



cyril amarchand mangaldas
ahead of the curve

Navigating Trade Restrictions - India's approach to Sanctions and Export Controls

A Cyril Amarchand Mangaldas Thought Leadership Publication



**Navigating Trade Restrictions - India's approach to
Sanctions and Export Controls**

published by Cyril Amarchand Mangaldas.

This Handbook has been updated till March 31, 2025.

This publication is not intended to be used as the basis for trading in the shares of any company or for undertaking any other complex or significant financial transaction without consulting appropriate professional advisers. No part of this publication may be copied or redistributed in any form without the prior written consent of Cyril Amarchand Mangaldas.

Copyright © 2025 Cyril Amarchand Mangaldas.
All rights reserved.



A Thought Leadership Publication

We now present this handbook to enable readers to have an overview of the systems and legal rules and regulations that are essential for business operations in India.

Index

Introduction	6
A Overview of India’s Sanctions and Export Controls Regime	7
B Application and Scope of Sanctions and Export Control Regimes	9
C Enforcement and Regulatory Framework	12
D Consequences of Breach	14
E Introduction of International Trade Settlement in Rupees	15
F Compliance and Risk Assessment	17
G Compliance Measures to be Undertaken	19

Introduction

Countries impose export controls and economic sanctions measures against foreign countries, entities, and individuals to achieve a variety of foreign policy and security objectives, or as a result of the decisions of international bodies such as the United Nations Security Council (**UNSC**).

Sanctions are political, diplomatic, or economic measures under International law, deployed by an International organisation or States against a State or States either to protect national security interests, or to protect international law, and defend against threats to international peace and security. Sanctions can be economic, targeting specific commodities, trades, etc., military, diplomatic, and also include travel bans, asset freezes, or arms embargoes. These are essentially foreign policy tools deployed by governments and international organizations or trade regulation bodies to govern or alter the strategic decisions of state and non-state actors that threaten their interests or violate international norms of behaviour. Economic sanctions often constitute a withdrawal from customary trade and financial relations for foreign policy and national security purposes.

Export controls, on the other hand, limit the transfer of goods and technologies between countries or, in some cases, between different parties within a single country, or between persons of different nationalities within a country. The relevant export controls may include not only the country that the items are in, but also the country where the items originated. Export control regulations typically require exporters to obtain licenses for controlled items, which are listed in government-maintained export control lists. These lists classify controlled items, destinations, and end-users, often derived from international agreements and multilateral export control regimes. Controlled items may include military equipment and dual-use goods, sensitive technologies and software, cryptography products, certain chemicals and materials and cultural artifacts and endangered species, etc.

A

Overview Of India's Sanctions And Export Controls Regime

1. India's export controls and sanctions regime is shaped by its commitment to non-proliferation, international security obligations, and strategic trade management. The country maintains a harmonized export control framework for dual-use and military items, including software and technologies with civilian and military applications. Export restrictions are governed by various legislations such as the Weapons of Mass Destruction and their Delivery Systems Act, the Foreign Trade (Development & Regulation) Act (**FTDR Act**) by the Director General of Foreign Trade (**DGFT**), and the Customs Act, among others. India is also a member of key multilateral export control regimes, including the Missile Technology Control Regime and the Wassenaar Arrangement.
2. On the sanctions front, India enforces both, sanctions mandated by UNSC as well as autonomous sanctions. The basis for United Nations (**UN**) sanctions under international law derives from Chapter VII of the UN Charter, and more specifically, Article 41, which covers enforcement measures not involving the use of armed force.¹ In terms of principal objectives sought by the UNSC, the use of sanctions can be grouped into five main categories: conflict resolution, non-proliferation, counterterrorism, democratization and the protection of civilians (including human rights).² The UNSC can take action to maintain or restore international peace and security under Chapter VII of the United Nations Charter. UNSC sanctions have taken different forms in pursuit of a variety of goals. The measures have ranged from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans, and financial or commodity restrictions. The Security Council has applied sanctions to facilitate peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation. Examples of UNSC regimes includes, Counterterrorism (UNSC 1373) sanctions regime; Democratic People's Republic of Korea (North Korea) sanctions regime; Former Federal Republic of Yugoslavia sanctions regime.³

¹ *Security Council Report, Monthly forecast*, SECURITY COUNCIL REPORT, (Jan 2023), SCR-SRR-sanctions-p5d4.indd (securitycouncilreport.org).PublicationReportDetails.aspx?ID=1195

² *Id.*

³ *Id.*

- Under the United Nations (Security Council) Act, 1947 (**UNSCA**), India has the authority to take measures to implement UNSC resolutions through amendments to the Foreign Trade Policy (**FTP**), administered by the DGFT under the FTDR Act. Autonomous sanctions may include arms embargoes, restrictions on nuclear and ballistic missile-related materials, or prohibitions on other UN-specified goods. In addition, Indian government departments such as the Ministry of Home Affairs (**MHA**), Ministry of Corporate Affairs, and the Finance Ministry can impose further trade restrictions, including tariffs on certain countries and bans on software applications or telecommunications channels under laws like the Foreign Exchange Management Act, 1999, and the Information Technology Act, 2000.



B

Application and Scope of Sanctions and Export Control Regimes

1. Sanctions Regime

- a. The Indian sanctions regime targets individuals and entities that have been listed by the UN and under UAPA as well as against specific individuals, organisations, or countries. The sanctions imposed by India can generally be classified into two categories:
 - ▮ Trade / economic sanctions in respect of exports from and imports into India, and
 - ▮ Sanctions relating to the security and integrity of India.
- b. Under the relevant provisions, the sanctions measures must be complied with by any person in India or doing business in India.
- c. Under Section 2 of the UNSCA⁴, the Indian Government may pass provisions with extra-territorial operation to give effect to the UNSC Resolutions as may be necessary or expedient to do so. Currently, economic sanctions by India against Iraq, Iran, Somalia and North Korea, are as follows-
 - ▮ The import/export of Arms and related material from/to Iraq is 'Prohibited'. However, export of Arms and related material to Government of Iraq is permitted, subject to a 'No Objection Certificate' from the Department of Defense Production.
 - ▮ Trade with the Islamic State in Iraq and the Levant (**ISIL**, or **Daesh**), Al Nusra Front (**ANF**) and other individuals, groups, undertakings, and entities associated with Al Qaida is prohibited.
 - ▮ Direct or indirect import/export from/to Democratic People's Republic of Korea, import of charcoal from Somalia is prohibited.

⁴ The U.N. Prevention and Suppression of Terrorism (Implementation of Security Council Resolutions) Order, 2007, (**MHA Order**) issued by MHA notifies the implementation of the UN Sanctions list in India under the UAPA. The Schedule under UAPA enumerates the list of entities sanctioned under the UAPA that inter-alia includes organizations listed MHA Order made under Section 2 of UNSCA.

Notably, the UAPA provides for punishment for offences committed outside India. It provides that: "Any person, who commits an offence outside India, which is punishable under this Act, shall be dealt with according to the provisions of this Act in the same manner as if such act had been committed in India."

- ⌞ Direct or indirect import to Iran or import of specified items, materials or goods from Iran is restricted.⁵

2. Export Controls Regime

- a. India's export controls are governed by a comprehensive legal and regulatory framework designed to regulate and monitor the export of specific goods and technologies, particularly those with dual-use applications—items that can serve both civilian and military purposes. The primary legislation underpinning these controls is the FTDR Act, complemented by the FTP, which is periodically updated to adapt to global trade dynamics.
- b. Central to India's export control regime is the Special Chemicals, Organisms, Materials, Equipment, and Technologies (**SCOMET**) list. This list categorizes items subject to export restrictions, encompassing a broad range of goods from nuclear materials to advanced technologies. Exporters dealing with SCOMET-listed items must obtain licenses from DGFT prior to export. The DGFT assesses applications in consultation with an Inter-Ministerial Working Group, ensuring that exports align with national security and international non-proliferation commitments.⁶
- c. The scope of India's export controls extends beyond its borders, applying to:
 - ⌞ All of India, including Special Economic Zones (**SEZs**).
 - ⌞ Indian citizens residing abroad.
 - ⌞ Companies or corporate bodies registered in India

3. Secondary Sanctions and foreign export controls

- a. Secondary sanctions are punitive measures imposed by a country, notably the United States (**U.S.**), on foreign entities that engage with sanctioned nations or organizations. Unlike primary sanctions, which directly target specific countries or entities, secondary sanctions aim to deter third-party nations and businesses from conducting business with those under primary sanctions. Sanctions may be comprehensive and non-comprehensive. Comprehensive sanctions prohibit commercial activity with regard to an entire country, for instance the US embargo against Cuba, or they may be targeted, blocking transactions by

⁵ Sanctions-India-A Q&A Guide, LEXIS NEXIS (August 31, 2022) <https://www.lexisnexis.co.uk/legal/guidance/sanctions-india-q-a-guide>.

⁶ Directorate General of Foreign Trade | Ministry of Commerce and Industry | Government of India.

and with particular businesses, groups, or individuals. On the other hand, non-comprehensive sanctions target specific activities or areas, but do not generally target an entire geographic region. Non-comprehensive sanctions also target activities that are not confined to a country or area, such as drug trafficking and terrorism. Indian companies, particularly in the financial and energy sectors, have faced increased scrutiny under U.S. secondary sanctions, especially concerning transactions involving Iran and Russia.

- b. Indian businesses must also be cognizant of foreign export controls, such as those enforced by the U.S. Bureau of Industry and Security (**BIS**). The BIS oversees the Export Administration Regulations (**EAR**), which control the export of dual-use items—goods and technologies with both civilian and military applications.⁷ Indian companies may face exposure to these export controls if they are engaged in the following:
 - ⌞ Reexports of U.S. origin items
 - ⌞ Manufacturing items that are direct products of some U.S. origin technology or software
 - ⌞ Deemed Exports or transferring of controlled U.S. technology or source code to foreign nationals, including Indian citizens, within the U.S.
 - ⌞ Engaging in transactions with entities listed on the BIS Entity List without proper authorization.

⁷ [About Export Administration Regulations \(EAR\) | Bureau of Industry and Security](#)



Enforcement and Regulatory Framework

1. Relevant authorities

- a. Please note that India has a licensing or authorisation system in place; the FTP and certain other sector-specific regulations restrict or regulate the import and/or export of certain goods and/or services and require that such export or import may be made in accordance with the licenses granted by the DGFT.
- b. The trade restrictions are outlined in the FTP and is notified from time to time, as the case may be, by the DGFT. The SCOMET list is a critical component of the FTP, specifying the items that are subject to export controls. Exporters dealing with SCOMET-listed items must obtain licenses from the DGFT.
- c. Regulators such as Reserve Bank of India (**RBI**), Securities and Exchange Board of India (**SEBI**), Insurance Regulatory and Development Authority of India (**IRDAI**) are responsible for compliance of the sanctions imposed pursuant to the UNSC Resolutions and FTP by entities in India. Further to the FTP, the RBI, and the SEBI may notify any applicable compliance requirements further to the FATF Guidelines to enforce compliance of anti-money laundering and counter-terrorist financing (**AML/CFT**) policies and prevent transactions enabling such activities. For export controls, in addition to the DGFT, the Inter-Ministerial Working Group evaluates export license applications for SCOMET items, ensuring that exports align with national security interests and international obligations.
- d. Additionally, the Financial Intelligence Unit-India (**FIU-IND**) is responsible for receiving, processing, and analyzing suspicious transaction reports (**STRs**) from regulated entities to combat money laundering and terrorist financing and the Central Board of Indirect Taxes and Customs (**CBIC**) monitors and prevents trade of sanctioned goods/entities through customs enforcement.
- e. Indian entities may be exposed to secondary sanctions as well as foreign export controls as explained above. The relevant authorities are the U.S. Office of Foreign Asset Control (**OFAC**) is for implementing and enforcing the sanctions programs and BIS for export controls of the U.S.

2. Enforcement

- a. SEBI issues updates in alignment with UNSC pertaining to the addition, amendment or removal of entries in the UNSC's 1267/1989 ISIL (Da'esh) & Al-Qaida Sanctions List: Further to the UN Sanctions List and underlying policy framework implemented by the Indian Government under the FTP, and Section 51A, UAPA, regulated bodies are required to monitor and report entities that are listed in the aforementioned UN List.
- b. The penalties for violation of the FTP are provided in the Foreign Trade Regulation Act, 1992. Penalties include fines and potential imprisonment in certain cases.
- c. Under Section 51A of the UAPA, the Central Government is empowered to freeze, seize, or attach funds of and/or prevent entry into or transit through India any individual or entities that are suspected to be engaged in terrorism. Additionally, further to the FATF guidelines on AML/CFT Compliance, RBI also provide guidelines with respect to conduct of business and transactions with countries falling under FATF's Grey List, etc.
- d. IRDAI has also issued the Master Guidelines on Anti-Money Laundering/Counter Financing of Terrorism (**AML/CFT**), 2022'. These guidelines emphasize the importance of customer due diligence, reporting obligations, and record-keeping requirements. They remain applicable to all classes of life, general, or health insurance businesses.

D

Consequences of Breach

1. Where any person attempts, makes or abets the carrying out of any import or export in contravention of the provisions of the FTDR Act, 1992 and the FTP, that person will be liable to a penalty of not less than INR 10,000 and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more. The person may also be liable to a penalty under the Customs Act 1962, which includes imprisonment.
2. Without prejudice to any other penalty which may be imposed, in the case of a contravention relating to specified goods, services or technologies (as defined in the FTDR Act), the penalty will be in accordance with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act 2005, which includes imprisonment. To summarise, non-compliance with export regulations can result in:
 - a. The suspension or cancellation of the importer-exporter code and export licence.
 - b. Penalties not amounting to less than INR 10,000 and not more than five times the value of the goods, services or technology in respect of which any violation is made or attempted to be made (whichever is higher).
 - c. Other penalties under the Customs Act 1962.

E

Introduction of International Trade Settlement in Rupees

RBI has allowed the invoicing of international trade in Rupees, in efforts to keep the Indian currency stable and reduce the use of the US Dollar.⁸ A Rupee Vostro account is a foreign bank's account with an Indian bank in rupees in India. Foreign parties will be able to send and receive money to and from Indian exporters and importers via these Rupee Vostro accounts. On the other hand, a Nostro account refers to an Indian bank's account with a foreign bank in foreign currency in the foreign country. Vostro and Nostro account accept payments in rupees, and authorised dealer banks will be able to open special Rupee Vostro accounts. All exports and imports under this arrangement may be denominated and invoiced in rupee (**INR**) and the exchange rate between the currencies of the two trading partner countries may be market determined.

The RBI had previously allowed settlement of international trade in Rupees in wake of the 2019 OFAC sanctions against Iran by setting up an alternative 'rupee-rial' trading mechanism for its crude oil purchases. Under this arrangement, Iran opened a bank account with an Indian Bank with no exposure to the US financial system, and the same was used to make payments in rupees.

The Indian position is that India "will abide by UN sanctions", and is "not duty-bound to implement unilateral sanctions by the US and the EU."⁹ The Government of India issues notifications from time to time to impose sanctions, which may be against specific individuals, organisations, or countries Sanctions on Russia due to its war on Ukraine, and the West subsequently cutting off Russia from the Society for Worldwide Interbank Financial Telecommunications (**SWIFT**) payments system is likely one of the motivating factors behind this decision. The 2022 decision to allow international trade settlement in rupees is aimed at easing trade with Sri Lanka, which is running low on forex reserves, and Russia, which cannot make payments in US dollars due to sanctions by the West.

⁸ RBI sets up system to settle trade in rupees, THE HINDU, (June 11,2022), <https://www.thehindu.com/business/Economy/rbi-sets-up-system-to-settle-trade-in-rupees/article65627987.ece#:~:text=The%20Reserve%20Bank%20of%20India,the%20regulator%20to%20facilitate%20this>.

⁹ RBI's gameplan for conducting international trade settlements in rupees (Jul 15,2022), LIVEMINT, <https://mintgenie.livemint.com/news/mar-kets/rbi-s-gameplan-for-conducting-international-trade-settlements-in-rupees-151657851763522>.

Trade settlement in INR with countries where India has trade surplus is expected to be beneficial, but settlement with trade deficit countries is likely to be difficult unless a strong line of credit mechanism is also put in place. RBI would also need to permit seamless setoff of trade payables against service receivables and vice versa to make this arrangement successful. This step would also help support trade with countries such as African and South American countries and neighbouring Sri Lanka that have little access to other currencies.

It is important to note that non-compliance with OFAC sanctions may be subject to 'secondary sanctions', hence, before proceeding with any commercial activity that may be subject to sanctions, it is important to review the touchpoints for concerned jurisdictions.



F

Compliance and Risk Assessment

It is important that Indian businesses operating globally are aware of the potential ways in which sanctions or export controls violation may be triggered. Preventative actions may be taken to avoid such violations if timely risk assessment is undertaken.

1. Sanctions

- a. Sanctions may apply to non-U.S. persons and entities who have significant investments, interests or assets in sanctioned regions and sectors. Furthermore, OFAC is authorised to block non-U.S. persons and entities from the U.S. financial system where such a person or entity is engaging in activities prohibited by the sanctions program.
- b. Based on the regulatory and legislative developments across the world, it is imperative for entities and individuals involved in business in the sanctioned regions or with designated individuals to assess and address the extent of their exposure. In view of the complications, it may be prudent to explore exit option where necessary. It is also important to ensure compliance with the relevant sanctions programme and export controls, as may be applicable, based on territoriality or facilitation rule. Furthermore, it is important to carry out all necessary due diligence before pursuing any continuing or new transactions.
- c. Sanctions programmes generally include exemptions to allow:
 - ▮ general licences that, among other things, permit humanitarian aid such as food, medicine, medical equipment, etc., and legal representation to defend against embargo, and
 - ▮ specific licences that permit specific transactions post OFAC review and approval.
- d. Additionally, it may be helpful to ensure that the end-user or beneficiary of any good supplied or services provided are not on the Specially Designated Nationals (**SDN**) List or the Sectoral Sanctions Identifications (**SSI**) List by enhancing the customer KYC and due diligence measures. In view of the developments, it may be helpful to screen further transactions in the regions to assess the beneficiaries and owners of counter-parties and customers. Furthermore, in the event of a red flag or potential trade with a designated entity, appropriate disclosures may be required under the law.

2. Export Controls

- a. Non-U.S. importing, exporting or reexporting U.S.-origin technologies or products must ensure compliance with EAR to avoid penalties. Indian companies must implement comprehensive internal compliance programs. These programs should encompass thorough due diligence processes to identify and classify U.S.-origin goods, software, or technology within their operations.
- b. Establishing robust screening mechanisms to vet customers and partners against restricted party lists, such as the BIS Entity List, is crucial. Additionally, staying informed about updates to export control laws and consulting with legal experts can help navigate the complexities of international trade regulations, thereby mitigating the risk of penalties and ensuring smooth business operations.



Compliance Measures to be Undertaken

It is advisable to seek legal counsel in this regard, prior to proceeding with a transaction with parties located in sanctioned regions. It is also recommended that organisations conducting businesses outside India have an internal compliance program to develop, implement, and routinely update a robust Sanctions and Export Controls Compliance Program, highlighting senior management commitment, encouraging a compliance culture, and training employees to understand and abide by the compliance program. Companies also need to implement necessary measures, policies, and procedures such as assessment of risks and identification of red flags to reduce potential violations and improve the system and internal controls by regular audits. An adequate and effective economic sanctions compliance by incorporating sanctions compliance training must focus on:

- i. Issuing and updating relevant compliance policies and procedures for economic sanctions and export controls reflecting current regulatory requirements;
- ii. Ensuring that such policies and procedures are clearly understood by relevant employees;
- iii. Ensuring regular appropriate training measures for relevant employees;
- iv. Regular reviewing of the procedures outlined in this Policy (at least annually) by the Legal and Compliance Department to ensure their effectiveness, identifying and intimating senior management of potential weaknesses as well as providing guidance wherever sanctions risks touchpoints/ red-flags are identified;
- v. Having a process in place for identifying, monitoring, and reporting suspected violations; and
- vi. Ensuring the maintenance of records as mentioned under this Policy and as prescribed by Regulators from time to time.

Corporations, including non-financial institutions, must have an effective sanctions compliance programme to manage their risk, which addresses legal, technological, operational and cultural aspects to ensure ongoing compliance with all relevant sanctions imposed by various governments and other bodies. Furthermore, corporations should carry out a risk assessment to assess their sanctions-related exposures, identify potential root causes, and implement mitigating procedures and controls.

The risk assessment is also key for scoping out the exposure to secondary and primary sanctions as well as export controls, if applicable. The findings of the risk assessment must then be incorporated into the wider internal compliance framework to ensure appropriate emphasis and attention from management. In case of any exposure, subsequent voluntary reporting to the appropriate authorities must be encouraged.



RISK

Management



Key Contacts

Cyril Shroff

Managing Partner
cyril.shroff@cyrilshroff.com

Faraz Alam Sagar

Partner (Co-Head - White Collar & Investigations)
faraz.sagar@cyrilshroff.com

Contributors

Faraz Alam Sagar

Partner (Co-Head - White Collar & Investigations)

Pallavi Choudhary

Principal Associate
Designate

Kinjal Sharma

Associate

Offices of Cyril Amarchand Mangaldas

mumbai

Peninsula Chambers,
Peninsula Corporate Park,
GK Marg, Lower Parel,
Mumbai – 400 013, India
T +91 22 6660 4455 F +91 22 2496 3666
E cam.mumbai@cyrilshroff.com

bengaluru

3rd Floor, Prestige Falcon Tower,
19, Brunton Road, Off M G Road,
Bengaluru – 560 025, India
T +91 80 6792 2000
E cam.bengaluru@cyrilshroff.com

chennai

11th Floor, Awfis, Prestige Palladium Bayan,
No.43/1 (Door No.129 to 140), Greams Road, Egmore,
Chennai – 600 006
T: +91 44 4904 2874
E cam.chennai@cyrilshroff.com

gift city

Cyril Amarchand Mangaldas – OFC,
415, Pragya Tower, GIFT City,
Gandhinagar – 382 355,
Gujarat, India
T +91 79 4903 9900 F +91 79 4903 9999
E cam.giftcity@cyrilshroff.com

abu dhabi

2459, Al Sila Tower, Abu Dhabi Global Market Square,
Al Maryah Island, Abu Dhabi, United Arab Emirates
(CAM Middle East)
E cam.abudhabi@cyrilshroff.com

delhi-ncr

Level 1 & 2, Max Towers,
C-001/A, Sector 16 B,
Noida – 201 301,
Uttar Pradesh, India
T +91 120 669 9000 F +91 120 669 9009
E cam.delhi@cyrilshroff.com

ahmedabad

Block A-1512, 15th Floor, Navratna Corporate Park,
Ambli Bopal Road, Bodakdev,
Ahmedabad – 380 058, India
T +91 79 3503 9999
E cam.ahmedabad@cyrilshroff.com

hyderabad

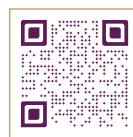
Ground Floor, AWFIS Ohris Tech Park, Plot No.13,
Survey 64/2, (New) Software Units Layout, Madhapur,
HiTech City, Hyderabad – 500 081, India
T: +91 40 4433 4323
E cam.delhi@cyrilshroff.com

singapore

61 Robinson Road,
#11-03, Singapore – 068 893
T +65 6329 2260
E cam.singapore@cyrilshroff.com
(CAM Singapore Pte Ltd., UEN: 202137213R)



www.cyrilshroff.com



www.cyrilshroff.com/blogs



cyril amarchand mangaldas
ahead of the curve