

Sanctions Regime: Overview (Canada)

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Practice note: overview | **Maintained** | Canada

A Practice Note providing an overview of the regime for imposing, administering, and enforcing sanctions in Canada. It discusses the types of sanctions, penalties for non-compliance, licensing procedures, and how restricted parties can challenge sanctions designations.

As the use of financial, trade, and other sanctions around the world continues to increase, there is a growing need for businesses to ensure compliance with multiple sanctions regimes and engage with sanctions authorities in different jurisdictions. This presents a unique challenge to ensure that compliance officers and legal advisers are familiar with sanctions rules and procedures in key territories.

This Note provides an overview of the sanctions regime in Canada and the legislative, regulatory, and institutional frameworks which govern this. It also highlights the different types of sanctions that may be imposed, the designation of restricted persons, licensing procedures, information and reporting requirements, and the potential consequences of breaching sanctions rules.

In this context, "sanctions" refers to restrictive measures adopted to influence foreign governments, entities, or individuals, including by denying access to funds and key resources and signaling disapproval in the international community.

Legislative and Regulatory Framework

Canada maintains a robust system of economic sanctions against numerous countries, sectors, individuals, and entities. All persons in Canada and all Canadians outside Canada (whether Canadian citizens or organizations incorporated or constituted under the federal or provincial laws of Canada) must comply regardless of the type of sanction. Assisting in, or facilitating banned activities is also prohibited.

Canadian sanctions are primarily imposed under three pieces of legislation, with specific sanctions being implemented through regulations made pursuant to one or more of these Acts:

- The *Special Economic Measures Act*, S.C. 1992, c. 17 (SEMA) (see [SEMA](#)).
- The *United Nations Act*, R.S.C. 1985, c. U-2 (UN Act) (see [UN Act](#)).
- The *Justice for Victims of Corrupt Foreign Officials Act*, S.C. 2017, c. 21 (JVCFOA) (see [JVCFOA](#)).

Pursuant to these regimes, Canada currently maintains sanctions against (among other countries):

- Russia.
- Belarus.
- Iran.

- Iraq.
- North Korea.
- Syria.
- Venezuela.
- China.

The extent of restrictions against sanctioned countries varies greatly. For example, the combined effect of sanctions regulations and export control restrictions against North Korea is to generally prohibit almost all dealings with this country, including all imports, exports, and new investments. On the other hand, the sanctions against China imposed in response to gross and systematic human rights violations in the Xinjiang Uyghur Autonomous Region only prohibit dealings with certain listed persons, which, currently, constitutes four individuals and one entity.

Currently, Canada maintains a robust regime of sanctions against Russia, but the sanctions fall short of a comprehensive dealings ban. Canada maintained moderate sanctions against Russia following the occupation of the Crimean Peninsula in 2014, but has imposed sweeping sanctions against Russia since the first half of 2022 following Russia's invasion of Ukraine. Throughout 2022, Canada's sanctions against Russia changed rapidly with little or no notice. As of January 2023, Canada's sanctions against Russia under the *Special Economic Measures (Russia) Regulations, SOR/2014-58* (SEMA Russia Regulations) include:

- Various dealings prohibitions applicable to three different lists of designated persons and entities (Schedules 1, 2, and 3).
- A dealings prohibition specific to certain types of oil exploration and production that dates back to 2014.
- Shipping prohibitions.
- Export prohibitions on certain goods and technology, including luxury goods.
- Import prohibitions on certain luxury goods.
- A restriction on the provision of certain services in relation to certain industries.
- A price cap on Russian crude oil (see [Global Affairs Canada: Canada and G7-plus partners impose price cap on Russian crude oil](#)).

Therefore, while not all dealings with Russia are prohibited, parties should perform robust due diligence before conducting business with Russia.

Canada also maintains sanctions that are not country-specific, but rather are targeted at terrorist entities, including the Taliban, ISIL (Da'esh), and Al-Qaida.

SEMA

Canada generally enacts its autonomous economic sanctions under SEMA, the regulations under which are country specific. SEMA enables the Canadian government to impose sanctions when:

- An international organization or association of states of which Canada is a member calls on its members to take economic measures against a foreign state. In principle, when that organization is the United Nations, either the UN Act or SEMA can be employed.
- A grave breach of international peace and security has occurred that has or is likely to result in a serious international crisis.
- Gross and systematic human rights violations have been committed in a foreign state.
- Acts of significant corruption involving a national of a foreign state have been committed.

For the country specific sanctions set out in the regulations issued under SEMA, see [Government of Canada: Justice Laws Website: SEMA: Regulations made under this Act](#).

UN Act

The [United Nations Security Council](#) (UNSC) determines, through its resolutions, responses to be taken by member states in the event of an act of aggression or breach of international peace and security. As a member of the UN, Canada is obligated to introduce measures in its domestic law pursuant to these resolutions, and the Government of Canada does so by enacting regulations under the UN Act.

The enabling language of the UN Act is broad, with no internal limits as to the type of sanctions that can be imposed to effectively apply UNSC measures in and by Canada.

The specific sanctions relating to a particular country are implemented by and can be found in targeted regulations (see, for example, *Regulations Implementing the United Nations Resolutions on the Central African Republic*, SOR/2014-163).

For the country specific sanctions set out in the regulations issued under the UN Act, see [Government of Canada: Justice Laws Website: United Nations Act: Regulations made under this Act](#).

JVCFOA

The JVCFOA enables the Canadian government to sanction individuals where either:

- Foreign nationals are responsible for, complicit in, or act as an agent of or on behalf of a foreign state in extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals in any foreign state who seek to:
 - expose illegal activity carried out by foreign public officials; or
 - obtain, exercise, defend, or promote internationally recognized human rights and freedoms.
- Foreign public officials or their associates are responsible for, or complicit in ordering, controlling, or otherwise directing activities that amount to acts of significant corruption including:
 - bribery;
 - the misappropriation of private or public assets for personal gain;
 - the transfer of the proceeds of corruption to foreign states; or

- any act of corruption related to expropriation, government contracts, or the extraction of natural resources.
(Situations where a foreign national has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of these activities are also covered.)

Individuals sanctioned under the JVCFOA are listed in the Schedule to the *Justice for Victims of Corrupt Foreign Officials Regulations*, SOR/2017-233. As of January 2023, 70 foreign nationals have been listed, relating to certain specific situations (see [Schedule: Foreign Nationals](#)).

Other Legislation

Other sanctions are imposed on:

- Terrorist groups under Part II.1 of the *Criminal Code*, R.S.C. 1985, c. C-46 (Criminal Code).
- The export and import of goods and technology to and from countries on the [Area Control List](#), a regulation under the *Export and Import Permits Act*, R.S.C. 1985, c. E-19. As of January 2023, the only country on the Area Control List is the Democratic People's Republic of Korea.
- Corrupt foreign officials under the *Freezing Assets of Corrupt Foreign Officials Act*, S.C. 2011, c. 10 (FACFOA).

Under FACFOA, Canada can freeze the assets or restrain the property of certain "politically exposed foreign persons" (for example, government officials or politicians) at the request of a country undergoing political uncertainty or internal turmoil. FACFOA restrictions can be understood as a form of assistance that Canada provides to the requesting country. Regulations under FACFOA have been made against officials in Tunisia and Ukraine.

Foreign nationals who are subject to sanctions under Canadian legislation may be denied entry to Canada under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (Immigration and Refugee Protection Act).

Institutional Framework

A myriad of government entities and departments are involved in imposing, administering, and enforcing Canadian sanctions.

The three primary sanctions acts provide that sanctions can be imposed by the Governor in Council, that is, the Governor General acting on the advice of Cabinet.

Within Cabinet, the Minister of Foreign Affairs is responsible for administering and enforcing sanctions under:

- The JVCFOA (section 2.1).
- SEMA (section 6(1)).
- The UN Act (see the regulations enacted under the UN Act).

The Minister of Foreign Affairs makes recommendations to the Governor in Council of persons whose names should be listed in a schedule under any of the regulations enacted pursuant to SEMA, or in the schedule to the JVCFOA. The Minister of Foreign Affairs (in practice, [Global Affairs Canada](#)) also considers applications for exemption permits and certificates, and

assesses applications for delisting from a sanctions list or to attain a certificate of mistaken identity (see [Licensing](#) and [Delisting and Mistaken Identity](#)).

With respect to sanctions on terrorist groups enacted under the Criminal Code, the Governor in Council is responsible for designating terrorist entities on the recommendation of the Minister of Public Safety (see section 83.05(1), Criminal Code). The Minister of Public Safety is additionally responsible for considering delisting applications and exemptions under the Criminal Code terrorism provisions (see sections 83.05(2) and 83.09(1)).

Property can be seized or restrained pursuant to an order issued by the Governor in Council under the JVCFOA (section 4(1)(b)) and SEMA (section 4(1)(b)). For the forfeiture of seized or restrained property, the Minister of Foreign Affairs applies to a court to have the property forfeited under the JVCFOA (section 4.2(1)) and SEMA (section 5.4). The Minister of Justice applies to the Federal Court or any superior court for an order for the forfeiture of seized or detained property under the UN Act (section 3(2)).

In practice, the [Royal Canadian Mounted Police \(RCMP\)](#), [Canada Border Services Agency \(CBSA\)](#), and [Canadian Security Intelligence Service \(CSIS\)](#) investigate breaches and enforce sanctions.

To date, Global Affairs Canada has not issued or provided any general or public guidance to Canadians about its interpretation of Canada's sanctions regime.

Types of Sanctions

Canada's legislation enables the Government of Canada to impose sanctions on individuals, entities, and countries at large on both geographic and thematic bases.

Sanctions under SEMA can be imposed in one or more of the following ways:

- On a country or region-wide basis.
- Against specific sectors or industries.
- Against specific individuals or entities.

For example, the SEMA Russia Regulations do all three:

- Section 3.8 prohibits the import and export of certain items to and from Russia and all individuals and entities within Russia.
- Section 3.3 imposes restrictions on dealings in a specific sector (offshore, Arctic, or shale oil exploration or production).
- Sections 3 and 3.1 include specific prohibitions related only to certain designated persons (which can include both individuals and entities).

Sanctions under the JVCFOA (sometimes called the Magnitsky Act) have been imposed on a thematic basis, targeting, for example, individuals associated with the following specific circumstances related to human rights and corruption:

- The detention without trial, torture, and death of Sergei Magnitsky in Moscow, as well as the lack of investigation into his death and the posthumous trial and conviction of Mr. Magnitsky in Russia for the very fraud he uncovered.

- Incidents of corruption and gross human rights violations by officials linked to the Maduro regime in Venezuela, and by officials in South Sudan.
- The torture and extrajudicial killing of Saudi journalist Jamal Khashoggi.
- Gross violations of internationally recognized human rights against the Rohingya in Myanmar's northern Rakhine State.

Regardless of the type of sanction, all persons in Canada and all Canadian persons outside Canada, whether individuals or entities, are required to comply. Assisting in, or facilitating prohibited activities is also specifically prohibited (see for example, section 5, SEMA Russia Regulations).

Canada's sanctions regime includes several types of sanctions, including:

- Trade sanctions (see [Trade Sanctions](#)).
- Dealings prohibitions (see [Dealings Prohibitions](#)).
- Financial sanctions (see [Financial Sanctions](#)).
- Immigration sanctions (see [Immigration Sanctions](#)).
- Aircraft sanctions ([Aircraft Sanctions](#)).
- Shipping sanctions (see [Shipping Sanctions](#)).
- Technical assistance sanctions (see [Technical Assistance Sanctions](#)).

Trade Sanctions

Trade sanctions can take the form of either:

- Export and import prohibitions (see, for example, section 4(2)(b) and (d), SEMA).
- Services prohibitions (see, for example, section 4(2)(e), SEMA; sections 4(3)(c) to 4(3)(d), JVCFOA; section 83.03, Criminal Code).

Leaving aside the inherently broad language of the UN Act, the most specific comprehensive powers to impose trade sanctions are provided under SEMA. Recent amendments to the SEMA Russia Regulations illustrate this well. In response to Russian aggression in Ukraine, Canada utilized powers under SEMA to ban, among other things:

- The import into Canada of particular luxury goods from Russia.
- The export to Russia of a much longer list of luxury goods, and goods used in the manufacture of weapons.
- The provision of a broad range of services to various Russian industries, including oil, gas, and chemical production.

With respect to services prohibitions, financial services are often targeted, but the provision or receipt of any service may be banned, as demonstrated by the 2022 amendments to the SEMA Russia Regulations (section 3.10), which prohibit providing a myriad of services to Russia, or to any person in Russia, ranging from engineering services to public opinion polling, in relation to specific industries.

Further, the export or transfer of goods or technology to countries listed in the Area Control List is controlled, and permitted only with a license issued by the Minister of Foreign Affairs.

The provision of services ban under section 83.03 of the Criminal Code applies where the person either:

- Intends or knows that the services are to be used, in whole or in part, to facilitate or carry out terrorist activity or for the benefit of any person who is facilitating or carrying out this activity.
- Knows they will be used by or will benefit a terrorist group.

Dealings Prohibitions

Dealings prohibitions are very common in Canadian sanctions (see, for example, section 4(2)(a), SEMA). Typically, dealings with particular listed or designated persons or entities are prohibited. For example, the SEMA Russia Regulations prohibit the following types of dealings with "Schedule 1" designated entities (which, as of January 2023, includes over 1,000 individuals and hundreds of entities):

- Dealing in any property, wherever situated, that is owned, held, or controlled by or on behalf of a designated person, as well as:
 - entering into or facilitating, directly or indirectly, any transaction related to this dealing; and
 - providing any financial or other related service in respect of this dealing.
- Making available any goods, wherever situated, to a designated person or to a person acting on their behalf; or
- Providing any financial or related service to or for the benefit of a designated person.

Financial Sanctions

Financial sanctions can be imposed under the UN Act, SEMA, or the JVCFOA in the form of any one or more of the following:

- Asset freezes.
- Prohibitions on conducting financial transactions with stipulated parties (for example, sections 4(3)(c) and 4(3)(d), JVCFOA; section 83.03, Criminal Code; section 4(2)(e), SEMA).
- Financial services bans.
- Financial sanctions often expressly ban performing the prohibited act for or on behalf of a targeted individual or entity.

The SEMA Russia Regulations include a ban on providing certain types of new debt financing for specific named entities, for example, while also including a broader asset freeze.

With respect to freezing of assets, the RCMP reported that between 24 February 2022 and 9 August 2022, over CAD122 million of assets in Canada were frozen, and almost CAD300 million in financial transactions were blocked because of the prohibitions

in the SEMA Russia Regulations alone (see [RCMP: Update on the reporting of frozen assets under the Special Economic Measures Act – Russia Regulations](#)).

The financial services ban under section 83.03 of the Criminal Code applies where the person either:

- Intends or knows that the services are to be used to facilitate or carry out terrorist activity or for the benefit of any person who is facilitating or carrying out this activity.
- Knows they will be used by or will benefit a terrorist group.

Immigration Sanctions

Foreign nationals are inadmissible to Canada if any of the following criteria are met:

- Their entry into or stay in Canada is restricted pursuant to a decision, resolution, or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or agreed to impose sanctions in concert with that organization or association.
- They are currently designated under SEMA.
- They are currently designated under the JVCFOA.

(Section 35(1), Immigration and Refugee Protection Act.)

Aircraft Sanctions

SEMA explicitly authorizes the Government of Canada to prohibit:

- Aircraft registered in Canada or operated in connection with a Canadian air service license from landing in a particular foreign state (paragraph 4(2)(g)).
- Aircraft registered in a particular foreign state or used, leased, or chartered by or on behalf of or for the benefit of a particular foreign state or a person in that foreign state from landing in or flying over Canada (paragraph 4(2)(i)).

Other types of sanctions have also been imposed on the aircraft industry under SEMA. For example, the SEMA Russia Regulations prohibit the export of unmanned aircraft and certain aircraft parts to Russia or to any person in Russia, and also impose sanctions on Russian companies operating in the aircraft industry (for example, Sukhoi Civil Aircraft and United Aircraft Corporation).

The UN Act may also be used to impose various aircraft-related sanctions, such as a prohibition on knowingly using aircraft to carry arms destined for a target country (see, for example, section 4, [Regulations Implementing the United Nations Resolution on Lebanon, SOR/2007-204](#)) (UN Lebanon Regulations).

Shipping Sanctions

SEMA explicitly authorizes the Government of Canada to prohibit:

- Ships registered or licensed pursuant to federal law from docking in a particular foreign state (paragraph 4(2)(f)).
- Ships registered in a particular foreign state or used, leased, or chartered in connection with that foreign state from docking in Canada (paragraph 4(2)(h)).

Restrictions on the shipping industry may also be imposed under other SEMA provisions. For example, under subsection 3.10(1) of the SEMA Russia Regulations, it is prohibited to provide to Russia or to any person in Russia, a service referred to in Part 1 of Schedule 8 in relation to an industry referred to in Part 2 of that Schedule. The list under Part 1 of Schedule 8 includes "water transportation services – freight transportation," thereby imposing a restriction on shipping services.

The broad language of the UN Act also enables the imposition of shipping sanctions. For example, section 5 of the *Regulations Implementing the United Nations Resolutions on Somalia*, SOR/2009-92 prohibits the transport of arms and related material to Somalia by ship.

Technical Assistance Sanctions

SEMA allows for regulations to be made regarding the transfer, provision, or communication of any technical data to a foreign state or person within that state (paragraph 4(2)(c)). Technical data is defined broadly to include:

- Blueprints.
- Technical drawings.
- Photographic imagery.
- Computer software.
- Models.
- Formulas.
- Engineering designs and specifications.
- Technical and operating manuals.
- Any technical information or know-how.

Prohibitions on technical assistance can also be imposed under the UN Act.

Restricted Persons

Canadian sanctions frequently target specific individuals or entities. For example, both Venezuelan President, Nicolás Maduro Moros and Russian President, Vladimir Putin are personally designated (that is, sanctioned) by Canada, though designated persons typically are lesser known.

Restricted persons are alternately referred to in the legislation as listed, named, or, designated persons. Depending on the legislation under which the person is designated, they may be subject to one or more of the following:

- An asset freeze.
- A general dealing prohibition.

- Specific prohibitions (such as bans on providing debt or equity financing).

Regulations made under the UN Act do not expressly name restricted persons, but rather refer to the UNSC resolution where those persons are named. The sole exception is the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism*, SOR/2001-360, where restricted persons are listed in a Schedule.

Regulations made under SEMA name restricted persons in a Schedule. Some regulations under SEMA include multiple Schedules, selectively applying sanctions to different persons or entities. For example:

- Schedule 1 of the SEMA Russia Regulations lists persons and entities subject to an asset freeze and dealings prohibitions.
- Schedule 2 of the SEMA Russian Regulations lists entities which cannot be provided with new debt of longer than 30 days' maturity or new equity financing.
- Schedule 3 of the SEMA Russia Regulations lists entities which cannot be provided with new debt of longer than 90 days' maturity.

Regulations made under the JVCFOA list restricted persons in one comprehensive schedule) (see [JVCFOA](#)).

Under the Canadian autonomous sanctions regime, designated persons are listed by name. Birthdates of individuals are occasionally provided to assist with identification. Sometimes, the Canadian government also publishes a media statement that explains why certain persons are designated.

In terms of prerequisites for designation, persons restricted by regulations enacted under the UN Act are persons who have been named by the relevant UNSC Committee. Individuals or entities can be designated under SEMA or the JVCFOA if they are believed to be implicated in the circumstances which those statutes are intended to address. Canada often designates persons in co-ordination with like-minded sanctions enforcers in the US, UK, and EU.

Compliance

To simplify compliance, the Government of Canada maintains a [Consolidated Canadian Autonomous Sanctions List](#), which lists the names of restricted persons designated under SEMA and the JVCFOA. However, this resource does not precisely reflect which prohibitions apply to particular persons. In addition, the list does not have the force of law. It is merely a reference tool and does not include persons designated under FACFOA or the Criminal Code.

Additionally, Public Safety Canada maintains a list of terrorist entities on its website (see [Public Safety Canada: Currently listed entities](#)). The [Consolidated UNSC Sanctions List](#) is also publicly available online.

Unlike some jurisdictions, the Government of Canada has not provided substantive guidance as to when entities that are owned or controlled (partly or otherwise) by restricted persons are subject to those sanctions by extension. For example, there is no rule akin to the "50% Rule" of the US Treasury Department's Office of Foreign Assets Control, which provides that the property and interests in property of entities directly or indirectly owned 50% or more in the aggregate by one or more blocked persons are considered blocked.

With respect to control, a recent case provides some guidance suggesting that the test in Canada is a factual one relating to whether the designated person in question has de facto control over the entity (*Angophora Holdings Limited v Ovsyankin*, 2022 CarswellAlta 3168).

Delisting and Mistaken Identity

A restricted person can apply to be removed from the applicable list, and a person whose name is similar or identical to the name of a restricted person can apply for a certificate stating that they are not, in fact, the restricted person (a "certificate of mistaken identity"). In either case, an application is submitted to the Sanctions Policy and Operations Coordination Division of Global Affairs Canada, including the following information:

- The regulation and section number under which the application is being submitted.
- The applicant's contact information, or the contact information of a representative in the case of an entity.
- The number under which the applicant has been listed in the relevant schedule (for an application for delisting), or the name of the designated person with whom the applicant claims to share the same or similar name (for an application for a certificate of mistaken identity).
- In the case of an application by an entity:
 - a description of the entity including its owners and shareholders;
 - a description of product inputs and outputs (including materials used) or a description of services provided (or both);
 - a list of its customers; and
 - a list of companies from which it procures materials.

(See [Government of Canada: How to Apply for Delisting or for a Certificate of Mistaken Identity](#).)

The Sanctions Policy and Operations Coordination Division reviews the application and makes a recommendation to the Minister of Foreign Affairs, who, in the case of an application for delisting, generally has discretion to decide whether to recommend to the Governor in Council that the applicant's name be removed from the relevant schedule (that is, if there are "reasonable grounds" to do so).

In the case of an application for a certificate of mistaken identity, under subsection 9(2) of the SEMA Russia Regulations, for example, "the Minister must issue a certificate to the applicant" within 30 days if it is "established that the person is not a designated person".

The Minister must provide notice of the decision within a prescribed time period (for example, under sections 8 and 9 of the SEMA Russia Regulations, within 90 days of receiving an application for delisting and within 30 days of receiving an application for a certificate of mistaken identity).

As with other types of administrative decisions, the Minister's decision can be challenged by seeking judicial review before the Federal Court of Canada.

While regulations under the UN Act may provide an application process for a certificate of mistaken identity (see, for example, section 10, *Regulations Implementing the United Nations Resolutions on Mali*, SOR/2018-203), they typically do not do so for delisting. As Canadian regulations implementing UN sanctions generally refer to lists created by the relevant UNSC committee, applications for delisting under those regulations can be made to the UN's [Focal Point for Delisting](#).

Exceptions and Licensing

The Canadian sanctions regime provides for:

- Specific exceptions to carve out activities that are not prohibited (see [Exceptions](#)).
- Permits and certificates to allow certain activities that would otherwise be prohibited (see [Licensing](#)).

Exceptions

In some cases, the implementing regulations provide for specific, express exceptions. For example, most of the prohibitions in the SEMA Russia Regulations do not apply in respect of (among others):

- Financial services required for the restricted person to obtain legal services concerning the prohibitions of those regulations.
- Pension or disability payments.
- Transactions with international organizations with diplomatic status.

(Section 4, SEMA Russia Regulations.)

Similar exceptions exist under section 3.1 of the *Special Economic Measures (Iran) Regulations*, (SOR/2010-165).

Other exceptions apply only to certain specific prohibitions. For example, regulations sometimes provide an exception in cases where contracts are entered into before the prohibition came into force. In other cases, the exception is tailored to the specific nature of the prohibition. For example, subsection 3.6(1) of the SEMA Russia Regulations prohibits any person in Canada and any Canadian outside Canada from exporting, selling, supplying, or shipping any good, wherever situated, to Russia or to any person in Russia if the good is referred to in the [Restricted Goods and Technologies List](#) or in Schedule 5.1 to the regulations. However, subparagraph 3.6(3)(h)(ii) provides that subsection 3.6(1) does not apply to usual and reasonable quantities of supplies stored on board an aircraft or ship intended for consumption on board the aircraft or ship during the outgoing and return flight or voyage.

Licensing

Under sections 4(4) and 4(5) of both SEMA and the JVCFOA, the Minister of Foreign Affairs has the power to issue either general or individual permits to carry out activities that would otherwise be prohibited by the regulations enacted under the Acts. Specific permits are issued to particular individuals or entities. General permits are issued to Canadians at large (though these types of permits are rarely issued). Specifically, the Minister can do either of the following:

- Issue to any person in Canada or any Canadian outside Canada a permit to carry out a specified activity or transaction, or class of activity or transaction, that is restricted or prohibited under the Act or any order or regulations made under the Act.
- Issue a general permit allowing any person in Canada or any Canadian outside Canada to carry out a class of activity or transaction (and, in the case of SEMA only, a specified activity or transaction) that is restricted or prohibited under this Act or any order or regulations made under this Act.

To apply for a permit or certificate, applicants must provide the Sanctions Policy and Operations Coordination Division of Global Affairs Canada with:

- Contact information.
- A description of the proposed activity or transaction, including:
 - a description of the goods or services to be imported or exported;
 - identifying information for every person or entity involved in the contractual agreement (including financial institutions); and
 - proof of immigration application status, residence, and visas for persons involved, if applicable.
- Copies of documents related to the proposed activity or transaction.
- An explanation of how the request meets the criteria for application.
- Where possible, an indication of the section of the regulation or permit authorization order being relied on to support the application.
- An explanation of the reason(s) for the proposed activity or transaction.
- The anticipated effects on the applicant or their company (or both) if the permit or certificate is not granted. (See [Government of Canada: Permits and Certificates: How to Apply.](#))

The Sanctions Policy and Operations Coordination Division reviews, screens and assesses each application, and then makes a recommendation to the Minister of Foreign Affairs, who holds ultimate authority and discretion to grant or deny a permit or certification application.

In its [guidance document](#), Global Affairs Canada notes that the granting of a permit under SEMA or the JVCFOA is an exceptional and discretionary act. Global Affairs Canada cannot generally estimate how long it will take to process a permit. Some permits may be issued swiftly, while others may take months or even years.

Regulations enacted under the UN Act allow persons wishing to engage in an activity prohibited under those regulations to apply in writing to the Minister of Foreign Affairs for a certificate exempting the activity from the application of the regulations (see, for example, section 11(1), *Regulations Implementing the United Nations Resolutions and Imposing Special Economic Measures on Libya, SOR-2011/51* (UN Libya Regulations)). If the UNSC did not intend for that activity to be prohibited, or if the UNSC or the relevant Committee of the UNSC has approved the activity in advance, the Minister can issue the certificate (see for example, section 11(2), UN Libya Regulations).

Regulations enacted pursuant to the UN Act also provide a mechanism to exempt property affected by sanctions where the property is either:

- Necessary for basic or extraordinary expenses.
- Subject to:
 - a lien, mortgage, or security interest;
 - a hypothec or prior claim;

- a charge; or
- a judicial, administrative, or arbitral decision.

(See, for example, section 12(1), UN Libya Regulations).

In these cases, the person can apply to the Minister of Foreign Affairs for an exemption for that property. If the Minister finds that the property meets the relevant criteria, the Minister must issue a certificate of exemption within a prescribed timeframe (see, for example, section 12(2), UN Libya Regulations).

A permit or certificate may also be sought under FACFOA, by sending a request and supporting documentation to the Criminal, Security and Diplomatic Law Division of Global Affairs Canada.

Information and Reporting Requirements

Where the relevant legislation designates persons or imposes financial sanctions, Canadian sanctions laws impose reporting requirements in relation to sanctions prohibitions. These requirements are generally twofold:

- A general requirement that any person in Canada and Canadians outside Canada report:
 - property in their possession that they have reason to believe is owned, held, or controlled by or on behalf of a designated person; and
 - any actual or proposed transactions relating to that property. (See, for example, section 7(2), JVCFOA and section 7, SEMA Russia Regulations).
- A requirement that certain entities (primarily financial institutions and financial services providers) monitor, "on a continuing basis," whether property they control or possess is owned, held, or controlled by or on behalf of a designated person. If the entity has reason to believe that it is in control or possession of this property, it must report that fact, as well as the number of persons or dealings involved and the total value of the property. This duty to disclose is a continuing duty. As long as it continues to hold or control the property, the entity must disclose that fact every three months (see, for example, sections 6 to 7, JVCFOA and section 6, SEMA Russia Regulations). The [Office of the Superintendent of Financial Institutions Canada](#) has published an [Instruction Guide](#) regarding designated persons listings and sanctions laws, which includes a discussion of control measures to be implemented by federally regulated financial institutions.

The JVCFOA sets out monitoring and reporting requirements in the Act itself (sections 6 to 7). For SEMA, monitoring and reporting obligations are found in the regulations, and are therefore country specific. For example, the *Special Economic Measures (Burma) Regulations*, SOR/2007-285 (sections 14 to 15) and *Special Economic Measures (Belarus) Regulations*, SOR/2020-214 (sections 6 to 7) contain reporting requirements that are virtually identical to those contained in the JVCFOA and SEMA Russia Regulations. By contrast, the *Special Economic Measures (Democratic People's Republic of Korea) Regulations*, SOR/2011-167 contain no general reporting obligation.

Similar obligations can be found in regulations under the UN Act, though these obligations vary. For example, the UN Libya Regulations (sections 23 to 24) contain reporting obligations that are virtually identical to those found in the JVCFOA and SEMA Russia Regulations. By contrast, the UN Lebanon Regulations do not designate individuals or impose financial sanctions, and therefore have no general reporting requirement.

The agency to whom the report must be made varies by legislation. In most cases, it is the RCMP or CSIS, but in others it is the principal agency or body that supervises or regulates the reporting entity.

Generally, wherever there is a duty to disclose under Canadian sanctions law, there is a corresponding immunity arising from the disclosure whereby no proceedings under the relevant Act and no civil proceedings lie against a person for a disclosure made in good faith (see, for example, subsection 7(2), SEMA Russia Regulations and subsection 7(3), JVCFOA).

The *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17 also provides additional reporting requirements for certain entities, such as banks, trust companies, and other financial institutions.

Enforcement

Authorities and Powers

A myriad of government entities and departments are involved in enforcing Canada's sanctions.

The Minister of Foreign Affairs is responsible for enforcing SEMA and the JVCFOA. In practice, the RCMP, CSIS, and CBSA investigate potential offences. As these statutes establish criminal offences, the RCMP has, with respect to sanctions enforcement, the same powers conferred to it under legislation and at common law, as well as express powers in certain regulations, such as the power to seize or restrain property, and collect and disclose related information (section 7.2, JVCFOA).

SEMA also authorizes "peace officers" (persons having the powers of an officer under the *Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.), *Excise Act*, R.S.C. 1985, c. E-14, or *Excise Act, 2001*, S.C. 2002, c. 22) to search any building, receptacle, or place for anything that the officer has reasonable grounds to believe either:

- Is or has been the subject of an offence against SEMA.
- Has been used as a tool or means for this offence.
- Will afford evidence regarding this offence.

(Section 9(1) to 9(2), SEMA.)

Under the UN Act, any property dealt with contrary to the regulations under the UN Act may be seized, detained, and ultimately forfeited by court order on application by the Minister of Justice (section 3(2)). The Minister of Foreign Affairs applies to a court to have property forfeited under the JVCFOA (subsection 4.2(1)) and SEMA (section 5.4).

Additionally, the JVCFOA (section 7.3) and SEMA (section 6.3) empower the Minister of Foreign Affairs to require any person to provide any information that the Minister believes, on reasonable grounds, is relevant to an order under the relevant Act.

Offences and Penalties

It is a criminal offence, punishable by fines or imprisonment (or both), for any person in Canada and any Canadian outside Canada to knowingly or willingly:

- Contravene Canada's sanctions legislation.
- Do anything that causes, facilitates, or assists in, or is intended to cause, facilitate, or assist in, any prohibited activity.

The maximum penalties under the key sanctions Acts for breaches of the prohibitions are as follows:

- SEMA:
 - a fine of CAD25,000, imprisonment for one year, or both on summary conviction; or
 - imprisonment for five years on conviction on indictment.

(Section 8.)

- JVCFOA:
 - a fine of CAD25,000, imprisonment for one year, or both on summary conviction; or
 - imprisonment for five years on conviction on indictment.

(Section 11.)

- UN Act:
 - a fine of CAD100,000, imprisonment for one year, or both on summary conviction; or
 - imprisonment for ten years on conviction on indictment.

(Section 3(1).)

In the case of a corporation convicted of an offence, the Criminal Code provides that the corporation is liable, in lieu of any imprisonment that is prescribed as punishment for that offence, to be fined:

- For indictable offences, in an amount that is in the discretion of the court.
- For summary conviction offences, in an amount not exceeding CAD100,000.

(Section 735(1).)

- Corporations that violate sanctions laws are, therefore, potentially subject to very high monetary fines.

Separate penalties apply for breaches of relevant provisions of the Criminal Code, FACFOA, and Export and Import Permits Act.

There is no formal or explicit voluntary self-disclosure regime applicable to breaches of sanctions legislation in Canada. Voluntary disclosures of breaches under any of the three sanctions acts are made to the RCMP, which would likely consult Global Affairs Canada. Voluntary disclosures, however, are not considered when imposing penalties.

Liability for Directors and Officers

Criminal liability can be imposed on an organization if a senior officer, while in the course of their duties and, at least in part with the intention of benefitting the organization, commits an offence, authorizes its commission, or fails to take all reasonable steps to prevent it (section 22.2, Criminal Code).

Under Canadian criminal law, "willful blindness" can substitute for actual knowledge on the part of "an accused whose suspicion is aroused to the point where he or she sees the need for further inquiries, but deliberately chooses not to make those inquiries" (*R. v. Briscoe*, 2010 CarswellAlta 588, at paragraph 21). Therefore, it is important that directors and officers:

- Do not turn a blind eye to compliance red flags.
- Take appropriate measures to ensure their organization is complying with prohibitions.
- Conduct due diligence to prevent a contravention.

Additionally, directors, officers and employees can be directly liable for sanctions offences in their personal capacity if they participate in, or are a party to, those offences. Directors and officers can be considered a party to an offence if either:

- They knowingly or willingly contravene Canadian sanctions legislation.
- They do or omit to do anything for the purpose of assisting or encouraging any other person to carry out the offence.

(Section 21(1), Criminal Code.)

Directors and officers can protect against liability by invoking the immunity provisions contained in relevant sanctions legislation, which shield individuals and organizations from criminal or civil proceedings if they make a good faith disclosure to the RCMP about any property in their or their organization's possession that likely belongs to a designated person.

Enforcement Actions

Regulatory Actions

Sanctions enforcement typically takes the form of regulatory action rather than criminal prosecution. In the five years prior to 2017, the CBSA reported having prevented the export of roughly 250 prohibited shipments to countries targeted by Canadian sanctions. Because the majority of these shipments reportedly had no indicators of criminality, CBSA took regulatory action to address the non-compliance. Rather than refer cases for criminal investigation (which is reportedly infrequent), the CBSA typically prevents the prohibited shipment, and sometimes imposes an administrative penalty or seizes the goods. (See House of Commons Canada, *A Coherent and Effective Approach to Canada's Sanctions Regimes*, April 2017 (House of Commons Report), page 29.)

Criminal Investigations

To date, there have been very few examples of criminal charges laid under Canada's sanctions legislation. In April 2014, Lee Specialities Ltd., an Alberta-based company, pleaded guilty and paid a fine of CAD90,000 for attempting to export controlled goods to Iran. At least one other case (the *Yadegari* case referenced on page 29 of the House of Commons Report), also involving the shipment of prohibited material to Iran, resulted in a conviction. Notably, this case involved a concerted and well-planned attempt to circumvent sanctions measures. (See House of Commons Report, page 29.)

More recently, in December 2020, the Nova Scotia Supreme Court acquitted Nader Mohamad Kalai of one charge under the *Special Economic Measures (Syria) Regulations* (SOR/2011-114), after the Crown failed to tender any admissible evidence in

the case. Mr. Kalai was accused of having wired 15 million Syrian pounds (about CAD140,000) to a Syrian financial entity while Mr. Kalai was present in Canada (see S. Nattrass, E. Brown and S. Gollish, *Through the (Opaque) Looking Glass: Canada's Economic Sanctions Regime Almost Enforced*, 9 March 2021).

It is possible that the Government of Canada's aggressive campaign of sanctions against Russia following the invasion of Ukraine may lead to more criminal enforcement actions going forward. Global Affairs Canada in April 2022 took the unprecedented step of reminding Canadian businesses of their compliance obligations (see, for example, [Government of Canada: Advisory to Canadian Businesses on Canada's Sanctions Related to the Russian Invasion of Ukraine – Russian Invasion of Ukraine](#)).

Asset Freezes

Illustrating the impact of Canadian sanctions even in the absence of charges, the RCMP has reported that between 24 February 2022 and 9 August 2022, over CAD122 million of assets in Canada were effectively frozen and almost CAD300 million in financial transactions were blocked under the SEMA Russia Regulations alone (see [RCMP: Update on the Reporting of Frozen Assets under the Special Economic Measures Act – Russia Regulations](#)).

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