

Trump Presidency: What Will Happen To U.S. Sanctions?

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The United States currently has in place economic and trade sanctions applicable to various foreign countries and regimes, and other persons considered threats to U.S. national and economic security. These sanctions are potentially applicable to all nationalities - businesses dealing with anyone sanctioned by the U.S. could find themselves being sanctioned, meaning they are locked out of the U.S. market, unable to use the U.S. banking system and unable to transact with U.S. customers & suppliers.

Donald Trump's election as the 45th president of the United States of America surprised the world and we now find ourselves in an unprecedented position as regards the future direction of U.S. sanctions policy:

- Trump has called for an overhaul of the way the United States interacts with its allies and adversaries.
- Trump is not a career politician. He is not driven by dogma and has no identifiable political ideology guiding his stance on foreign policy. This may herald a pragmatic approach. He could favour the use of sanctions as a bargaining chip in negotiations and/or to maintain popular support rather than to achieve a firm set of foreign policy goals.
- The early indications are that hawkish personnel could play a prominent role in Trump's circle of close advisors. The extent to which they will be able to influence and establish a more rigid ideology that drives foreign policy remains to be seen.

Given the curious cocktail outlined above, it is not easy to state with confidence what will develop. Nevertheless, below are some possible scenarios regarding U.S. sanctions:

Iran:

On 16 January this year, certain U.S. sanctions against Iran were lifted under the Joint Comprehensive Plan of Action. This was as a result of Iran implementing key nuclear-related measures required under the Plan, as verified by the International Atomic Energy Agency.

The critical point is that only secondary sanctions were lifted. These are sanctions that apply to non-U.S. persons and their lifting effectively meant that, for example, European, Russian, Singaporean and Chinese businesses generally could do business in Iran without threat of being penalised by the United States¹. With limited exceptions, U.S. enterprises are still unable to do business in Iran.

¹ Although certain Iranian individuals and entities still remain blacklisted by the U.S. and anyone dealing with them risks adverse reaction from the U.S.

Trump has been critical of the Plan during his campaign, calling it a foreign policy disaster. He has also vowed to be tough on Islamic terrorism, its alleged sponsors and governments that are presumed to harbour terrorist aims. One view is that Trump could give the electorate the appearance of being serious about this, without directly harming U.S. business interests, by abandoning the Plan and reintroducing the previous sanctions on Iran. The secondary sanctions could then apply again, and non-U.S. persons/corporations would again be impeded from doing business in Iran.

Russia:

The U.S. sanctions imposed on Russia as a reaction to its annexation of Crimea and intervention in Ukraine appear to have notably affected the Russian economy. Trump has signalled a willingness to improve U.S. relations with Russia. Both sides appear keen to develop trade and economic ties and to establish joint efforts to fight international terrorism. In particular, the stated objectives of Trump & Putin in not effecting a regime change in Syria and instead focusing on combatting ISIS appear aligned.

All this points to U.S. sanctions on Russia being lifted or at least reduced. Yet the primary cause of their imposition has not gone away, nor does it appear on the brink of being discussed. What, specifically, the Trump administration will ask for in exchange remains to be seen. An interesting related point is that Russia is one of the signatories to the Iranian Plan discussed above. It will be quite a diplomatic feat if the United States does, in some way, manage to withdraw from it while maintaining positive relations with Russia (and, indeed, the Europeans & China who have also signed it). Perhaps the promise of lifting sanctions will placate Russia.

Cuba:

Early in his campaign Trump suggested he accepted the Obama administration's policy of rapprochement towards Cuba. Towards the end, in Florida, he promised that he would keep U.S. sanctions firmly in place and even close the new U.S. embassy in Havana.

Whatever motivated this apparent change in approach, the last message in sequence suggests the progression of warming relations with Cuba will be paused and that the anticipated further relaxation of sanctions against Cuba will not happen.

While the new administration is still in a developmental stage and its foreign policy cannot be predicted with confidence, we hope our analysis above highlights that significant changes in U.S. sanctions policy might occur imminently. These may necessitate a change in business strategies and existing legal/compliance positions. Anyone doing or planning to do international business, particularly involving the countries mentioned above, should closely monitor developments.

About the sanctions team

The sanctions team at Kennedys Legal Solutions provides strategic counsel on law compliance governing trade and business with sanctioned countries such as Iran, North Korea, and Russia through the firm's international network of offices and liaison firms.

Clients will be kept up to date on the latest developments in sanctions regimes - including those of the US, UN, EU, UK and Singapore.

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