, and sanctions. We also saw changes to the DOJ Whistleblower Awards pilot program, which was expanded to cover trade, tariff, and customs fraud. Another category now includes sanctions offenses, material support of terrorism cartels, transnational criminal organizations, and money laundering. If your business operates globally, handles sensitive technology, imports goods, or touches high risk jurisdictions, this is an episode you cannot miss. Let's get started. And with that, I would like to welcome you, Alamdar, to this episode. Thank you so much for joining us.

Hamdani, Alamdar: Thank you, Olga. I'm really excited to be here. In my world, I can do national security sanctions work and one thing I am not is a trade lawyer. And you are a rare breed and a really well needed lawyer these days, especially with the changing landscape. It's good to be here. As much as I hope to impart some knowledge, I'm looking forward to learning from you as well.

Olga Torres: With that, I want to start. I always like to ask about your background. Tell us your story. I saw in your bio that you went to UT Hook'em Horns. Tell us a little bit about your background, how you got involved with DOJ, how you started your career, and just give us a bit of flavor into your background.

Hamdani, Alamdar: Sure. I think what's important about me is I'm a migrant. I immigrated here when I was almost seven years old. My mother and father moved from India to England, where I was born, then they took my sister and I and moved us to the United States in search of the American dream. I grew up in North Texas. My dad was a cab driver in England, and he was a cab driver in America. Then he worked an additional job as a convenience store assistant manager. I say all that, because the way the lens and through which I view both not only the world, but my work at DOJ is through the lens of a brown migrant. I think that's important, especially as we talk about international issues and all that's going on in the world. I was a young lawyer when 9/11 happened and because of 9/11, I realize that people who look like me, who shared at that time my parent's faith, who shared my skin color would be looked at with eyes jaundiced by the deeds of Muslim terrorists. I started to defend Muslims, South Asians, and Arabs pro bono in FBI interviews.

Olga Torres: Oh, wow.

Hamdani, Alamdar: I then took on national security matters from the defense side. I then took on a lot of habeas matters for people stuck in immigration detention. Through that work, not only did I develop an understanding of the United States Constitution and international issues, especially in the world of national security. I also got to know the FBI and DHS had not been formed then, so other agencies. I also got to know the United Attorney's office on the other side. Eventually, because of that, I one day realized that I wanted to be on the other side of the table and be a federal prosecutor. Because of that, I ended up getting a job in Kentucky as a federal prosecutor, I moved my family, a dog and a cat, a pregnant wife and a 2 1/2-year-old boy to Kentucky and started my career.

Olga Torres: Oh, wow, that's a lot.

Hamdani, Alamdar: I spent then 17 years at the Department of Justice, first in Kentucky, then in D.C. in the counterterrorism section. Literally on the other side of where I used to be. Then I got the job in Houston and came back. I spent eight years as an Assistant United States Attorney until I was the United States Attorney under Joe Biden. My career has spanned many a different kind of aspect, but I think through line of it all is I've had a passion for the Constitution, a passion for national security, and now I'm looking forward to this next stage with those same passions in mind.

Olga Torres: You moved to the dark side now in private practice.

Hamdani, Alamdar: I did. I moved. That's right. I moved to the dark side. Or at least, now I get to counsel clients, which is a lot of fun.

Olga Torres: Your story is fascinating and I suppose I may be biased. I'm a migrant myself. My story is a lot different in the sense that I graduated high school, and I came to the U.S. as an international student. Then, I ended up staying here, going to law school at SMU, et cetera, et cetera. But something when you said that you moved basically your family to Kentucky. Recently I was talking to my husband, and I mentioned something about I would love my kids to live abroad at some point and he's like, it's really difficult actually to adjust to cultures and to adjust to a new language. It's something that I think for us, it kind of happens because you've already done it. But I realize how difficult it is if you haven't done it already. And like be able to kind of make new friends and adjust and learn the language and all of that. I'm fascinated by your story. Thank you so much for joining us.

You mentioned, my practice is mainly trade and national security matters. Our audience is familiar with what I do and the reason why I think this episode is going to be so interesting is because we are seeing a trend, obviously under the new Trump administration, of so much focus on trade enforcement as a priority on the criminal side, on the DOJ side. This is not to say that we hadn't started seeing trends under the Biden administration and even the first Trump administration, because we had already started handling FCA cases. For example, False Claims Act cases involving customs matters under the Biden administration. But I'm just expecting the number of investigations to explode for a variety of reasons. One, because it's so explicit now. We're seeing the guidance come out and it's so explicit. There's so much more public awareness, I feel like with the whistleblower programs, just literally people actually understanding what we do for a living. I think that's also going to bring more cases to DOJ. But from your perspective, what do you think is changing within DOJ? I mean, you recently left DOJ, right? Although it does seem like so much has changed just this last year.

But what is your take? What's changing and what is your advice for companies dealing with this new DOJ.

Hamdani, Alamdar: Yeah, let me kind of talk to you about how things were done in the prior administration and really for lots of administrations before then. There are a lot of things happening with this administration where they're breaking or they're changing the norms of how things were done. How things were done back in the old days, when I was the United States Attorney, I was the top federal law enforcement official in the Southern District of Texas. The way policy was made at the Department of Justice was through the different United States Attorney's Office. In fact, let me backtrack a little bit. Let me talk about what DOJ is. DOJ is, when I was there, there it was the largest law firm in the world, there's about 12,000 lawyers in DOJ. Within DOJ, you've got Main Justice headquartered in D.C., where you've got places like the National Security Division, the Civil Division, the Criminal Division, Antitrust Division, and they do what their names propose. As well as, for example, the Solicitor General's office, which is the lawyers who argue in front of the Supreme Court. Then beyond that, you have the 94 different United States Attorney's offices, of which one I led. Mine was the 4th and 5th largest in the country. And you've heard of SDNY and EDNY, EDVA, and SDTX. I had about 200 federal prosecutors and 400 employees spread over 7 different offices, four or five along the border. Then you've got Galveston. Then you've got Houston, which is the main office. Policy is made by different committees within the DOJ. If you can imagine, there is the Attorney General's Advisory Committee, which I served on, which was 17 United States Attorneys who we all reported to the DAG, the Deputy Attorney General, and to the AG. The DOJ is a flat organization, people who led the criminal division were the same level as me. You had this AGAC of 17 handpicked United States attorneys by the AG. Below that, there were these subcommittees. Anyway, at the end of the day, to get something new rule passed, it would take months to go through a subcommittee all the way up, all the way to the Attorney General. That's how it was done in the past. And for right or wrong, that's how it's done, right? There's a lot of thought put into it. It's very deliberate. At times it can be painfully slow to get new issues raised. This department is different. One of the big things that we had was a wall between the DOJ and the White House. That wall has been around really since the Nixon administration or after the Nixon administration you have that wall. Now this DOJ will tell you, what is President Trump's executive order will become DOJ policy quickly. No longer do they go through the whole process of what we went through of deliberately going through all these stages.

Olga Torres: All the layers.

Hamdani, Alamdar: I say that to say, first of all, if you're listening to this show and you're wondering what is going to be DOJ policy, I would say go look at your executive orders and that's going to tell you. Especially if it's an executive order pertaining to your industry, that's going to tell you what DOJ policy is or probably will be. That's one big difference. With that, what I'm seeing, especially when it comes to the national security world and how things have changed. First of all, I worked in the counterterrorism section at DOJ, and back when I joined there was an Al Qaeda section. There's no longer an Al Qaeda section. We worked on ISIS cases, Iran, then domestic terrorism. Now cartels are the big move of the National Security Division. That's important because so many of the folks who are doing business here, who are listening to this, do business in Latin America. Because of that, if you're a company that does business in Latin America, there's a good chance, for example, in Mexico, that you have some sort of touch point with a cartel. Because of that, companies are now at risk of being

charged with providing material support to terrorism. That's a whole different ball game and a whole different set of issues.

In addition to that, at the kind of at the National Security Division, there is the kind of terrorism section where I worked but then there is the counter espionage and export control section. There's two parts and CES is where we have a lot of the priorities being set as it relates to Russia, Iran, North Korea, and China. I think what we're seeing here is not really a change, but just a big emphasis on, for example, on two of those countries, Iran and China. You're seeing so much enforcement efforts, I think happening as it relates to illicit goods going to China. Just yesterday there was an announcement in the Southern District of Texas of charges that were brought against three different individuals. Iran, as you understand, is always a target of DOJ enforcement actions.

Olga Torres: It's really interesting and I'm making notes so that I can go back to your earlier comments. But when you talk about, now there's, I guess in my own words, a direct channel of communication between the White House and DOJ.

Hamdani, Alamdar: Yeah.

Olga Torres: Without discussing the merits of that and the pros and cons in a way, if I'm a company, what I'm thinking that's actually going to make things more effective, right? Like way quicker. If they say their enforcement is going to be focused on such and such, then it will happen.

Hamdani, Alamdar: Yep.

Olga Torres: It will happen fairly quickly. And I think that's kind of what we're expecting what we're seeing. In terms of the investigations, I mean, we talked about Iran, Russia, China, it's kind of interesting because I think it depends on the area, right? If I'm thinking export controls and export control investigations, we would expect to see anything from Iran, China, certain categories of exports going to China or certain regions if we're talking about economic sanctions. But when we're talking, for example, customs and tariffs, I'm thinking definitely China, right? I suppose now with IEEPA tariffs, definitely anybody around the world that could have tariffs and people are trying to find ways of not paying the tariffs. It's becoming a lot broader I feel. We were used to seeing those cases before, but as an administrative attorney, I don't remember having as much or giving as much thought to a case, for example, if I got a case and I was working on, OK, we're going to do a self-disclosure with one of the agencies. If I'm thinking I'm going to go OFAC or I'm going to go DDTC, I know I'm throwing acronyms, Director of Defense Trade Controls for ITAR violations or Bureau of Industry and Security. My thinking was I'm with this agency and I think based on the latest guidance. Now there's this extra review, should we go to DOJ? I think that leads to my next question when you're evaluating and from your perspective, because I think it's huge that we have you and you had the experience from within the government at DOJ.

Hamdani, Alamdar: Oh, sure.

Olga Torres: I know that the difference mainly will be the criminal intent, right? I'm going to start worrying as an attorney if I see a case, but ultimately you may or may not. We won't necessarily engage in as much production of documents that will give you the criminal intent,

right? When we're necessarily doing this review. It's almost becoming where you have to figure that out. Do I have to go to DOJ at the same time? Do I have any evidence based on our typical reviews? Do I have to go further and try to find more emails or things that more like a DOJ production almost to figure out do I go to both agencies. That brings me to my question, how does DOJ learn of the cases? How do you, but you don't have investigators right working for you. I know that there's a combination of agencies. But if you can tell me how does the DOJ typically find these cases and how does that investigation look like? Like the anatomy of the investigation from within?

Hamdani, Alamdar: Sure. In the national security world, especially, federal prosecutors will be working with investigative agencies, whether it's BIS, whether it's the Bureau of Industry and Security, out of Commerce, whether it's FBI, or whether it's Homeland Security Investigations or CBP Customs and Border Protection. Each of those, by the way, has a level of comfort, different levels of comfort of working with the United States Attorney's offices and at different stages. But in the national security realm, it's always been good practice for me when I was especially a prosecutor, to be on the ground floor of the investigation. What that means is, most of these start by a confidential source that will then morph into an undercover operation that will then morph into a long-term covert investigation into the issues. That's normally how it starts. In addition to that, as soon as there is the opening up or the predicate to open up an investigation, which doesn't take much, it really doesn't. Assistant U.S. attorneys are going to send out grand jury subpoenas. First of all, covertly. When I say covertly, I mean the target may not know about it, it'll go to a banks. You're going to want to build a financial picture of what's going on. I might look and what I'm looking for are corporations, shell companies. I'm looking for bank accounts. I'm looking for the flow of money. I'm looking for unusual flows of money and I'm doing all of this to kind of understand the picture that may have come in through the source that initially reported it. Then we'll do search warrants. Hopefully I can do a cloud search warrant, a social media search warrant. And if you're noticing, none of that is going to tip off the target. I could be as a federal prosecutor searching this or doing this investigation for months, if not years before notifying or alerting the target. Then I'll have an undercover operation that's built upon that and that undercover operation can be both online and in person. I'm then, of course, working with my foreign counterparts. For example, let's take if I've got a European country that's involved, I'm going to work with my foreign counterparts there, especially the ones I trust and we'll do a covert investigation there. We're working with foreign law enforcement there. I may even be doing what we call MLAT, which is Mutual Legal Assistance Treaty warrants. Again, the target may not know about any of this stuff. All to get all that information. So that investigation, before the target may even know it could be years in the process. What I'm trying to do is to do this. I'm trying to see if the target did this willfully, especially when it comes to the to the idea of violations of the International Economic Emergency Powers Act, IEEPA, which requires the target to know that what they're doing is unlawful.

Another way I'd do it is I'd do all of that and then maybe I'd have an agent visit with the target or give a training session to the target and say, look, here's the training, here's what you should know. Now the target is on notice of what is illegal and what is not. There are many ways. As a prosecutor, what I'm looking at is what is have I met the knowledge requirements and have I met, of course the elements of the crime. For example, a simple one that we saw all the time out of the Port of Houston is you're going to have oil and gas equipment going from Houston destined for UAE, but really it's going to go to UAE, then to Kish Island, which is 12 miles off of Dubai, and then it goes to Iran. Do I have a tracker on that equipment

that proves that it did go there? Hopefully that gives you an idea of kind of all the different investigative tools we're trying to do to get to understanding if we have a case.

Olga Torres: This is very helpful and I have a lot of follow-ups. What are your typical sources? I know you said it's typically like a confidential source. Will you say it's competitors? One time I was doing a podcast and somebody else said well it could be anything even ex-wives could be sources, right? But like in your typical case, is it mainly competitors?

Hamdani, Alamdar: It's two types, because I think the main person is gonna be a whistleblower within the company. It could be a disgruntled employee. It could be somebody going, look, I don't like what I'm seeing here. It could also, of course, be somebody who's in the industry, who's a competitor, who's doing the bad things, has been upset or is not doing the bad things and sees the bad things happening. One of the reasons why this administration you mentioned it earlier is really focusing on whistleblowers. Again, this is one of the things in the prior administration that we did do is bring the whistleblower program, but it was only in the healthcare context. What this DOJ has done, as you've seen in the May 12th memo of them now acting at the Criminal Division, is opening up the avenues for whistleblower recoveries. Started off as whistleblowers employees. Whistleblowers start off as somebody calling the hotline that a company may have and saying I have concerns about this and sometimes the company doesn't take it seriously. Next thing you know that whistleblower becomes a source and then becomes an important person.

Another thing you may have is co-conspirators or somebody who's been doing it and understands that they're going to get in trouble. Or you have an internal investigation done by somebody by a company, by the outside counsel and next thing you know they move forward and they present that to law enforcement and then that becomes a tipping point for other companies to be looked at.

Olga Torres: Yeah. That's exactly what I was thinking because in the past, like I said, we had done False Claims Act cases, which is basically not under the whistleblower program. But it's False Claims Act. You have the whistleblower, typically we would see employees, former employees. In some cases, we would see competitors. I am expecting though more and and this is a question I have for you. I would expect because of agency cooperation, inter-agency cooperation and we're seeing more of it, we're hearing, we're reading about it. Are you expecting more referrals from the actual agencies? Like BIS, I don't know. I don't think there's anything that tracks for internal referrals to DOJ, but I would expect just based on what's happening that we'll have more customs referrals to DOJ, more BIS referrals to DOJ. What are your thoughts on that? Do you think that's going to increase or do you think that that already was there? There's not much change? Or do you think really it's going to be a higher risk now under this administration?

Hamdani, Alamdar: Each one of these, let me kind of give you the psychology of an agent and this will kind of give you an idea of kind of what drives agents. Whether you're in BIS or whether you're in FBI, whether you're in CBP, whether you're in HSI, all of them are rewarded for stats, ie how many arrests do they make? How many search warrants have they done? How many indictments have they brought or have they been responsible for? Maybe even convictions, depending on the different agencies. Each one of these agents are going to want to find a way to get to the DOJ and make a case. That being said, I do believe we're going to get a lot more here. Here's one thing I've noticed that is different from my work in

this realm. That is Matt Galliardi, who is the current head of the Criminal Division. He spoke to a conference of former United States attorneys just recently and one of the things he said is a source for the DOJ of building new cases is Treasury, and there's a tight relationship between Treasury and the DOJ. Particular, of course, the asset control, OFAC. OFAC, of course, has the ability to levy fines just as CBP does. But one thing they are doing is their passing leads to the Department of Justice.

Now, if you've done an FCA case, I can tell you what it looked like at the U.S. Attorney's side of the office. When I was the U.S. Attorney, I would meet with all of the supervisors in my office every Monday at 10:00 and the Friday before I get a book of all the criminal and civil matters that were of importance to the office. Then I would read it and then I would question people about it. One of the things I made sure of, and one of the things my office did, even without me making sure of it, was for example, there is a qui tam action that is being brought. I will say, well, have you coordinated with the criminal division to see if this is a criminal case more so than it is a civil matter? If that's the case and its parallel investigations going on, then you're going to want to give way to the criminal matter. A long way to say is, you're going to see referrals within the Department of Justice from civil to criminal. You're going to see those referrals, for example, come from the Texas AG's office or different agencies to the civil side that may then go to the criminal side. The same thing with OFAC and DOJ criminal matters or CBP looking at a reverse FCA matter and saying maybe this should also be a criminal matter. The reason that happens is because, and that happens in all administrations, but it's going to happen, I think more robust here. In fact, in August there's a task force that was created to kind of bring together CBP, HSI and DOJ in trade matters.

Olga Torres: Yes.

Hamdani, Alamdar: The reason they did that because they really wanted to formalize and cause these agencies to share information. Yes, you've got really a whole of government approach I'm seeing being done in the trade sanction space. You're absolutely right to think there's going to be more of it because there will be, especially now that they're sharing information probably more robustly than they did in prior administrations.

Olga Torres: What about the data? I was reading about DOJ having, I think it's a division or unit within DOJ that is looking at data. What's interesting to me coming from the trade background and I'm not familiar with health cases, healthcare but at least on the trade side, especially exports, customs cases or imports rather, there's just a trail of data that the government has available. Whether you're an importer, all your data, everything that is filed when you're importing the government has it. I always tell people, have you looked at your ACE data? And they're like, what is ACE data? And I'm like, that's what the government has and they can at least customs can easily review the data. Then on the export side we've seen data that people sort of kind of don't even pay attention to when every time there's an export, there's an EEI filing. It's an export electronic export information filing. And that basically tells the government what you're sending out to whom, what country value, et cetera. On the export side, people almost kind of don't take it as seriously just because there's no payment of duty. We don't pay duties to send things out of the country, unlike the import side. People sometimes they don't even know what the broker, I mean what the forwarder is filing, et cetera. But I had already started seeing a trend where if the government wanted to go for any kind of smuggling or smuggling charges out of the country or anything that was related to that export, even if it was money laundering, they would look at the EEI because there's

always errors in the EEI. Or there was no filing of the EEI. On the trade side of things, I would think the DOJ can get data and mine it fairly quickly and accurately. Is that right?

Hamdani, Alamdar: I would assume they can. I mean, you've got an idea of agents within different. BIS has an office in Houston. There's only 14 BIS offices around the country. BIS has one in Houston and I know the agents, they're actually pretty well regarded, pretty good agents. But they've also got teams of analysts, maybe not here, but elsewhere, right within D.C. Those analysts are looking at that information. The EEI information is incredibly, it's got a lot of information. If one thing prosecutor is going to look is OK, what kind of pressure can I put on somebody. Assume I want to have somebody cooperate and flip. An easy one would be 13 USC 305, which is lying on your forms basically. Or an 18 United States Code 1001, which is a criminal violation of lying. Those will give me the building blocks to bring maybe a smuggling charge under 554 or even worse, an IEEPA charge. If you can think about it, what prosecutors and agents are doing is mining this information for several things. First of all, is there a lie? If there's a lie, that's something they can tag on somebody. But also looking for trends but looking for is this out of the norm. If you look at kind of the red flags for your normal trade case. We're going to look at are their shell companies involved? Are there several companies? Is it overly complicated? Where the bank accounts information. Is the price of this good that might be imported, for example, is the price of that good really lower than it should be. Do I have a dumping issue situation? Is it misclassified? All of that looks at just looking at those forms, looking at your bill of lading, looking at your IA form. I think you're absolutely right to think about that and I think we should assume that commerce, DHS, is mining the data. Don't forget DHS got a massive uptick in its budget and DHS is HSI agents, some of the best agents when it comes to putting together cases within the United States government.

Olga Torres: It's really interesting because something that I've seen on the custom side at least, customs is really good at analyzing trends of industries. We kind of saw a snippet of it because every time there will be something new on the tariff side, we will get the same type of industries calling us all at the same time. Whether it was, I don't know for a couple of weeks it was steel and aluminum and then it switches to gold. If we see the trends, I think at some point we were getting a lot of calls on there was an exclusion for certain semiconductors, there were a few HTS codes that would have been excluded and we would see entire companies switching trying to switch codes. We're like, well, let me review that doesn't sound like it fits. Don't do it. But if we can see it, I can only imagine the government and whether AI tools are used or will be used soon, just having access to that data. If you're in a company and listening to this, if you have not found your data, retrieved your data, and reviewed the data to figure out what you're sending, this is the right time to do it. I think you can do a lot of issue spotting. It's a little bit of a pain to set up your ACE account and run the reports, but once you do it, you basically can monitor yourself. Everything your broker is doing on your behalf, everything you've been exporting. You can do export reports and import reports for the past five years, and it tells you exactly how much value, what HTS codes have been declared, and you can do a pretty thorough self-assessment without reviewing documents. That's something that we started doing even with DOJ cases where we had False Claims Act. Typically, we get the request for production and one of the things that I've done in the past is we have to get every entry document or can we be allowed to use and calculate duties based on our ACE review. It's the same data, it's just we can run it through the system, and it's based off the same documents that the government is requesting. That actually makes the investigation go a lot faster and saves companies a lot of money because they don't have to go and dig for every document and then do your own database and input

the data. Basically, we just retrieve it and analyze it fairly quickly. That goes into the data and I think data is going to be mined very effectively by the government as we've been discussing.

That wraps up part 1 of our conversation. Thanks so much for tuning in. Make sure you are following or subscribed so you don't miss any episode. Until then thanks for listening and we'll see you in part 2.