

Legal update

Canada eases sanctions against Iran

February 2016 International trade Regulation and investigations

Effective February 5, 2016, Canada eased many of its sanctions against Iran to bring Canada in line with steps already taken by the US, EU and other countries pursuant to the Joint Comprehensive Plan of Action. The vast majority of the Canadian sanctions against Iran were lifted, including the blanket ban on any trade with Iran. The sanctions that remain in place have been tightened up and clarified.

Changes to the sanctions regime against Iran

The most significant changes to Canada's sanctions against Iran were implemented by amendments to the *Special Economic Measures (Iran) Regulations* (SEMA Regulations), which are enacted pursuant to the *Special Economic Measures Act* (SEMA). These changes are:

Lifting of General Goods Embargo

The general embargo on imports from Iran and exports to Iran has been lifted. This will permit Canadian individuals and enterprises to resume trade with Iran. There are certain exceptions, including the remaining prohibition on sales or shipment of goods listed in Schedule 2.

Schedule 2 is a list of 41 goods with a description of each. There is a range of goods included in the list, such as autoclaves, HEPA filters, high-speed cameras, riot gear, and certain precious metals.

Limiting Asset Freeze and Commercial Embargo

It is still prohibited to deal in property owned or controlled by a person listed in Schedule 1 of the SEMA Regulations. Schedule 1 contains "listed persons" who are entities and individuals believed to have engaged in nuclear proliferation activities and/or activities related to the development of chemical, biological or nuclear weapons of mass destruction, or former or current senior officials in the Islamic Revolutionary Guard Corps, or individuals and entities related to the aforementioned persons.

The number of listed entities in Schedule 1 was reduced from 530 to 161, and the number of listed individuals was reduced from 84 to 41.

While the number of listed persons was reduced, the language around the asset freeze and commercial embargo was tightened up, such that it is now prohibited not only to deal in property held by a listed person, but also property owned or controlled by a listed person or by a person acting on behalf of a listed person. New exceptions have been included to permit the payment of loans and discharging of liens in certain situations.

Lifting of Oilfield Technical Data Embargo

The prohibition against transferring, providing, or disclosing “technical data” to Iran or any person in Iran required for use in specific applications, including the production of petrochemicals, the transportation or storage of crude oil or petroleum or petroleum products, and drilling and mineral surveying and exploration, has been lifted.

However, there remains a prohibition against transferring, providing, or disclosing “technical data” to Iran or any person in Iran in relation to the 41 goods listed in Schedule 2.

Lifting of Financial Services and Investments Embargo

The prohibition against providing or acquiring financial services to or from Iran has been lifted, as has the prohibition on investment in entities in Iran (as long as it is not an investment in a Schedule 1 listed person). More specifically, the following prohibitions have been lifted:

- providing or acquiring marketing or financial or other services to, from or for the benefit of Iran or a person in Iran in respect of the import, purchase, acquisition or shipment of natural gas, crude oil or any petroleum or petrochemical products from Iran;
- conducting financial transactions with Iran;
- providing or acquiring financial services for the purpose of allowing an Iranian financial institution (or a branch, subsidiary or office) to be established in Canada, or vice versa, or acquiring a significant interest in an Iranian or Canadian financial institution;
- establishing correspondent banking relationships with Iranian financial institutions;
- purchasing any debt from the government of Iran; and
- providing or acquiring insurance or reinsurance to, from or for the benefit of Iran or any entity in Iran.

Shipping Embargo Lifted

The prohibition against the provision of services to certain Iranian vessels (including Iranian oil tankers or cargo vessels) has been lifted.

Sanctions still in force

The following sanctions remain in place under the SEMA Regulations:

- asset freeze and commercial embargo against those “listed persons” that remain on Schedule 1 to the SEMA Regulations;
- prohibition against exporting, selling, supplying or shipping any good specifically listed in Schedule 2; and
- prohibition against transferring, providing or disclosing to Iran or any person in Iran any technical data related to goods listed in Schedule 2.

The nuclear and arms sanctions remain in place. While there were some amendments to the *Regulations Implementing the United Nations Resolutions on Iran*, which implement UN Security Council Resolution 2231 (2015), the sanctions remain largely intact including:

- asset freeze and commercial embargo against those “designated persons” included in the UN Security Council Resolutions under sections 1 and 3;

- prohibition against exporting, selling, supplying or shipping specific goods and technical assistance, which goods are primarily dual-use arms, nuclear, or uranium mining purposed goods under section 4;
- prohibition on any Canadian vessel or aircraft from carrying any product or good prohibited under section 4; and
- prohibition against knowingly importing, purchasing or acquiring arms and related material from Iran or from a person in Iran.

Anti-circumvention provisions exist for both regulations, which act to prevent causing, facilitating, or assisting in a prohibited act or thing.

It should also be noted that exports to Iran, like exports to any jurisdiction, are also subject to Canada's general export controls applicable to sales to all countries.

New business opportunities and compliance challenges

The easing of Canadian sanctions against Iran is substantial and will pave the way for significant commercial opportunities for companies in key Iranian sectors, including oil and gas, shipping, and finance.

From a compliance perspective, businesses will need to carefully manage their transition into the new environment, given that a number of important sanctions remain in force. For most sectors, the key sanctions to consider will be the asset freeze restrictions, meaning that companies going into Iran will need to carefully screen their proposed counterparties to ensure they are not listed persons and include appropriate provisions in their contracts. In addition, any companies that are trading in technology still restricted or prohibited for Iran will also need to exercise special caution to ensure that they have procedures in place to avoid breaches of the remaining sanctions.

While the amendments have significantly eased sanctions against Iran, in line with the EU's amendments, it is important to remember that there are still strict US sanctions against Iran that could affect your business if you have an affiliate in the US.

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