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Shipping and Logistics Sanctions Checklist

There are 195 countries in the world today, and they all rely on good relationships with like-minded countries to trade. When they want to express displeasure with each other – sanctions are often the weapon of first choice.

- Sanctions are, by their nature, directed at the economic activities of other countries, whether that be against individuals, companies or assets.
- Shipping, aviation and logistics operators, as well as those involved in insurance, banking and legal services, invariably find themselves at the sanctions coalface.
- Sanctions regulations vary significantly from country to country, and they can be revised and updated with relatively little notice. Sometimes, there is a wind-down period, but not always. The landscape is forever evolving.
- Every trading contract should contain a sanctions clause.
- 45 countries currently have sanctions against Russia, which covers individuals, companies and exports, but there are other sanctions against several other countries as well as the commodities or goods they are trying to export.

The sanctions regimes we are asked to comment on most often are:

1. US primary sanctions. These are listed on the website of the US Office of Foreign Asset Control ("OFAC") and apply to:

- Any US citizens and permanent residents (wherever they are located).
- Companies and other entities organised under US law.

- Any US transaction, i.e. a banking transaction in US dollars.

2. US Secondary Sanctions: These are a range of secondary sanctions which are directed at traders and companies with no US nexus but who are perceived to be entering into transactions that breach the sanctions regime.

3. UK Sanctions administered by the HM Treasury through the Office of Financial Sanctions Implementation(OFSI).

- These apply to UK citizens; this includes anyone in the UK (including its territorial waters).
- UK nationals outside of the UK.
- Bodies incorporated or constituted under the laws of the UK.
- It is government policy for the UK sanctions measures to be given effect in the British Overseas Territories and Crown Dependents.
- London is the world's leading centre for marine insurance, including P&I.

4. European Sanction – EEAS

- Any EU member state and any person or entity under EU jurisdiction

Compliance with sanctions

Companies/individual/aircraft and vessels

- It is relatively easy to access the websites of the relevant state organisation to assess whether individuals, companies or particular assets such as ships and aircraft are on a sanctions list.

Sanctioned cargoes

- Searching for the specific regulations for sanctioned cargoes is more complex and there is no central database which can be accessed. Specific cargoes may also attract specific price cap rules, for example, the Russian seaborne oil price cap.
- In December 2023, the US authorities encouraged companies to use their quint-seal compliance note - which is effectively a "know your cargo" checklist to give guidance to owners, charterers, exporters, freight forwarders, etc.
- The note highlights tactics used in the transport sector to avoid sanctions as well as setting out what the US authorities consider to be best practices when looking at vessels and cargoes.

Quint-Seal Guidelines

These include:

- Developing and maintaining a written risk-based operations compliance policy and procedures.
- Carrying out risk-based due diligence on the location history of vessels and identifying any manipulation of a vessel's AIS. The US authorities seem to place enormous reliance on the AIS transmitter.
- Implementing a "robust" know-your-customer due diligence.
- Exercising risk-based supply chain due diligence in order to verify what is described as the "true nature, origin and destination of the cargo." There are obviously limits to the amount of enquiries any party not directly involved in the sale chain can make.
- Share information across industries and the supply chain.

The note also identifies a number of red flags, which include:

- Manipulating the AIS.
- Falsifying cargo and vessel documents.
- STS transfers, particularly those in high-risk areas.

- Abnormal shipping routes.
- Flag hopping.

Due Diligence

- Every set of sanctions has got their own standards for compliance. Words like "appropriate due diligence" are used by many countries. The Quint-Seal guidance notes take the guidelines beyond that definition.

Sanctions Violations

Every country is different, but there are a range of sanctions:

- Penalties and investigations can range from thousands to millions.
- Imprisonment.
- There are a range of other penalties that can also be imposed, such as being unable to use the US banking system.
- All countries encourage voluntary disclosure of breaches with a view to cooperating with investigations.
- In the UK, the Financial Times reported in December 2023 that 100 British Companies had admitted that they had breached the sanctions on Russia. The OFSI said at the time that the unit was not trying to unduly penalise honest mistakes.
- The US has recently indicated that banks will face new risks as they tighten sanctions on Russia. The US Treasury recently reported that sanctions breaches had hit a record high of US\$1.5 billion in 2023. Whilst there appear to be no reports of civil monetary penalties at this time in the US related to the sanctions against Russia, some commentators believe it will only be a matter of time before that happens.

Contact

For further insights or assistance related to global sanctions and compliance, please contact our [shipping and logistics](#) law specialists at online.enquiries@la-law.com.