



HFW

SHIPPING

SANCTIONS: KEY ISSUES

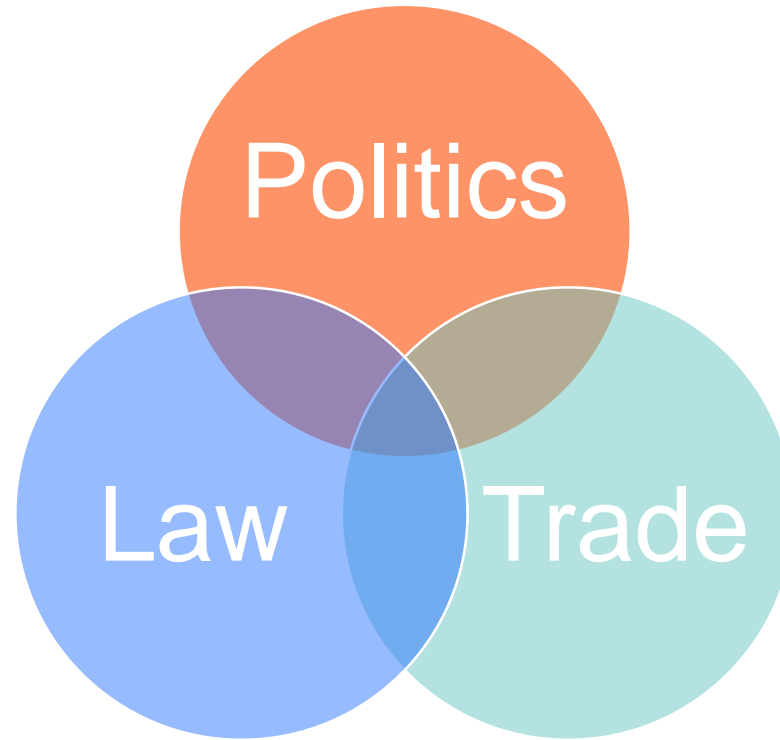
Electra Panayotopoulos, Partner

T: +30 210 429 3978

electra.panayotopoulos@hfw.com



- What are international trade sanctions?
- Which sanctions regimes are applicable?
- What is the current status of sanctions against Iran?
- What is the current status of sanctions against Russia?
- What are the issues which businesses face?
- How can you help to ensure compliance?



Law

Politics

Trade



WORLD SANCTIONS CONSIDERATIONS



 MEDIUM

HFW

WORLD SANCTIONS CONSIDERATIONS



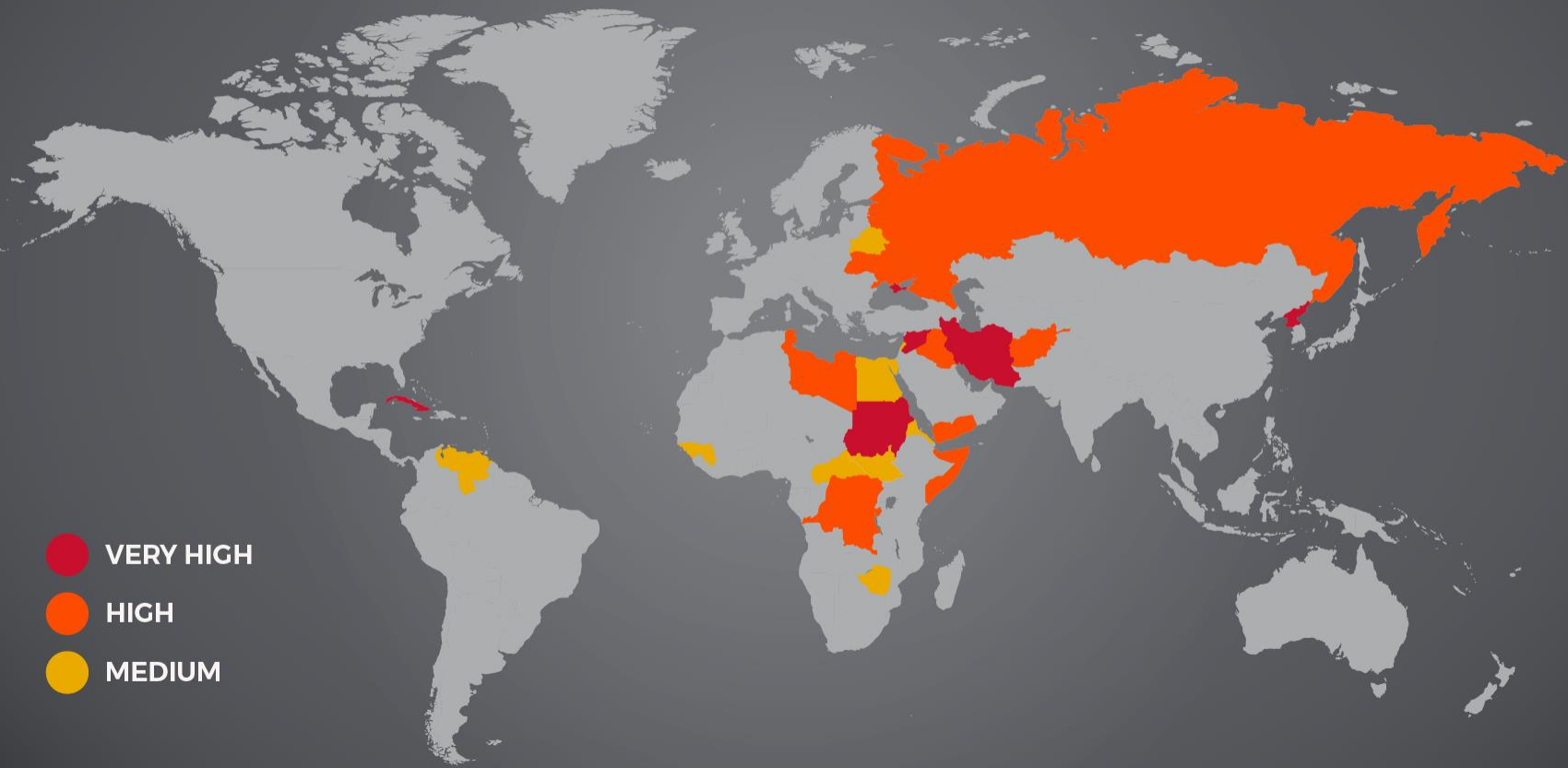
HFW

WORLD SANCTIONS CONSIDERATIONS



HFW

WORLD SANCTIONS CONSIDERATIONS



- VERY HIGH
- HIGH
- MEDIUM



WHAT RESTRICTIONS?

- Arms embargoes
- Visa or travel bans
- Asset freeze
- Export/import bans
- Bans on provision of specific services
- Prohibitions on investment, payments and capital movements
- Sectoral sanctions

- EU sanctions apply:
 - within the territory of the Union
 - on board any aircraft or any vessel under the jurisdiction of a Member State
 - 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 which is incorporated or constituted under the law of a Member State
 - to any legal person, entity or body in respect of any business done in whole or in part within the Union
- EU regulations have direct effect
- Domestic legislation sets the penalties for breach



- Apply to US persons:
 - U.S. citizen (and permanent resident alien)
 - entity organized under the laws of the United States (including foreign branches)
 - any person (i.e. individual or entity) in the United States.
- Scope for application to non-US company:
 - US person includes US directors and any person while in the US
 - entity which is owned or controlled by a US person
 - Foreign Sanctions Evaders: those who violate, conspire to violate or cause a violation of US domestic sanctions
 - Clearing of US Dollar payments by US banks
 - Secondary sanctions



- 16 January 2016: Sanctions relief under JCPOA
 - 8 May 2018: President Trump announcement
 - 7 August 2018: US sanctions re-imposed: money, metals and cars
 - 7 August 2018: EU Blocking Regulation
 - 5 November 2018: US sanctions re-imposed: shipping, energy, banking and insurance
-



- EU sanctions
 - nuclear proliferation
 - human rights
- US sanctions
 - primary sanctions
 - secondary sanctions
 - measures affecting foreign entities which are owned or controlled by US persons
- US goods and services
- Banking issues
- Snapback of sanctions



US SECONDARY SANCTIONS

- Individuals and entities added back on to the US SDN List
 - Prohibition on engaging in, conducting or facilitating a significant transaction for the purchase, acquisition, sale, transport or marketing of petroleum, petroleum products, petrochemical products or natural gas from Iran
 - Prohibition on assisting or providing goods or services in support of the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), or the Central Bank of Iran
 - Prohibition on providing significant support to, or other goods or services in support of a person determined to be part of the energy, shipping and shipbuilding sectors of Iran or to operate a port in Iran, or to an Iranian person on the US SDN list
 - Prohibition on providing underwriting services or insurance or reinsurance with respect to or for the benefit of, any US SDN listed entity, any activity in the energy, shipping and shipbuilding sectors in Iran
-



- EU Operators are required to notify the EU Commission, or relevant Member State authority, within 30 days of discovery of any events arising from the legislation contained in the Annex which would affect their economic or financial interests.
 - EU Operators are prohibited from complying with all legislation listed in the Annex, unless resolved via discussion with, or authorised by, the European Commission. This prohibition covers active compliance and compliance by deliberate omission, as well as direct and indirect (through a subsidiary or an intermediary) compliance with this legislation.
 - The Blocking Regulation nullifies any non-EU decision, such as a court order or arbitration award, enforcing legislation, or acts and provisions adopted pursuant to such legislation, contained in the Annex.
 - The Blocking Regulation gives EU Operators a right to claim damages, including legal costs, in respect of losses which they have suffered by the application of any legislation listed in the Annex or by actions based on or resulting from it.
-



- EU sanctions against Russia
 - asset freeze
 - Crimea
 - Oil and gas
 - Other sectoral sanctions
- US sanctions against Russia
 - CAATSA
 - sectoral sanctions
 - sanctions with extra-territorial effect



1. IRON ORE FROM IRAN TO CHINA

- You receive voyage orders to load a cargo of iron ore in Iran for discharge in China
 - What information do you need?

 - What other issues do you need to consider?
-



1. IRON ORE FROM IRAN TO CHINA

- You receive voyage orders to load a cargo of iron ore in Iran for discharge in China
 - What information do you need?
 - Shippers / receivers
 - Port agents / port operators
 - Cargo
 - What other issues do you need to consider?
 - Activities in Iran – bunkering / loading cargo / other
 - Terms of charter
 - Terms of insurance
 - Banking restrictions
-



2. CRUDE OIL FROM IRAN TO JAPAN

- You receive voyage orders to load a cargo of crude oil in Iran for discharge in Japan
 - What information do you need?

 - What other issues do you need to consider?
-



- You receive voyage orders to load a cargo of crude oil in Iran for discharge in Japan
 - What information do you need?
 - Shippers / receivers
 - Port agents / port operators
 - Cargo
 - What other issues do you need to consider?
 - US waivers
 - Activities in Iran – bunkering / loading cargo / other
 - Terms of charter
 - Terms of insurance
 - Banking restrictions
-



3. PURCHASE OF VESSEL FROM A CUBAN SELLER

- A Maltese Buyer of Greek beneficial ownership agrees to purchase a bulk carrier from a Panamanian Seller understood to be beneficially owned by a Cuban company
 - What issues must be considered?



3. PURCHASE OF VESSEL FROM A CUBAN SELLER

- A Maltese Buyer of Greek beneficial ownership agrees to purchase a bulk carrier from a Panamanian Seller understood to be beneficially owned by a Cuban company
 - What issues must be considered?
 - Be aware of US sanctions of extra-territorial effect
 - Check OFAC SDN lists, noting that company and vessel names can be listed
 - Currency/ Banks/ Insurance?
 - Revisions to standard MOA wording may be appropriate
-



- What are the relevant countries?
- What is/are the relevant sanctions regime(s)?
- Who are the counterparties (and any other parties in the contractual chain) and are they the subject of sanctions?
- Does the subject matter of the contract/transaction fall within the sanctions legislation?
- Can payments be made/received?
- What currency is being used?
- What about delays in payments?
- Is the contract adequate?
- What is the impact on cover?
- What other issues with respect to doing business in sanctioned countries?



WHAT STEPS ARE NEEDED?

- Counterparty checking and due diligence
- Contractual terms – eg BIMCO sanctions clauses
- Advice
- Recusal letters
- Authorisations / licences
- Check scope of cover and financing



- EU
 - https://eeas.europa.eu/headquarters/headquarters-homepage_en/423/Sanctions%20policy
 - https://eeas.europa.eu/topics/sanctions-policy/8442/consolidated-list-of-sanctions_en
- UK
 - <https://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases>
 - <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>
- US
 - <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>
 - <https://sanctionssearch.ofac.treas.gov/>



THANK YOU FOR YOUR ATTENTION

Electra Panayotopoulos, Partner

T: +30 210 429 3978

electra.panayotopoulos@hfw.com

© 2018 Holman Fenwick Willan LLP. All rights reserved

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only.

It should not be considered as legal advice.

Beirut Brussels Dubai Geneva Hong Kong Houston Jakarta Kuwait London Melbourne Paris Perth Piraeus Riyadh São Paulo Shanghai Singapore Sydney