

Canada Imposes Wide-Reaching Export, Import and Investment Bans Against Iran

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Effective May 29, 2013, Canada significantly has expanded its existing economic sanctions measures against Iran by implementing a general ban on supplying or sourcing goods to or from Iran and a prohibition on making any investments in Iran. Up until now, Canada's sanctions measures have been restricted to nuclear and military activities, financial services, as well as activities in certain sectors of the Iranian economy, including oil and gas, mining, telecommunications and shipping.

These changes will have an impact on all Canadian companies engaged in cross-border activity, regardless of whether or not it involves Iran, as Canada has also added dozens of entities and individuals to its blacklist of designated persons. Companies should immediately review their trade control policies and procedures, including their screening protocols, to ensure that they are in compliance with these new requirements.

The New Prohibitions

These are the most significant changes to Canada's economic sanctions against Iran since a financial services ban was imposed on November 22, 2011.¹ These latest amendments to Canada's *Special Economic Measures (Iran) Regulations* can be found here [http://www.international.gc.ca/sanctions/iran_developments-developpements_iran3.aspx]. There are three key measures that apply to persons in Canada and Canadian outside Canada:

- (i) a prohibition against exporting, selling, supplying or shipping goods, wherever situated, to Iran, to a person in Iran, or to a person for the purposes of a business carried on in or operated from Iran;
- (ii) a prohibition against importing, purchasing, acquiring, shipping or transshipping any goods that are exported, supplied or shipped from Iran, whether the goods originated in Iran or elsewhere; and
- (iii) a prohibition against making an investment in an entity in Iran.

Goods that are sourced or supplied under a contract entered into before May 29, 2013 are exempted, provided that they were not already banned pursuant to the pre-existing measures and certain other conditions are satisfied. There are some other limited exceptions, including for informational materials, personal and settlers' effects, and non-commercial packages sent by mail. Exemptions have also been added for equipment, services and software that facilitate secure and widespread communications via information technologies (provided that an export permit has been issued in respect of any export-controlled goods) and for goods used to purify water for civilian and public health purposes.

¹ See Canada Expands Economic Sanctions Against Iran (November 22, 2011) at http://www.mccarthy.ca/article_detail.aspx?id=5642. For an overview of further developments in Canadian sanctions and export controls during 2012, including those in respect of Iran, see Key Canadian Economic Sanctions and Export Control Developments During 2012 (January 13, 2013) at http://www.mccarthy.ca/article_detail.aspx?id=6141.

Additions to the List of Designated Persons

As a result of these amendments, there are now over 600 entities and individuals that have been designated under Canada's *Special Economic Measures (Iran) Regulations*.

Canadian companies and individuals are prohibited from engaging in a wide range of dealings with designated persons under Canada's economic sanctions regime. Canadians are also subject to reporting requirements in respect of property owned or controlled by designated persons and related proposed or actual transactions.

Financial institutions, including federally regulated banks and provincial trust and loan companies and securities dealers, are required to monitor and determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a designated person.

Economic Sanctions Compliance and Enforcement

The increasing use and enforcement of economic sanctions by Canada and its trading partners, including the United States and the European Union, is significantly raising exposure to financial, operational and reputational risk. It is important for any company doing business internationally to have in place comprehensive internal control measures for compliance with economic sanctions, export controls, anti-corruption laws and related requirements.

These new measures against Iran should trigger a review and revision of those controls, including the lists (or list-service providers) used for screening transactions involving designated persons. Notably, the prohibitions against dealings with designated persons apply regardless of whether or not you are engaged in business with Iran. Companies should also be reviewing other components of their internal trade control systems, including their compliance manual and processes, employee and executive training programs, internal audit procedures, and their contract review process, to ensure they are now fully up to date.

At the present time, Canada currently imposes trade controls of varying degrees on activities involving the following countries (and in many cases, individuals and entities associated with them): Belarus, Burma (Myanmar), Côte d'Ivoire, the Democratic Republic of the Congo, Cuba, Egypt, Eritrea, Guinea, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Pakistan, Sierra Leone, Somalia, Sudan, Syria, Tunisia and Zimbabwe. Any involvement of these countries or any "designated person" in proposed transactions or other activities should raise a red flag for further investigation to ensure compliance with economic sanctions.

McCarthy Tétrault's International Trade & Investment Law Group has extensive experience in dealing with these measures and is available to advise on related enforcement, compliance and strategic planning issues.