

Sanctions

Overview of Sanctions

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Chapter 7 of the United Nations charter allows the Security Council to take measures to deal with “threats to the peace, breaches of the peace, and acts of aggression.” Among those measures are economic and other sanctions, which are often a useful way to coordinate international efforts in the face of a particular threat or crisis situation. Sanctions also offer strategic guidance for foreign policies related to export, import, licensing, and similar commercial matters.

The United States imposes a variety of sanctions, some through executive order and others through legislation. Watch lists, such as those used for intelligence purposes or in connection with travel and immigration, go beyond the list of sanctioned entities to include those under suspicion and with indirect connections, such as friends and families of those on sanctions lists. In addition, a variety of sanctions control international trade and commerce. The Department of State cooperates with other agencies and is directly responsible for economic sanctions through the Office of Terrorism Finance and Economic Sanctions Policy. The State Department is also responsible for designating state sponsors of terrorism and for placing certain controls on trade and aid.

The use of sanctions in the United States has a long history. They were first used in 1773 when the colonials embargoed British tea to protest their presence and prevent tea importation. These sanctions did not prevent that war, and experience of their use since has indicated that when sanctions are broadly directed, they often have a negative impact on the general population. Having learned from experience, governments and multilateral organizations now impose sanctions more narrowly. For example, they may target a particular individual with restraints on travel and trade.

The sanctions imposed on the Taliban are a good example of “smart sanctions.” *Patterns of Global Terrorism 2000* described them:

United Nations Security Council Resolution 1333, passed in December 2000, targets the Taliban regime in Afghanistan. The Taliban ignored its obligations under UN Security Council Resolution 1267 (passed in Novem-

ber 1999) and has continued to provide shelter to Usama Bin Ladin. In UN Security Council Resolution 1333, the Security Council:

- Demands the Taliban comply with Resolution 1267 and cease providing training and support to international terrorists.
- Insists the Taliban turn over indicted international terrorist Usama Bin Ladin so he can be brought to justice.
- Directs the Taliban to close all terrorist camps in Afghanistan within 30 days.
- Until the Taliban fully complies with its obligations under this resolution and Resolution 1267, member states of the United Nations should:
 - Freeze the financial assets of Usama Bin Ladin.
 - Observe an arms embargo against the Taliban that includes a prohibition against providing military weapons, training, or advice.
 - Close all Taliban offices overseas.
 - Reduce the staff at the limited number of Taliban missions abroad.
 - Restrict travel of senior Taliban officials except for the purposes of participation in peace negotiations, compliance with the resolution, or for humanitarian reasons, including religious obligations.
- Ban the export to Afghan territory of a precursor chemical, acetic anhydride, which is used to manufacture heroin.
- Close all offices of Ariana Afghan Airlines and ban all nonhumanitarian assistance flights into and out of Afghanistan. Broad exemptions are given to humanitarian flights operated by, or on behalf of, nongovernmental organizations and government relief agencies providing humanitarian assistance to Afghanistan.

The sanctions imposed by these two resolutions are targeted sanctions. They are not economic sanctions.

- These “smart sanctions” provide for broad humanitarian exemptions to avoid harming the Afghan people.
- They permit private-sector trade and commerce, including food, medicine, and consumer products.
- They permit, without impediment, the work of the humanitarian organizations providing assistance to the civilian population of Afghanistan.

- They permit Afghans to travel by air for urgent humanitarian reasons and to fulfill their religious obligations, such as the hajj, including on the banned Ariana Afghan Airline. The UN Sanctions Committee already has approved about 200 flights for 13,000 Afghans in 2001 for this purpose. The Committee never has denied a request for a legitimate humanitarian waiver.
- They permit Taliban officials to travel abroad to participate in a peace process and to discuss fulfilling the demands of the Resolutions.

Additional background on the use of economic sanctions can be found in “Economic Sanctions to Achieve U.S. Foreign Policy Goals,” the Congressional Research Services report found later in this section.

Sanctions Lists

The following lists deal with various types of sanctions imposed by the U.S. government. They have been instituted, by legislation or executive order, in response to particular threats—with the aim of preventing conflict, encouraging rebuilding, and intervening in commercial transactions to prevent their abuse.

Debarred List

The Department of State’s Directorate of Defense Trade (DDTC) Bureau of Political-Military Affairs controls the “List of Parties Debarred for Arms Export Control Act Convictions” (the Debarred List), in accordance with laws that control defense trade exports and matters related to defense trade compliance, enforcement, and reporting.

This list contains identifying information concerning entities and individuals that have violated the Arms Export Control Act (1994) and are therefore subject to statutory debarment—arms are not to be exported to them. It does not include those who have been debarred for other export violations or who have been administratively debarred by violating a rule or regulation.

Denied Persons List

The U.S. Department of Commerce’s Bureau of Industry and Security (BIS) manages the list of people whose privilege to export, or to re-export goods that had earlier been imported, has been denied.

Entity List

BIS also manages a list of foreign end users believed to pose an unacceptable risk of diverting U.S. exports, particularly those containing dual-use technology, to alternate destinations where they could be used to develop weapons of mass destruction.

Unverified List

In addition, BIS maintains what is known as the Unverified List. This list includes the names and countries of foreign persons who in the past were parties to exports and imports or for which BIS could not conduct a pre-license check or a post-shipment verification for reasons outside of the U.S. government’s control. (Individual shipments are also subject to verification rules, but in small volumes these are “self-certified,” by filling out the customs form and answering questions put to a person at the post office or airport. In all cases, enforcement officials have the right to question and examine the shipper. The difference is one of scale, with BIS handling commercial transactions that use a longer form to accommodate to greater scale.) People on this list are “red-flagged” for additional scrutiny when they attempt such transactions in the future.

List of Foreign Terrorist Organizations

The secretary of state designates groups as foreign terrorist organizations (FTOs) if they conduct terrorism and threaten the interests of the United States. Once a group is designated an FTO, the U.S. government can block (freeze) its assets in U.S. financial institutions, criminalize provision of material support to it, and block visas for its members without having to show that those members were involved in specific terrorist activities.

Terrorist Exclusion List

Among its many provisions, the comprehensive counterterrorism bill known as the USA PATRIOT Act (Public Law 107-56, 2001) authorized that the Secretary of State, in consultation with or at the request of the Attorney General, create a Terrorist Exclusion List (TEL) with immigration consequences for groups named therein. Aliens who provide material assistance to organizations listed on the TEL, or who solicit such assistance from others, may be denied entry to the United States or deported.

Specially Designated Nationals List

The list of Specially Designated Nationals and Blocked Persons (SDNs) is produced by the Department of the Treasury’s Office of Foreign Assets Control (OFAC). The history of OFAC began before the War of 1812. During the Civil War, and the two World Wars, OFAC crafted various measures to apply economic pressures in conflicts. Today its measures extend to terrorist and other unconventional threats, as well as economic measures to encourage humanitarian reforms and other policy goals.

Organizations listed as SDNs can include front companies or parastatal entities that are owned, controlled by, or

acting for or on behalf of targeted countries or groups. Individuals on the list may include terrorists or narcotics traffickers and others so designated. U.S. citizens and people under the jurisdiction of the United States are prohibited from engaging in any transactions with SDNs and must block any property in their possession or under their control in which an SDN has an interest.

An OFAC designation is very powerful and essentially blocks all transactions between the designated entity and any U.S. entity. SDNs may retain ownership of the blocked property, but they cannot exercise the powers and privileges associated with ownership without OFAC authorization. All U.S. citizens and permanent residents as well as corporations and their branches worldwide must comply with OFAC regulations, regardless of whether or not they are located inside the United States. (For more details, see the later section on “Terrorist Financing” and Part 3, “Country Reports 1985–2004”).

List of State Sponsors of Terrorism

The secretary of state can designate a government as a state sponsor of terrorism if that government “has repeatedly provided support for acts of international terrorism” (U.S. Code 22, 1998, Sec. 2780). U.S. law requires the imposition of various sanctions on a state so designated. The four main categories of sanctions are bans on arms-related exports and sales; restrictions on exports of dual-use items (items that have both military and nonmilitary applications); prohibitions on official U.S. government economic assistance (except humanitarian assistance), including a requirement that the government oppose multilateral bank assistance; and imposition of miscellaneous trade and other restrictions. The six countries on the list at present are Cuba, Iran, Libya, North Korea, Sudan, and Syria. (Iraq was removed in October 2004.) For more details, see the section on “State Sponsors of Terrorism.”