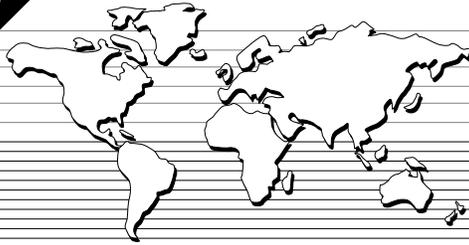




U.S. Department of the Treasury
Office of Foreign Assets Control



OFAC SANCTIONS

A SYNOPSIS FOR EXPORTERS AND IMPORTERS

A Texas importer sends \$50,000 to the account of a French exporter at Banque Intercontinentale Arabe ("BIA") in Paris as advance payment for a shipment of wine. The company never gets its wine because the French seller claims non-receipt of the funds which were blocked at a U.S. bank because BIA is a Specially Designated National of Libya. In addition, the importer is fined \$11,000 for violating the International Emergency Economic Powers Act.

A Milwaukee exporter makes 6 separate shipments of T.V. sets to Trover S.A. of Cristobal, Panama. It is fined \$300,000 for trading with a Specially Designated National of Cuba in violation of the Trading with the Enemy Act.

A New York manufacturer ships a container of air purifiers to a customer in Dubai and presents documents for payment under a letter of credit issued by the Arab Bank for Investment and Foreign Trade in Abu Dhabi. Not only is the company not paid; it pays an \$11,000 fine for dealing with a Libyan bank.

A California company, working through a broker, charters a vessel to ship fishmeal from Chile to Japan. The nominated vessel turns out to be the M/V Emerald Islands owned by Bettina Shipping Co. Ltd. Both the vessel and the vessel owner are listed as Specially Designated Nationals of Cuba. The company pays \$50,000 in fines.

A Florida citrus firm imports \$1 million worth of Brazilian concentrate to mix with its orange juice. It remits payment to the Brazilians' bank in Rio de Janeiro. Not only doesn't the money arrive, but the Florida company faces a penalty of up to \$250,000 for dealing with Banco Brasileiro-Iraqiano, a Specially Designated National of Iraq.

These examples illustrate how costly it can be to run afoul of sanctions laws enforced by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"). OFAC administers sanctions and embargo programs involving Libya, Iran, Iraq, Sudan, Cuba, the Taliban in Afghanistan, and the Federal Republic of Yugoslavia (Serbia & Montenegro), prohibitions against certain exports, imports, and services relating to the UNITA faction in Angola, restrictions on new investments in Burma (Myanmar), and prohibitions against transactions with international terrorists and narcotics traffickers, imports from designated foreign persons who promote the proliferation of weapons of mass destruction, imports from North Korea, imports of rough diamonds from Sierra Leone, and the receipt of certain funds from the governments of Syria or North Korea.

These sanctions are based on Presidential directives and Congressional mandates under a number of statutes, the most important of which are: the Trading with the Enemy Act, 50 U.S.C. App. 1-44, the International Emergency Economic Powers Act, 50 U.S.C. 1701-06, the United Nations Participation Act, 22 U.S.C. 287c, the Cuban Democracy Act, 22 U.S.C. 6001-6010, the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act, 22 U.S.C. 6021-91, the Antiterrorism and Effective Death Penalty Act (enacting 8 U.S.C. 219, 18 U.S.C. 2332d and 18 U.S.C. 2339b), and the Foreign Narcotics Kingpin Designation Act (to be codified at 21 U.S.C. 1901-1908). OFAC has jurisdiction over all U.S. citizens and permanent residents, companies organized in the United States, foreign branches of U.S. companies, individuals and entities located in the United States, and (for sanctions against Cuba and North Korea) foreign subsidiaries owned or controlled by U.S. individuals or companies. U.S. citizens and permanent resident aliens working as employees, officers, or directors

of offshore companies need to be aware that their involvement in transactions may violate U.S. sanctions even if their employer is not subject to OFAC jurisdiction. Depending on the program involved, criminal violations of the statutes administered by OFAC can result in corporate and personal fines of up to \$10 million and 30 years in jail. OFAC also has the authority to impose civil penalties. In the case of violations relating to Foreign Narcotics Kingpins, civil penalties of up to \$1 million are authorized.

This synopsis is only a brief summary of the major elements of OFAC's economic sanctions programs. There is also a more extensive summary in a longer publication entitled *Foreign Assets Control Regulations for Exporters and Importers*. More importantly, U.S. businesses, individuals, and others subject to OFAC jurisdiction need to realize that they must comply with the full legal requirements of OFAC's programs, which are set forth in the applicable statutes, Presidential proclamations, Executive orders, and the implementing regulations found in Title 31, Chapter V of the *Code of Federal Regulations* and in *Federal Register* documents that update the provisions of Chapter V. For further assistance, contact OFAC's Licensing Division at 202/622-2480, OFAC's Compliance Programs Division at 202/622-2490, or either, in writing, at the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

05-23-2001

General Trade Restrictions by Country:

Cuba (31 C.F.R. Part 515):

No exports or reexports of goods, services, or technology to Cuba, except food and agricultural commodities licensed by U.S. Commerce; no imports of goods or services from Cuba; no dealing in Cuban origin goods; no brokering of Cuban trade contracts; no use of Cuban-owned vessels.

North Korea (31 C.F.R. Part 500):

Imports require prior notification to and approval of the Office of Foreign Assets Control.

Libya (31 C.F.R. Part 550):

No exports of goods, services, or technology to Libya, except food, medicine & medical equipment licensed by OFAC; no imports of goods or services from Libya; no brokering of Libyan trade contracts.

Iraq (31 C.F.R. Part 575):

No exports or reexports of goods, services, or technology to Iraq; no imports of goods or services from Iraq; no dealing in Iraqi origin goods; no brokering of Iraqi trade contracts; participation in U.N. "Oil for Food Program" involving purchases of oil and sales of food & medicine through OFAC specific license.

Iran (31 C.F.R. Parts 560 & 535):

No exports or reexports of goods, services, or technology to Iran, except food, medicine & medical equipment licensed by OFAC; no imports of goods or services from Iran, except as listed in amendments to the ITR on 04-28-2000; no dealing in Iranian origin goods, except as listed in amendments to the ITR on 04-28-2000.

The Federal Republic of Yugoslavia [Serbia & Montenegro] (E.O. 13192):

Only transactions with parties named in or pursuant to a new Executive Order of January 2001 are prohibited.

Sierra Leone (E.O. 13194)

The importation of rough diamonds from Sierra Leone is prohibited except as controlled by the Certificate of Origin regime of the Government of Sierra Leone.

Liberia (E.O. effective 05-23-2001)

The importation of rough diamonds from Liberia is prohibited.

Angola [UNITA] (31 C.F.R. Part 590):

No exports of arms, arms materiel, petroleum, petroleum products, aircraft, or aircraft components to UNITA or unapproved locations in Angola; no exports of mining equipment, motorized vehicles, watercraft, spare parts for motorized vehicles or watercraft, mining services, or ground or waterborne transportation services to unapproved locations in Angola; no aviation or insurance services to certain Angolan aircraft or to aircraft that entered at unapproved locations in Angola; no imports of uncertified diamonds from Angola.

Burma [Myanmar] (31 C.F.R. Part 537):

No new investments; most trade in goods, services, and technology is exempt.

Sudan (31 C.F.R. Part 598):

No exports or reexports of goods, services, or technology to Sudan, except food, medicine & medical equipment licensed by OFAC; no imports of goods or services from Sudan; no dealing in Sudanese origin goods; no brokering of Sudanese trade contracts.

Syria (31 C.F.R. Part 596):

No receipt of unlicensed donations from government by U.S. persons; no financial transaction in which a U.S. person knows or has reasonable cause to believe there is a risk of furthering terrorist acts in the United States.

Weapons of Mass Destruction (31 C.F.R. Part 539):

No imports of goods, technology, or services produced or provided by foreign persons designated by Secretary of State who promote proliferation of weapons of mass destruction.

Afghanistan [Taliban]

No imports or exports of goods or services to or from the Taliban or to or from areas of Afghanistan controlled by the Taliban, except as authorized by OFAC.

Each sanctions regime is driven by different U.S. foreign policy concerns and involves different levels of restrictions. For the most part, U.S. persons cannot trade with the targets and are required to "block" or "freeze" property in which the targets have an interest. Property subject to blocking includes goods, deposits, funds transfers, loans, letter of credit contracts, real estate, drafts and negotiable shipping documents--essentially anything of value, tangible or intangible. Narrow trade exceptions, such as for information and informational materials or humanitarian goods, may be available. Specific licenses are also available to enable the export of food, medicine, and medical supplies to sanctioned countries. Consult the pertinent regulations, OFAC Licensing, or OFAC Compliance Programs with regard to specific cases.

U.S. sanctions go far beyond the borders of target countries. Treasury has identified and listed in the appendices to Title 31, Chapter V of the *Code of Federal Regulations* numerous front organizations known as "Specially Designated Nationals" ("SDNs"). The master list of SDNs contains over 5,000 entries--variations on the names of individuals, companies, vessels and banks all over the globe. U.S. companies, for example, cannot deal with Atlas Air Conditioning Company Ltd. in London, England because of its links to Iraq, and banking transactions involving the Arab Turkish Bank in Istanbul ("ATB") are frozen when they come into the possession or control of U.S. banks because of Libya's involvement in ATB. Groups such as terrorists and narcotics traffickers are also targeted. U.S. exporters cannot, for example, send shipments to *Copservir Ltda.*, a major drug store chain in Colombia, because it is associated with the Cali cartel and listed as a Specially Designated Narcotics Trafficker. It is critical for all U.S. exporters and importers to be familiar with and keep current with OFAC's SDN list.

To assure that illegal transactions are not processed, many exporters and importers have turned to sophisticated name-recognition "interdict" software to scan purchase orders and financial transactions. Some of the filters, which are available commercially, contain every name on OFAC's SDN list along with geographical names for embargoed countries and cities. In addition, OFAC's public domain information can be used by wordprocessing programs to do simple name searches and OFAC provides fixed field and delimited versions of its list which can be read automatically into database programs.

Keeping current:

- Whenever there is an update, it is on OFAC's Internet Home Page-- <<http://www.treas.gov/ofac>>, which provides both graphical and text-only interface. The [DATE] changes on the face of the Page when there is new information so that users can structure their Internet connection to use a Web browser to watch for that date change, check a "What's new?" file to get details, and download OFAC's latest material. Access is provided to all OFAC-related Executive Orders, U.N. Resolutions, statutes, regulations, and the Code of Federal Regulations as well as to brochures in ASCII and *.PDF formats, and to OFAC's extended electronic information reading room at GPO (FAC_MISC).
- OFAC operates a free automated fax-on-demand service, which can be accessed 24 hours a day, seven days a week by dialing 202/622-0077 from any touchtone phone and following voice prompts. OFAC documents kept up to date on the system include all those available at OFAC's Web site as well as licensing guidelines and copies of *Federal Register* notices (including notices filed, but not yet printed in the *Federal Register*). The "Index of Available Documents" is date-specific.
- The Federal Bulletin Board of the U. S. Government Printing Office (a.k.a. "GPO ACCESS") is a free service which is linked to the *Federal Register* and carries all OFAC brochures in ASCII and *.PDF format, as well as the entire *Code of Federal Regulations* containing OFAC regulations, all *Federal Register* notices that OFAC puts out, and OFAC's extended electronic reading room. For information on the Federal Bulletin Board, call 202/512-1530 or dial 202/512-1387 or <<http://fedbbs.access.gpo.gov/treasury.htm>> to connect.
- The U.S. Maritime Administration's Web site at <<http://marad.dot.gov>> contains a special link to OFAC's brochures and information, including a flashing indication of late-breaking updates.
- The U.S. Customs Service maintains a free Customs Electronic Bulletin Board geared especially toward Customs House Brokers (OFAC's information is available as a date-specific self-extracting DOS file, "OFAC*.EXE" under "Files," then "Customs Extra," via the Internet at <<http://209.122.8.97>> or "cebb.customs.treas.gov.")
- Ⓜ The U.S. Commerce Department's National Trade Data Bank (NTDB) operates a CD-Rom service providing a massive amount of international trade information, including OFAC material, on a monthly basis to small and medium sized companies. There is a nominal charge for a subscription. For information, call 202/482-1986.
- Numerous other industry groups link to OFAC's website, among them: the International Financial Services Association (<<http://www.intlbanking.org>>), the International Banking Operations Association (<<http://www.iboa.com>>), the National Association of Securities Dealers (<<http://www.masdr.com>>), the Securities and Exchange Commission (<<http://www.sec.gov>>), the Securities Industry Association (<<http://www.sia.com>>), the American Society of Travel Agents (<<http://www.astanet.com>>), the Institute of Real Estate Management (<<http://www.irem.org>>), and the Commercial Investment Real Estate Institute (<<http://www.cre.org>>).