



FEDERAZIONE NAZIONALE
IMPRESE ELETTROTECNICHE
ED ELETTRONICHE



EXPORT CONTROL E NUOVO REGOLAMENTO DUAL USE

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- U.S. Export Controls
- U.S. Economic Sanctions
- Countries of Interest
- Compliance

Key Agencies



Treasury: Office of Foreign Assets Control (OFAC)

Commerce: Bureau of Industry and Security (BIS)

State: Directorate of Defense Trade Controls (DDTC)

Export Controls



- U.S. exports are governed by the Export Administration Regulations (“EAR”) implemented by the Bureau of Industry and Security (“BIS”).
- EAR regulate the export and re-export of strategically important U.S. goods, technology and services to non-U.S. persons.
- “Dual-use” technologies relating to civilian applications are listed on the Commerce Control List (CCL).

Commerce Control List

- 10 categories of the Commerce Control List

- 0 Nuclear Materials, Facilities, Equipment (& Misc.)
- 1 Materials, Chemicals, Microorganisms and Toxins
- 2 Materials processing
- 3 Electronics Design, Development and Production
- 4 Computers
- 5 Telecommunications/Information security
- 6 Sensors and Lasers
- 7 Navigations and Avionics
- 8 Marine
- 9 Aerospace and Propulsion

(Same as Council Regulation (EC) No 428/2009)

Reasons for Control

- The ECCN system categorizes items based on the nature of a product, i.e. type of commodity, technology, or software and its respective technical parameters
- The 10 categories within the CCL correspond with potential applications of an item
- These potential applications are:
 - Chemical or biological warfare
 - Nuclear proliferation
 - National security
 - Missile technology
 - Regional stability
 - Crime control
 - Anti terrorism

Subject to the EAR

- The item is subject to the EAR if it:
 - Is in the U.S.
 - Was produced in the U.S.
 - Is a non-U.S. made product that contains more than a specified percentage of U.S.-origin content
 - Is a non-U.S.-made product based on certain U.S.-origin technology and is intended for export (from abroad) to specified destinations
 - Was made by a plant or major component of a plant located outside the U.S. that is the direct product of certain U.S. technology, and your product is intended for export to specified destinations

License Requirements

- Whether a commodity requires an export license depends on the reason for its classification and its destination country
- A relatively small percentage of commodities require an export license
- Some require a license to only a limited number of countries
- Other transactions may be covered by one or more License Exceptions

De Minimis Content

General Rule

- Reexports of a foreign-made commodity incorporating controlled U.S.-origin commodities or bundled with U.S.-origin software valued at 10% or less of the total value of the foreign-made commodity can be made to any country
- Reexports of a foreign-made commodity incorporating controlled U.S.-origin commodities or ‘bundled’ with U.S.-origin software valued at 25% or less of the total value of the foreign-made commodity can be made to anywhere except Iran, North Korea, Sudan, Syria
- Exceptions exist for certain commodities/technology

Additional Considerations

- Penalties
- Denied Parties List
- Entity List

Economic Sanctions



Economic Sanctions

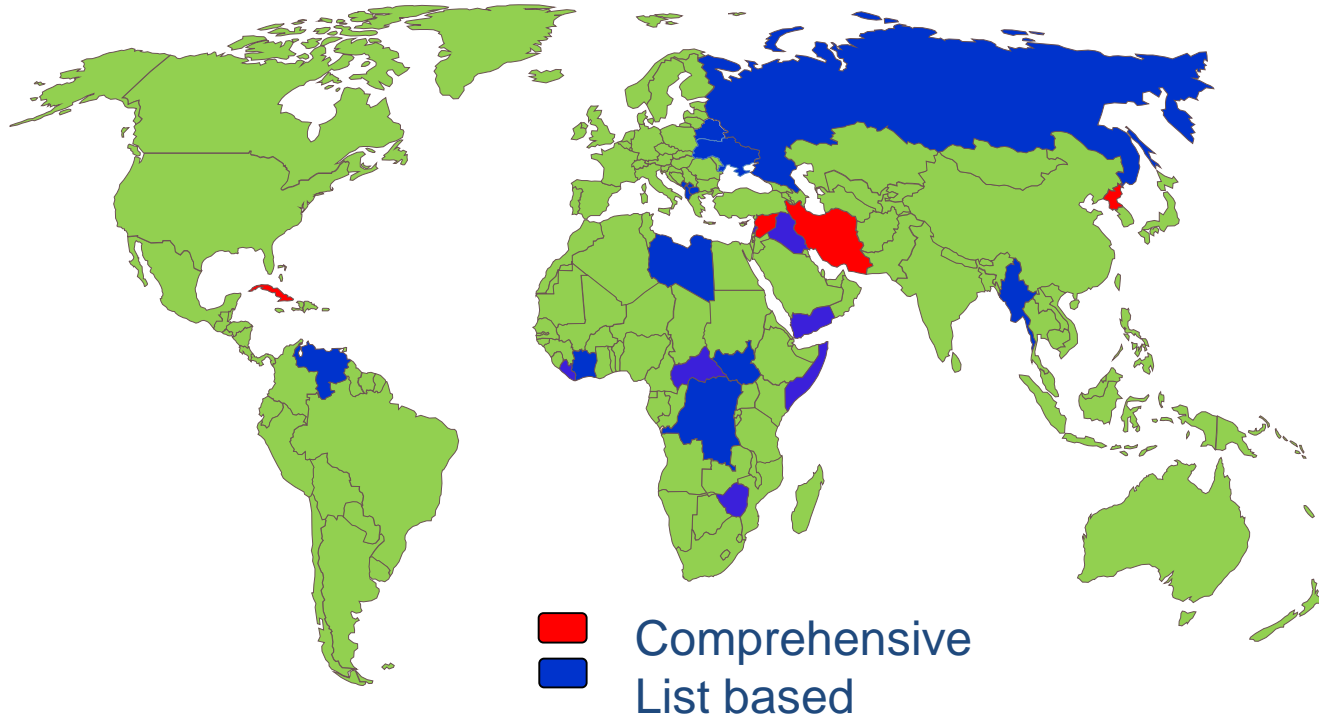
- Implemented by the Office of Foreign Assets Control (“OFAC”)
- Primary sanctions apply to U.S. persons.
- Secondary sanctions apply to non-U.S. persons.
 - Determined in consultation with State Department

Economic Sanctions

- Broad embargoes of targeted countries (e.g., Iran, Cuba, North Korea, etc.)
 - Asset freezes (“blocking”)
 - Trade restrictions
 - Travel restrictions
- Targeted sanctions
 - Focused on particular activities
 - Applied to specific individuals/entities

Sanctions programs have significant differences in purpose, detail and scope

Where Do Sanctions Apply?



Additional Sanctions Programs

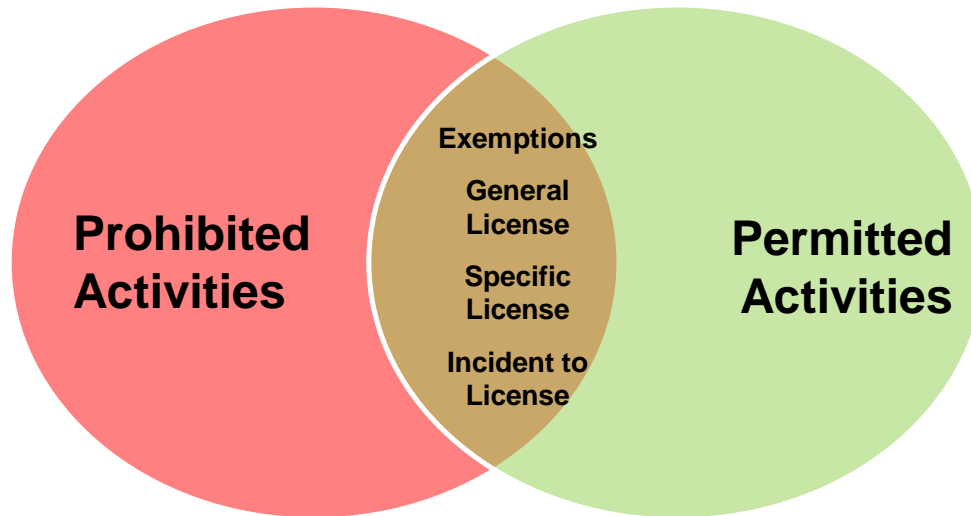
- Counter narcotics
- Counter terrorism
- Non-proliferation
- Conflict diamonds
- Transnational criminal organizations
- Grave human rights abuses
- Foreign sanctions evaders
- Cyber Related
- Interference in Elections

Specially Designated Nationals List

- Over 18,000 individuals and entities identified by OFAC on SDN list
- Blocked individuals, companies, vessels, aircraft, banks around the world with whom or with which U.S. transactions are prohibited
- Updated frequently
- “50 Percent Rule” - Entities owned 50% or more in the aggregate by SDNs are also blocked

Exceptions

- **Exempt Transactions:** Regulations do not apply, e.g., information, informational materials, humanitarian, travel, etc.
- **General License:** Regulatory provision authorizing otherwise prohibited activity. No further authorization needed.
- **Specific License:** Issued by OFAC for specific activities on a case-by-case basis.



Primary Sanctions

- U.S. persons must comply with OFAC regulations.
 - All individuals in the U.S.
 - U.S. citizens and permanent residents anywhere
 - Entities organized under the laws of the U.S. (including foreign offices or branches)
- Under certain programs, foreign subsidiaries owned or controlled by U.S. companies must also comply
- Transactions by foreign persons to the extent the transactions have a nexus to the U.S.

Vulnerabilities/Nexus to U.S.

- Dollar transactions
- U.S. subsidiaries of non-U.S. companies
- Transshipment to sanctioned country
- Booking systems and databases located in U.S.
- U.S. executives of foreign companies

Secondary Sanctions

- Secondary sanctions are intended to discourage non-U.S. persons from certain activities with sanctioned countries or entities
 - Secondary Sanctions apply to non-U.S. persons for specific conduct that occurs entirely outside U.S. jurisdiction
- If OFAC determines a non-U.S. person causes U.S. persons to violate OFAC regulations, it may impose secondary sanctions
- OFAC can place a party on the Specially Designated Nationals (SDN) List and preclude U.S. persons (e.g., banks) from doing business with the sanctioned person, and, therefore, a majority of the international community

Iran Sanctions

- Comprehensive embargo and Primary Sanctions for U.S. persons

Secondary Sanctions:

- Transactions with certain entities
 - Designated Iranian banks
 - Iranian SDNs
- Transactions relating to certain goods
 - Oil, petrochemicals, precious metals
- Transactions relating to certain sectors
 - Energy, automotive, shipping and shipbuilding
- Criteria include “Knowledge” (actual or reason to know) and “Significance” (size, frequency, number)

Russia Sanctions

- Crimea region of Ukraine subject to comprehensive sanctions
- Sectoral sanctions limit U.S. transactions with financial services, energy, mining, and defense sectors
- List-based sanctions against Russian government officials, oligarchs and their holdings
- Secondary sanctions apply through “Countering America’s Adversaries through Sanctions Act” (CAATSA)

Russia Secondary Sanctions

- CAATSA imposes sanctions on non-US persons who
 - Facilitate significant transactions on behalf of:
 - Russian SDNs
 - Their children, spouses, parents, or siblings
 - Entities owned 50 percent or more by those sanctioned persons
 - Non-US persons who deal with these entities risk being placed on SDN List
- Standard requires that non-U.S. person “knowingly” engaged in prohibited transactions

Russia Secondary Sanctions

- Additional secondary sanctions under CAATSA for providing support to:
 - cyber criminals
 - defense or intelligence sectors
 - offshore oil and shale projects
 - Russian energy export pipelines
- Similar to Iran secondary sanctions restricting access to U.S. financial system
- Sanctions are discretionary and require consultation with foreign governments

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