Administration of Canada’s Sanctions Regime Gets a Welcome Makeover

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What Is Changing

Global Affairs Canada (GAC) has established a new Sanctions Policy and Operations Coordination Division (the Sanctions Division) with a view to improving the effectiveness of the Canadian sanctions regime and streamlining its interactions with business and other stakeholders.

Senior GAC officials describe the primary objectives of the new division as:

1. Improving GAC's capacity to effectively apply sanctions as an instrument of Canada's foreign policy, and
2. Improving GAC's ability to work with stakeholders, including the private sector, to enhance understanding of and adherence to Canada's sanctions.

Among its early priorities, the Sanctions Division plans to review the effectiveness of existing sanctions and to provide clearer guidance to stakeholders on their application.

The Minister of Foreign Affairs is the statutory decision-maker under Canada’s sanctions laws and regulations.[1] Prior to the establishment of the Sanctions Division, sanctions administration had been handled by a legal unit within GAC, which had neither the mandate nor the resources to provide guidance to the public or to ensure that Canada’s sanctions regime was integrated with broader economic policy development. With the establishment of the new division, sanctions administration becomes the responsibility of policy and operations officials, as has long been the case for export controls.

Why It Matters

The changes are responsive to long-standing frustrations among those involved with sanctions compliance in Canada, regarding the absence of authoritative guidance for exporters of goods and services and financial institutions potentially affected by Canada’s ambiguously drafted sanctions regulations and inadequate resources devoted to their administration.

The changes were prompted in part by a spring 2017 report of the Parliamentary Standing Committee on Foreign Affairs and International Development.[2] The Committee recommended extensive changes to the administration of Canada's sanctions regime, including:

- Ensuring that Canadian sanctions are imposed in a "complementary and coherent manner";
- "Timely enactment, amendment, and repeal" of Canadian sanctions that arise from UN Security Council resolutions;
- "Properly resource and reform" government structures responsible for the sanctions regime "in order to effectively impose sanctions on targeted states and persons";
- Make available comprehensive written guidance to the public and private sectors "in order to maximize compliance" with sanctions; and
- Create a publicly available consolidated list of all individuals and entities targeted by sanctions that includes "all information necessary to assist with the proper identification of those listed."

The 2018 federal budget allocated funding to GAC to remedy this situation and upgrade the management of Canada's sanctions program.

The Sanctions Division has already refreshed the Q&A section of its website, taken over management of sanctions permit applications and set up a dedicated hotline to field inquiries about sanctions. The Division also plans to establish a consolidated sanctions list that will facilitate compliance by providing a single up-to-date listing of sanctioned persons under the more than 20 country-specific sanctions regulations administered by GAC.

Given the increased use of sanctions by Canada as a foreign policy tool over the past decade, this reorganization by GAC is a welcome development. Individual businesses and business organizations are encouraged to seek guidance from the new Sanctions Division on the government's interpretation of Canadian sanctions. Regular exchanges between businesses and the Sanctions Division will provide GAC with better information to assist in the design and implementation of sanctions in a manner that promotes the policy objectives of specific sanctions programs, while mitigating collateral impacts that increase compliance uncertainty and cost for business.

BLG's International Trade and Investment Group has the necessary experience to assist exporters and financial institutions to navigate complex sanctions issues and ensure compliance in a cost-efficient manner.

[1] *Special Economic Measures Act* and *United Nations Act* and regulations thereunder.

[2] BLG partner Milos Barutciski testified at the Parliamentary hearings and was quoted extensively in the report.

By

Milos Barutciski, Matthew Kronby, Robert Dawkins, Josh Scheinert

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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