

EU Sanctions & the current state of play

Introduction

When conducting international business in a globalised economy, it is essential to comply with all applicable national and international law. In order to facilitate compliance with EU sanctions regimes, this summary provides a current state of play of certain sanctions that are imposed by the European Union ("EU").

The EU implements sanctions resolutions imposed on an international level by the Security Council of the United Nations ("UNSC") onto EU level. In addition to UNSC sanctions resolutions, the EU imposes autonomous sanctions regimes, such as the sanctions targeted at Russia. EU sanctions generally restrict and/or prohibit economic relations between the EU and the targeted country concerned. Further, EU sanctions may entail asset freezes which entail inter alia that:

- all funds and economic resources of the targeted individuals (i.e. natural persons and entities) should be frozen, and
- such assets cannot be made available to the targeted individuals.

The jurisdictional scope of EU sanctions is limited to situations where there is a jurisdictional connection with the EU. In general EU sanctions shall apply:

- to the EU territory;
- on board of any aircraft or vessel under EU Member State jurisdiction;
- to any person inside or outside the territory of the Union who is a national of a Member State;
- to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of an EU Member State; and,

- to any legal person, entity or body in respect of any business done in whole or in part within the Union.

Below, more details and background information related to specific EU sanctions regimes will be elaborated further.

Specific EU sanctions regimes

EU sanctions regime against Russia

In view of Russia's actions with regard to Ukraine, the EU imposed sanctions on Russia in 2014 which specifically focus on:

- a limitation of access to the EU capital market for certain Russian (state-owned) companies;
- an export and import embargo on arms trade;
- export embargo for dual-use goods for military use or military end-users in Russia; and,
- a limitation of access to technology and services for use in the oil production and exploration.

The above sanctions are subject to half-yearly review and are currently in place until 31 July 2018.

In addition, the EU imposed sanctions consisting of visa bans and an asset freezes targeted at certain individuals.

EU sanctions regime against the Democratic People's Republic of Korea ("DPRK")

The EU sanctions against the DPRK are based on both UNSC sanctions resolutions as well as autonomous EU sanctions regimes.

Recently (on 22 January 2018), the EU added 17 individuals to its list of those subject to an asset

freeze and travel ban. The total number of individuals and entities autonomously designated by the EU sanctions against the DPRK now amounts to 58 individuals and 10 entities. In addition, 79 individuals and 54 entities are listed by the UNSC.

The EU sanctions against the DPRK include – amongst others – a prohibition on the export and import of:

- arms;
- dual-use goods and technology;
- luxury goods;
- oil;

Further, a total ban on EU investment in the DPRK in all sectors is in effect.

EU sanctions regime against Venezuela

Since 14 November 2017, autonomously imposed EU sanctions are in place against Venezuela. These sanctions include inter alia prohibitions related to arms trade as well as trade related to equipment, technology and software intended primarily for use in the monitoring or interception of internet or telephone communications.

Further, the EU sanctions against Venezuela include a list of individuals targeted with an asset freeze and travel ban. Recently (on 22 January 2018), 7 individuals were added to this list.

EU sanctions regime against Iran

Since 2006, the UNSC adopted several sanctions with regard to Iran's activities on enriching uranium with nuclear proliferation purposes. In addition, the EU imposed autonomous sanctions which entail inter alia:

- a prohibition to trade in arms;
- necessity of a prior authorization to trade in goods and technology that might be used for Iran's activities on enriching uranium with nuclear proliferation purposes;
- listed individuals that are subject to travel bans and asset freezes.

Following the UNSC resolution adopting the Joint Comprehensive Plan of Action (JCPOA), agreed by Iran, and by China, France, Germany, Russia, United Kingdom ("UK") and the United States ("US") on the other hand ("the so-called E3/EU+3"), the EU sanctions are partly lifted.

Previously imposed EU sanctions that are now lifted following the JCPOA include:

- prohibition to trade in several goods and technology is lifted;
- financial restrictions such as the notification and authorization regimes for transfer of funds to Iran were abolished.

The lifting of EU sanctions is conditional and only maintains in place if Iran keeps in compliance with the requirement of the JCPOA.

Besides the EU sanctions on Iran's nuclear related activities, the EU additionally imposed sanctions related to Iran's internal situation. These sanctions include asset freeze and visa bans for individuals as well as a ban on exports to Iran of certain items such as equipment for monitoring telecommunications.

UK targeted sanctions legislation

Besides the implementation of sanctions on EU level, EU Member States have the possibility to introduce national sanctions regimes. The UK regularly makes use of this possibility. For example, it introduced legislation that can impose asset freezes of foreign officials involved in corruption or similar other grave crimes following the Criminal Finances Bill. This piece of legislation was inspired on similar US legislation that was introduced following the death of Russian lawyer Sergei Magnitsky after revealing alleged fraud by state officials.

US sanctions regime

Similar as in the EU, the US implements UNSC sanctions and also maintains its own autonomous sanctions regimes.

In general, we can state that US sanctions may differ in scope in comparison to EU sanctions. This may result in situations where US sanctions are applicable on certain business activities, whereas EU sanctions are not applicable. For instance, the applicability of US sanctions can be triggered when trading in goods and technology containing US content, or when conducting financial transactions in US dollars. Further, US and EU asset freezes and travel bans targeted at individuals may also differ from each other.

Conclusions and remarks

Companies involved in international trade relations may face a variety of sanctions regimes based on international law, EU law and national law. It should be stressed that non-compliance or circumvention of the EU sanctions regimes may lead to financial penalties and/or, in some EU Member States, be regarded as a criminal offence.

Bird & Bird's international Trade & Customs practice comprises some of Europe's leading export control experts who have a deep understanding of the relevant EU, US and international regimes. It also maintains close contacts with the competent authorities in different jurisdictions in Europe regarding the implementation and enforcement of their laws and practical implications.

If you have any questions or need guidance, please do not hesitate to contact our Trade & Customs team.

Contact us

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