

# TRADE CONTROL POLICY

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## 1 WHAT IS TRADE CONTROL?

Essentially, goods traffic is free. But restrictions may apply to traffic of goods (purchase and sales), services, technology or payments across borders for reasons of customs, national security and foreign policy. In general, restrictions may be **targeted** at **individuals, entities or** even whole **states**. These sanctions may encompass, among others, **restrictions on payments** and financial services, **import/export restrictions** with respect to certain goods or, as a last resort, total **embargoes**. Embargoes are usually based on resolutions of the United Nations, decisions of the Organization for Security and Co-operation in Europe (OSCE) or on common positions of the EU Council or the U.S. Government. Currently, particularly Iran, Cuba, North Korea, Syria and Sudan are subject to trade sanctions, but not solely.

Sanction regimes typically provide for **severe financial penalties and custodial sentences for violations**. For example, breaches of EU sanctions are punishable by up to two years' imprisonment in the UK and/or an unlimited monetary fine. In the United States, penalties for sanction offences may include criminal penalties of up to 20 years in prison and a fine of more than one million USD and twice the pecuniary gain or a civil penalty for each violation up to 250,000 USD and "twice the amount of the transaction that is the basis of the violation".

## 2 WHAT YOU SHOULD KNOW

Foreign trade laws and sanction regimes can apply to many areas of SMARTRAC's operations including logistics (e.g. transits), manufacturing (e.g. U.S. parts in product), finance (e.g. asset freezes of contractual partners, like suppliers/consignees), sales (e.g. to Iran or Cuba) or purchase (e.g. using "conflict minerals"). The most relevant regulations to SMARTRAC are U.S. export controls (BIS), U.S. economic sanctions (OFAC), EU sanctions or restrictive measures (CFSP) and local laws of countries we are doing business in. You should know, however, that there are differences between the EU and the U.S. You should know the basic principles outlined in this policy and the obligations arising for you in this respect.

## 3 WHO IS AFFECTED?

The EU and the U.S. sanctions regimes apply to:

- ▶ Companies incorporated in the EU or the U.S. jurisdiction. Regarding the U.S. sanctions against Cuba and North Korea every company is affected, no matter where and under what law it is operating;
- ▶ Nationals of the EU or the U.S., wherever they are in the world and even if they are working for a company incorporated outside the EU or the U.S.;
- ▶ Companies not incorporated in and citizens not nationals of the EU or the U.S. whilst located within, operating from or conducting business on the territory of the EU or the U.S.

## 4 WHAT YOU SHOULD DO

The number of regulations regarding trade laws and restrictions is vast. Thus, it is not helpful to picture and explain them in detail. Accordingly and since country-specific regulations might differ, the following two steps shall serve as a guideline when you should seek advice.

### 4.1 KNOW YOUR DEAL – ITEMS, CUSTOMERS AND CIRCUMSTANCES

In order for SMARTRAC to be able to comply with the legal requirements or to apply for possibly required authorizations detailed knowledge about your business is needed. Therefore you should,

- a Ensure that you have certain relevant information related to the traded items such as their nature, origin, components, value, technical characteristics and so on.

- b Know about the final destination of the goods and about countries through which the goods are to be transited.
- c Know the end-use and the end-user, as well as third parties or agents involved.

In addition you should have a brief overview of generally issued trade restrictions on the designated country of your business, like the restrictions on Iran or North Korea for example, and of local laws that could affect your deal.

## 4.2 RECOGNIZE DIFFICULTIES OR WARNING SIGNS (“RED FLAGS”)

You should watch out for warning signs which indicate that our business partners might not comply with the applicable export regulations. Such red flags are (non-exhaustive):

- ▶ Restricted countries, such as Iran, Cuba, North Korea, Syria and Sudan;
- ▶ Unfamiliar customer without convincing references;
- ▶ Unusual transaction for this consignee, customer, end use or location;
- ▶ Evasive, reluctant, false, inconsistent or otherwise unsatisfactory answers by a customer to questions about end use, end user, delivery dates, locations or transit countries;
- ▶ Unusually favorable payment terms or willingness to pay greater amounts in cash;
- ▶ Lack of concern for installation, testing, training and warranty service (even if free of charge);
- ▶ Freight forwarder, trading company, shipping company or bank listed as ultimate consignee;
- ▶ Abnormal packing, marking or routing of goods or vague/unexpected changing terms of delivery;
- ▶ Unusual security or safety measures;
- ▶ Links to the military that seem inappropriate to the stated business or transaction;
- ▶ Requests for equipment configurations that are incompatible with the stated destination;
- ▶ Conspicuous press releases of involved third parties, agents or consignees.

### 4.3 PROCEDURE

If there are **no “red flags”** in the information available to you, **proceed with the transaction** in reliance on the information you have received.

When you find **“red flags”** or you are **in doubt**, you need to investigate the suspicious circumstances and contact the **Legal Department**. Be aware that it is generally prohibited under EU, UK and U.S. sanctions, as with most other countries, to knowingly and intentionally circumvent or evade the prohibitions and/or restrictions by edging in an intermediary.

Whether or not there are red flags present, we need to make sure that third parties acting on our behalf (e.g. sales agents or consultants etc.) comply with these rules. Therefore these obligations need to be incorporated in respective contracts.

Also make sure to keep a copy of all the documents and information.

## CONTACT

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