

(63) U.S. ECONOMIC SANCTIONS: CONCERNS FOR MARINERS.

The Office of Foreign Assets Control (“OFAC”) of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. Many of these programs directly impact mariners.

GENERAL CONCERNS FOR MARINERS:

U.S.-registered vessels and other vessels subject to U.S. jurisdiction, U.S. individuals (citizens or residents wherever located, and individuals located in the United States) and U.S. businesses (including their foreign branches and foreign firms’ U.S. locations) are generally prohibited from providing maritime transportation, vessel chartering, brokerage services, marine insurance, or reinsurance services involving:

- Unlicensed shipments of goods where the country of origin is subject to a trade embargo;
- Unlicensed shipments of goods to or from countries subject to a trade embargo;
- Carriage of passengers to or from Cuba, Libya and Iran;
- The carriage of passengers who are nationals of Cuba;
- Shipments of goods in which there is an interest of a target government or a Specially Designated National of a country subject to comprehensive sanctions or, in the case of Cuba, an interest of any of their nationals;
- Waterborne transportation services to unapproved locations in Angola;
- The purchase of services or bunkering at ports located within the territory of countries subject to a trade embargo.

It is important to note that U.S. sanctions programs vary considerably and what is prohibited with regard to one country may be permitted or licensable with regard to another.

GENERAL TRADE RESTRICTIONS BY COUNTRY:

The following summary provides a broad overview of trade sanctions administered by OFAC. In cases consistent with U.S. foreign policy, OFAC may issue licenses permitting transactions that would otherwise be prohibited. The exportation of pre-existing informational materials (such as books, publications, certain works of art, films etc.) is permitted to all countries except Iraq.

Please note that certain transactions may also be subject to licensing requirements of other U.S. government agencies (e.g. U.S. Departments of Commerce, State or Energy).

CUBA- No exportation or reexportation of goods, services, or technology to Cuba, except food, medicine, medical equipment, or agricultural commodities licensed by the U.S. Department of Commerce; no importation of goods or services from Cuba; no dealing in Cuban-origin goods or in property in which the Government of Cuba or a Cuban national has an interest; no brokering of Cuban trade contracts; no use, brokering, or insuring of Cuban-owned vessels. No vessel that enters a Cuban port to engage in the trade of goods or the purchase of services may enter a U.S. port to load or unload freight for a period of 180 days following departure from Cuba. No vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest may enter a U.S. port with such goods or passengers on board. Travel-related transactions in Cuba require an OFAC license.

NORTH KOREA- Goods of North Korean origin may not be imported into the United States either directly or through third countries, without prior notification to and approval from OFAC.

LIBYA- No exportation of goods, services, or technology to Libya, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC; no importation of goods or services from Libya; no dealing in Libyan-origin goods for export to another country or in property in which the Government of Libya has an interest; no brokering of Libyan trade contracts. Travel and transportation-related transactions to, from, and in Libya require an OFAC license.

IRAN- No exportation or reexportation of goods, services, or technology to Iran, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC (general or specific license); no importation of goods or services from Iran, nor dealing in Iranian-origin goods, except for foodstuffs intended for human consumption (that are classified under chapters 2-23 of the Harmonized Tariff Schedule of the U.S.) and carpets and other textile floor coverings (that are classified under chapter 57 or heading 9706.00.60 of the Harmonized Tariff Schedule of the U.S.); no facilitation of foreign nationals’ transactions with Iran; no brokering of unauthorized Iranian trade contracts.

(63) U.S. ECONOMIC SANCTIONS: CONCERNS FOR MARINERS. (Continued).

IRAQ- No exportation or reexportation of goods, services, or technology to Iraq; no importation of goods or services from Iraq; no dealing in Iraqi-origin goods or in property in which the Government of Iraq has an interest; no brokering of Iraqi trade contracts; no transfers to persons in Iraq; participation in UN "Oil for Food Program" involving purchases of oil and sales of food and medicine requires an OFAC license. Travel and transportation-related transactions to, from, and in Iraq require an OFAC license.

SUDAN- No exportation or reexportation of goods, services, or technology to Sudan, except agricultural commodities and products, medicine, or medical equipment licensed by OFAC; no importation of goods or services from Sudan; no dealing in Sudanese-origin goods or in property in which the Government of Sudan has an interest; no facilitation of foreign nationals' transactions with Sudan; no brokering of Sudanese trade contracts.

FEDERAL REPUBLIC OF YUGOSLAVIA MILOSEVIC/BALKANS- No exportation or reexportation of goods, services or technology to designated family members, supporters and members of the regime of former President Slobodan Milosevic or to persons deemed to be destabilizing the Western Balkans region; no importation of goods, services or technology and no brokering or other facilitation of trade with such designated persons; no dealing in property in which such designated persons have an interest. These individuals can be found on OFAC's list of Specially Designated Nationals and Blocked Persons (see below).

ANGOLA (UNITA)- No exportation of arms, arms materiel, petroleum, petroleum products, aircraft, or aircraft components, mining equipment, motorized vehicles, watercraft, spare parts for motorized vehicles or watercraft, mining services, or ground or waterborne transportation services to UNITA or unapproved locations in Angola; no dealings in property in which UNITA has an interest; no importation of uncertified diamonds from Angola.

BURMA (Myanmar)- No new investment that includes the economic development of resources in Burma; most trade in goods, services authorized.

LIBERIA- Prohibition on the direct or indirect importation of rough diamonds from Liberia.

SIERRA LEONE- Prohibition on the direct or indirect importation of rough diamonds not controlled through the Certificate of Origin Regime of the Government of Sierra Leone.

SYRIA- No receipt of unlicensed donations from the Government of Syria by U.S. persons; no financial transaction in which a U.S. person knows or has reasonable cause to believe poses a risk of furthering terrorist acts in the United States; normal commercial transactions not affected.

WEAPONS OF MASS DESTRUCTION- No importation of goods, technology, or services produced or provided by certain foreign persons designated by Secretary of State for having promoted the proliferation of weapons of mass destruction.

SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS (SDNs)

As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." U.S. persons are generally prohibited from dealing with SDNs and any property or assets in which an SDN has an interest must be blocked if under the control of a U.S. person.

OFAC JURISDICTION:

All U.S. citizens and permanent residents, companies organized in the United States, foreign branches of U.S. companies, individuals and entities located in the United States (including domestic affiliates of foreign companies), are subject to OFAC regulations. Furthermore, foreign subsidiaries of U.S. companies must comply with the sanctions against Cuba and North Korea. Such persons may not facilitate or assist foreign companies (e.g., as financiers, brokers, or other intermediaries) with transactions in which they themselves could not participate directly, and U.S. employees of foreign companies must ensure that they do not engage in transactions on behalf of their employer which would be prohibited if the company was American. Vessels subject to U.S. jurisdiction include:

(63) U.S. ECONOMIC SANCTIONS: CONCERNS FOR MARINERS. (Continued).

U.S. flag vessels;
vessels owned or controlled by U.S. companies;
vessels within U.S. waters;
for sanctions against Cuba and North Korea, vessels owned or controlled by foreign subsidiaries of U.S. companies.

SANCTIONS VIOLATIONS-THE PENALTIES:

Potential civil and criminal penalties, as well as the associated negative publicity resulting from a company's violation of U.S. sanctions, can prove to be strong motivational factors in getting a company to devote the appropriate time and resources to implementing quality OFAC compliance procedures. Civil penalties range from \$11,000 to \$1,000,000 per violation; criminal violations of the statutes administered by OFAC can result in corporate and personal fines of up to \$10 million and 30 years in prison.

OFAC LICENSING:

OFAC has the authority to authorize transactions that would otherwise be prohibited under specific sanctions provisions. OFAC's Licensing Division reviews all license applications on a first-in, first-out, case-by-case basis and issues or denies licenses based on U.S. foreign policy and national security goals. The OFAC Licensing Division can be reached at by telephone (202) 622-2480 and by fax (202) 622-1657.

KEEPING CURRENT ON OFAC SANCTIONS PROGRAMS:

All of OFAC's public information documents are updated whenever there is a change to an existing program, or when a new program is announced. OFAC recommends that U.S. persons stay current on OFAC sanctions programs by utilizing some of the following user-friendly electronic resources:

World Wide Web (WWW) Home Page on the Internet- All of OFAC's program "brochures," as well as SDN information, are available free in downloadable camera-ready Adobe Acrobat® "*.PDF" format over the Treasury Department's World Wide Web Server. At the top of the home page, the date of OFAC's last change is displayed and a "What's New" file summarizes the latest sanctions developments. Access is also provided to statutes, United Nations resolutions, Executive Orders, actual *Federal Register* notices, and the entire *Code of Federal Regulations* dealing with OFAC. There are two listserv email subscription services available to the public on the site (see below). OFAC's Home Page site is <http://www.treas.gov/ofac>.

E-mail Subscription Service- OFAC offers two e-mail subscription services that provide subscribers with notices about changes and updates to OFAC's website. These voluntary services allow users to subscribe via the OFAC home page (<http://www.treas.gov/ofac>) to one of two separate distribution lists: financial operations bulletins geared toward the financial community, or "What's New" notices geared toward the general public (including exporters & importers, practicing attorneys, and researchers).

OFAC Fax-on-demand Service- OFAC operates a free automated fax-on-demand service, which can be accessed 24 hours a day, seven days a week, by dialing 202/622-0077 from any touch tone phone and following voice prompts. The Index lists all of the documents OFAC makes available by fax, and indicates the date each document was last updated.

U.S. Maritime Administration's Website- The U.S. Maritime Administration's website at <http://marad.dot.gov> contains a special link to OFAC's brochures and information, including a flashing indicator of latest updates.

U.S. Government Printing Office's The Federal Bulletin Board- The U.S. Government Printing Office operates a free bulletin board called "The Federal Bulletin Board" which can be accessed 24 hours a day, 7 days per week, by direct dialing 202/512-1387 from a modem using any communications software or using the Internet to connect to <http://fedbbs.access.gpo.gov>.

(63) U.S. ECONOMIC SANCTIONS: CONCERNS FOR MARINERS. (Continued).

U.S. Customs Service's Customs Electronic Bulletin Board- The U.S. Customs Service maintains a free Customs Electronic Bulletin Board geared especially toward Customs House Brokers. OFAC's information is available as a date-specific self-extracting DOS file ("OFAC*.EXE" in File Area #15, "Customs Extra!"). Modem access is at 703/440-6155 with voice system support at 703/440-6236.

QUESTIONS-THE OFAC COMPLIANCE HOTLINE:

If you have any questions regarding OFAC-administered sanctions programs, call OFAC's Compliance Hotline at 1-800-540-6322 [(202) 622-2490] on weekdays from 7:30 a.m. to 7:00 p.m. eastern time. OFAC also has a Miami branch office with a special bi-lingual hotline relating to information on the Cuban embargo which can be reached by telephone at (305) 810-5170.

NOTE: *This overview is meant to alert mariners to potential issues arising under U.S. sanctions and does not have the force of law. Reference should be made to the controlling legal authorities to determine the applicability of specific prohibitions, exceptions, and licensing provisions. The regulations governing OFAC sanctions programs are found in chapter V of title 31, Code of Federal Regulations. Prior to the issuance of regulations, a new OFAC sanctions program is governed by the relevant Presidential Executive order imposing sanctions and delegating implementation authority to the Secretary of the Treasury.*

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(DEPT. OF TREASURY)

(64) MARITIME INDUSTRY REPORTING OF A SUSPECTED OR ACTUAL TERRORIST INCIDENT

In addition to oil and hazardous substance releases, the National Response Center (NRC) must be notified of any suspected or actual terrorist incident (e.g., chemical, radiological, biological, or etiological discharge into the environment) anywhere in the United States and its territories, particularly one affecting transportation systems. Coast Guard units that receive reports of suspected or actual incidents should ensure such reports are reported to the NRC at 800-424-8802 or 202-267-2675. Individuals are encouraged to visit the NRC website (<http://www.nrc.uscg.mil>) for reporting requirements and other helpful information.

(USCG)