

ANTWERP WORLD DIAMOND CENTRE

Sanctions and embargoes
Compliance guide for the diamond trade

2024



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01 // Part 1 - Introduction





The purpose of this document is to provide an overview of how the diamond trade can be impacted by trade sanctions¹. This first part of the document can be considered as an introduction or executive summary. The following parts bring more detail and elaborate more on the topic.

Due to the evolving nature of trade sanctions, it is recommended to take into account the date of this document. Examples are based on the applicable sanctions on that date.

1.1 // Scope of this document

One of the key challenges for the diamond industry is that it operates in a sensitive and highly regulated environment. Traders continuously have to consider potential vulnerabilities and risks and comply with a wide array of legal obligations specific to the sector. Well-known legal frameworks are the Kimberley Process Regulations to prevent conflict diamonds as well as Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT) measures that are imposed on the sector.

The complex international supply chain and global markets typical for the diamond sector, bring attention to another important trade compliance requirement: **trade sanctions**.

The relevance of sanctions compliance in the diamond sector has become increasingly pronounced in the wake of Russia's invasion of Ukraine. The complex international supply chain and global markets that define the diamond industry have brought forth a heightened focus on trade sanctions. These restrictions have had a significant impact on the sector, both directly and indirectly.

In response to Russia's military aggression, the implementation of import bans at the G7 level has specifically targeted the diamond trade.

Therefore, the sanctions regulations are equally applicable to the diamond trade.

More information about the difference and interactions between AML and trade sanctions requirements can be found in section 6 of the current document.

Example

- ✦ A diamond exporter in Belgium receives an order for a large shipment of diamonds from a customer based in a country that is subject to trade sanctions due to human rights violations. To ensure compliance with the sanctions, the exporter conducts a thorough due diligence by screening the customer, investigating their background, and verifying their connections to any sanctioned entities. During the investigation, the exporter discovers that the customer has indirect ties to a sanctioned individual. As a result, the exporter decides to decline the order to avoid potential legal and reputational consequences associated with violating trade sanctions. By adhering to the sanctions and conducting proper due diligence, the exporter upholds the integrity of the diamond industry and maintains compliance with the relevant legal requirements.

¹ The document provides multiple simplified examples for illustration purposes only.





1.2 // What are trade sanctions and how do they impact diamond trade?

Trade sanctions are restrictions imposed by national governments and international organisations as a diplomatic and economic tool to influence behaviour of targeted organisations and countries and to impose certain universal values. Well-known trade sanctions are the so-called OFAC sanctions (US), but also the UN and the EU impose trade sanctions, and on a national level, Belgium could impose similar sanctions² (member states can impose additional sanctions to the ones on EU level). Reasons for imposing sanctions include national security, human rights violations, internal repression, regional instability concerns or other foreign policy considerations. **As diamond trade can be considered as an important trade pillar for multiple countries, the diamond trade can be subject to trade sanction restrictions.**

The scope of trade sanctions can vary from a 'total ban on dealing with an entire country' to targeted restrictions for using 'specific financial instruments in connection to a particular bank'. A principal distinction is made between trade restrictions imposed on a country level (regardless of the entities involved), trade restrictions on particular entities (regardless of where they are located) and restrictions on certain products (depending on their technical characteristics and end-use which could differ based on country and entities involved). In practice, the exact measures in place are a combination of the three elements: country, entity and product.

- ✦ **Country-related controls** prohibit either all business with a given country or specific targeted activities with particular countries. Targeted country trade restrictions may include prohibitions to deal in high-value commodities or luxury goods or to finance or service certain sectors in particular countries.

Example

- ✦ If a Belgian trader exports diamonds directly or indirectly to a country to which trade in luxury goods is sanctioned (e.g. North Korea), the transaction would be restricted. In the case of North Korea, this restriction would be applied by most countries, where specifically EU and US restrictions could impact the Belgian trader.

Targeted country trade restrictions relevant to the diamond industry can also relate to '**non-ethical business practices**' in certain sensitive regions (with peace and security concerns). Liability is based on the presumption that a trader, e.g. a Belgian diamond trading company, 'knows' or 'has reasons to know' of the potential risks of unethical business practices in those countries. In such cases 'dangerous neglect' can be considered as a sanction violation in itself.

Example

- ✦ A diamond trader is violating trade sanctions related to unethical business practices when knowingly he proceeds with business that contributes to the reinforcement of armed conflict in sensitive countries such as Zimbabwe, CAR or DRC (as is in EU and US regulations).

- ✦ **Entity-related controls** impose sanctions on particular persons, companies or organisations. Depending on the scope of the sanction, the restrictions can vary from a full prohibition on doing business to partial limitations for particular activities with that entity. All parties involved in a business transaction with a Belgian diamond trader should be screened against Sanctioned Party Lists. When considering the parties that should be screened, we can think of the buyer, (direct and ultimate) owners of the buying company, payer, ship-to party, (ultimate) consignee, ultimate beneficiaries, bank, freight forwarder, intermediaries, and any other party involved.

Example

- ✦ A Belgian diamond trader sells rough diamonds to a company in India for polishing. The Indian company is sanctioned for having business connections with North Korea. Even if the diamonds do not go to any sanctioned destination, the Belgian trader violates entity-related trade sanctions by engaging in business with a sanctioned company.

² For example, a consolidated overview of the Belgian sanctions can be found here: [Link](#).



- ✦ **Product controls:** The export of diamonds may be subject to specific export licensing requirements related to the product itself. These are different from the FPS Economy licensing requirements in Belgium. These product controls can be applicable when the diamonds or related equipment **could be used for industrial purposes**. The export control authorities may in such cases require a licence for the export of certain diamond products which could have a 'dual use', meaning which could be used both for civil and military purposes.

If the industrial diamond products are subject to control, a specific export authorisation should be requested from the export control authorities. This includes all cases where diamond products are intended to be used in the military industry.

Example

- ✦ Export controlled products relevant to the diamond industry are:
 - Machinery for cutting and polishing diamonds.
 - Industrial equipment incorporating diamonds, such as rock drilling equipment.
 - Diamond anti-reflective coating for military optics.
 - Certain synthetic diamond materials and the technology* for its production (*information on 'how to make' the controlled product: blueprints, chemical formulas or production processes, etc.).

The export of these items might require an authorisation. More information under chapter 4.

1.3 // US trade controls and their impact on business outside of the US

Trade sanctions are imposed by multiple jurisdictions: on an international level, the United Nations imposes several sanctions regimes, on a regional level, the European Union imposes common trade sanctions for all its member states and on a national level, every country can stipulate and impose its own trade sanctions. Most countries incorporate the international trade restrictions in their national sanction regulations and sometimes extend their scope depending on the national interests.

Any business, including in the diamond sector, should comply with the broader international legal sanction regulations—such as UN sanctions—and with the regional/national sanction regulations specific to their location (e.g. sanctions on EU and Belgian level). The US trade sanctions are an important exception to this principle: **they are nationally (US) imposed requirements that have an expansive international impact**. The US Treasury Department's Office of Foreign Assets Control (OFAC) administers US national sanctions against countries, governments, entities and individuals **with an extraterritorial scope**, meaning those sanctions do not only apply to US entities/citizens, but to all entities/citizens worldwide in case the transaction has a US nexus³. OFAC collaborates with other US authorities where appropriate. For instance, product controls are administered by the US Department of Commerce, Bureau of Industry and Security (BIS).

In order to evaluate if US sanctions would be applicable to their business, diamond trading companies should evaluate the presence of any US nexus in their own organisation (e.g. owned by US entities/persons) and/or in any of their transactions (e.g. use of US dollars or use of a bank owned by US entities).

³ US nexus refers to the fact that a transaction has sufficient links to the US to make US sanctions regulations applicable as detailed further in the document. Note that although OFAC is one of the main sources of the US extraterritorial application of sanctions, not all regulation and restriction of OFAC apply globally. Of specific importance is the US Kimberley process trade restrictions. This rough diamond regulation (KPC-Executive Order 13312) imposes certain trade controls relevant for the US customs requirements *at the moment of importation in the US*. They are not designed to have the same extraterritorial impact towards non-US entities as the US trade sanctions programmes administered by OFAC.



1. All OFAC sanctions programmes impose compliance obligations on 'US persons' or all entities organised under US law including:

- Persons located in the US, US citizens or US green card holders globally.

Example

✦ If a US diamond trader, located anywhere in the world, is involved in business with US 'Specially Designated Nationals- SDN' (entities with whom any business is restricted) or with US sanctioned countries, he/she can be held individually liable in the US for violating trade sanctions.

- US-established companies including their foreign branches.

2. All transactions that involve the US financial system and all US-originating goods or services are subject to OFAC sanctions compliance obligations.

- Payments and other transactions denominated in US dollars, even if those begin and/or end outside of the US, entail a US dollar clearing payment through the United States and therefore are subject to OFAC's regulations. This is the case for both incoming and outgoing payments. As the majority of diamond transactions are done in US dollars, almost every diamond transaction has a US nexus and thus US sanctions are relevant.

Example

✦ A Belgian diamond trader sends diamonds to a company sanctioned only by the US. If the payment is done in US dollars or involves conversion from US dollar to another currency, the transaction is in violation of the US regulations and the trader can be held liable for violating US sanctions.

- Transactions that pass US soil, including virtually through US servers.
If the goods or the money flows pass through the US, the transaction will be seen as relevant for US trade sanctions and the entities involved would be subject to the US regulations.

Example

✦ If a US-specific technology is used for the production of a synthetic diamond, the finished product may be seen as relevant for US controls. All persons dealing with this material should consider the US sanctions regulations.

3. Certain US sanction regimes have an additional extraterritorial impact:

- Some OFAC sanction programmes (against countries and/or entities) also impose compliance obligations on entities that are owned or controlled by US persons. These sanctions are also applicable to foreign subsidiaries of US companies, or even to companies that have US persons (see point 1) in their board of directors. It is not always very clear when these additional controls apply. Therefore, it is recommended to be vigilant in case there are elements at stake that indicate that US ownership or control could be applicable.

Example

✦ A Belgian diamond trading company has as a person with US citizenship on its board of directors and deals with a US-sanctioned entity. In this case:

1. The US person is at risk of individual charges against him for violating trade sanctions.
2. The Belgian company as a legal entity can be held liable for putting US persons in a position of violating US sanctions.



4. Secondary sanctions on activities wholly outside of US jurisdiction

- Even when a person or an activity is not directly impacted by US sanctions (i.e. no US nexus), some US sanction programmes (e.g. Iran, Russia) impose 'secondary sanctions' **designed to deter non-US persons from engaging in certain activities**. These specific secondary sanctions come into play when there are no direct compliance requirements under the authority of US law. Instead, these secondary sanctions apply as a 'catch-all' provision to achieve the objective of the sanction. As such, involvement in US-sanctioned activities exposes a non-US diamond trader to a risk of US retaliation through a range of measures intended to restrict access to US markets.

Example

- ✦ A Belgian diamond trader has a continuous business relationship with a company sanctioned by the US as Specially Designated National for violating human rights. The US authorities can decide to designate the Belgian diamond trader as a 'supporter of human right violations' and place him under the same sanction regime as his business partner. Becoming a sanctioned entity can disrupt the business significantly and is often seen as a company's 'death penalty'.

The above criteria relating to a (direct or indirect) US nexus are **considered by banks** as well. Banks can, just like any other legal entities, be impacted by US trade sanctions. As the majority of the banks are directly connected to the US financial system (often because their parent company is based in the US), they will have to comply with the sanctions the US imposes, even if there does not seem to be a direct US involvement or nexus in the transaction.

US sanctions are more extensive than the majority or other national and international sanction regimes. Since the majority of the diamond transactions are done in US dollars (US nexus), it can occur that business with certain entities is restricted by the US sanction regime, even if one can be entirely compliant with local legal framework and sanction regimes. It is essential to carefully evaluate the possible applicability of US restrictions for each business transaction separately.





1.4 // The risks of non-compliance

The violation of trade sanctions is considered as a serious threat to national and collective security. By breaching the implemented sanctions, traders support terrorism, the proliferation of weapons of mass destruction and human rights violations. Therefore, the consequences for those who fail to comply with trade sanctions are substantial and can have wide-ranging effects.

Overall, the risks of non-compliance with trade sanctions encompass legal consequences, reputational damages, financial implications, regulatory scrutiny and being listed as a sanctioned entity.

From a regulatory perspective, the violation of trade sanctions can result in significant monetary fines imposed by regulatory bodies. In certain instances, individuals involved in these violations may even face criminal charges, potentially leading to imprisonment. Non-compliance can also result in lengthy legal battles, which can be costly and time-consuming for both companies and individuals.

Secondly, there is the risk of reputational damages. Traders found to be in violation of trade sanctions may experience a loss of trust from customers, partners and stakeholders. Negative publicity due to media coverage of the violation can tarnish a trader's image, leading to a decline in brand value and customer loyalty.

Moreover, reputational damages can prejudice future business opportunities, including partnerships, contracts and investments.

Non-compliance can also have financial implications. In particular, traders can face the imposition of restrictions on conducting business with certain countries or entities, resulting in the loss of opportunities for growth and expansion. Violations can also disrupt supply chains, causing delays, increased costs and potential customer loss. Furthermore, the access to financial services, such as banking services, loans and credit facilities, may be restricted.

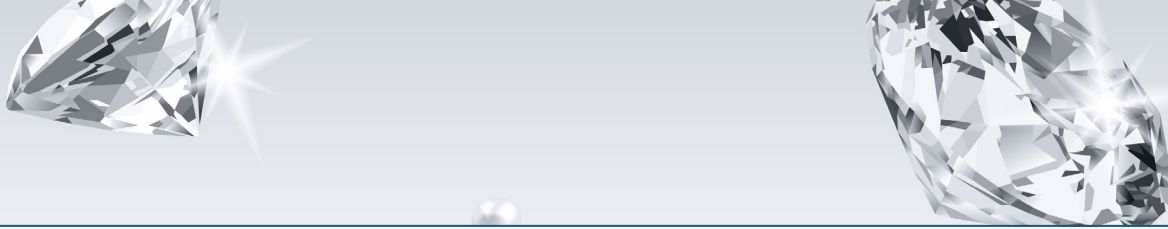
Another risk associated with the violation of trade sanctions is the increased scrutiny from regulatory authorities, which can result in the company being subject to frequent audits and investigations. Furthermore, traders may be required to adhere to more stringent compliance requirements, leading to additional costs and administrative burdens. Regulatory bodies may also revoke licences and permits required to conduct business in certain industries or jurisdictions.

Lastly, traders involved in trade sanctions violations may be listed as sanctioned entities, making it challenging to engage in global trade and access international markets.



02 // Part 2. Country-related sanctions and diamond trade





As mentioned before, a principal distinction is made between trade restrictions imposed on a country level, on a particular entity or on a product. Under this chapter, we discuss country-related sanctions more in depth.

The diamond trade is global in its nature. The worldwide operations from production to the retail consumer can include business in certain sensitive regions, to which trade sanctions may impose certain limitations. Even when the reasons for imposing a sanction are not directly related to diamond trade, the restrictions can nonetheless affect the diamond sector. The scope of country-related sanctions may be comprehensive (affect the country as a whole) or targeted (affect a certain activity in that country), which determines the impact of these sanctions to a large extent.

Annex A contains an indicative list of sanctions that apply for a number of countries that are relevant for diamond trade. Although the list is only intended as indicative, it can be used as guidance on what might be specific attention points for a particular country.

2.1 // Comprehensive country trade restrictions (embargoes)

Comprehensive country trade restrictions, also called embargoes, have an overarching scope. Most trade activities, including trade in diamonds, are forbidden in these territories as well as trade with any entities located in them. It is also forbidden to provide 'economic resources' to entities in such sanctioned destinations. This restriction may be directly applicable to the diamond trade, as diamonds can be considered to fall under the definition of an economic resource.

Currently⁴, comprehensive trade sanctions with an international impact are imposed on the following countries (examples for illustrative purposes): applicable to the diamond trade.

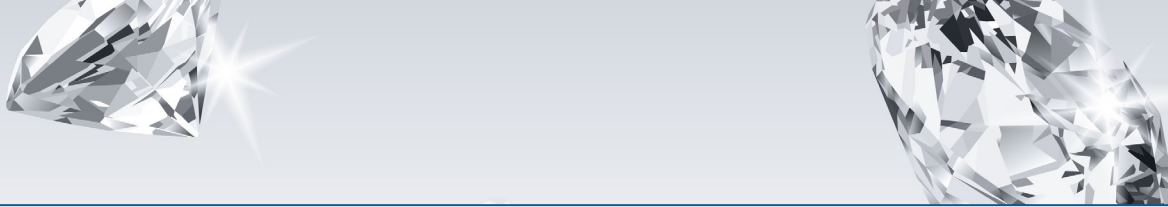
- ✦ **North Korea:** Full international ban on any trade activities, with specific attention from both the US and EU on luxury goods. It is thus forbidden to provide diamonds or any other high-value goods to North Korean nationals.
- ✦ **Syria:** International trade restrictions covering almost all trade activities, including trade in diamonds and providing economic resources. Both the EU and US impose trade sanctions.
- ✦ **Russia and Belarus:** The EU and the other G7 countries have imposed comprehensive trade sanctions on Russia and Belarus in response to their actions in Ukraine. These sanctions include restrictions on various trade activities, including trade in diamonds, and the provision of economic resources to entities in Russia and in Belarus. The EU has implemented import bans on certain Russian and Belarusian goods, including diamonds, to weaken their economy.
- ✦ **Iran:** The US imposes comprehensive sanctions on Iran, including diamond trade and providing any economic resources. The US officially enforces secondary sanctions on non-US entities for dealing with Iran. From an EU perspective, only limited restrictions are applicable for trade with Iran. Diamond trade used to be restricted by the EU until 2016, but currently it is not subject to particular restrictions. Yet, any trade with Iran or Iranian entities remains sensitive.

The EU has introduced the 'blocking statute' that 'prohibits' EU companies to comply with US sanctions on Iran to protect European companies from the secondary (i.e. in case there is no direct US nexus) effect of the US sanctions (see Part 5). A sanctions impact analysis should be performed prior to doing any business in Iran or with Iranian entities. When a direct nexus is present, such as use of US dollars, then the applicability of the US sanctions is primary and not secondary.

- ✦ **Cuba:** The US imposes comprehensive sanctions on Cuba, including diamond trade and providing any economic resources. The US officially enforces sanctions on entities owned and controlled by US persons for dealing with Cuba. The EU does not impose trade sanctions on Cuba.

⁴As per date of last update of this document.





Certain comprehensive trade sanctions are put in place unilaterally only on a national level. For example, the **Arab League's⁵ boycott against Israel** targets trade relations with companies/products with Israeli nexus. These national specific sanctions normally have limited effect on international trade outside of the particular countries imposing them. On the other hand, anti-boycott legal requirements can also be applicable to diamond traders, which stipulate **obligations not to agree with boycott clauses**. More information about anti-boycott can be found in Part 5 of the current document.

2.2 // Targeted country trade restrictions

Most commonly, trade restrictions have a specific scope instead of targeting a country as a whole. Targeted country trade sanctions may include restrictions on **clearly defined business activities** such as exporting diamonds, providing economic resources or services for the use by or benefit of sensitive sectors.

2.2.1 Sectoral sanctions

Trade sanctions can be drafted to target only specific sectors considered as strategic. Most often, the military sector is targeted and is subject to restrictions with 'arms embargoes', yet other sectors can be impacted too. For example, the oil and gas sector in Russia is subject to sectoral sanctions (imposed by both the US and EU), monitoring telecommunications in Venezuela and Myanmar, petroleum and cultural goods in Iraq, charcoal in Somalia (imposed by EU) and others. Such sectoral sanctions can specifically target the diamond industry too: between 2005 and 2014, Ivory Coast was sanctioned with specific restrictions on the military sector and the diamond sector. These sanctions have been lifted and do currently no longer apply. Specific sectoral sanctions targeting the diamond industry are currently in place in the context of the severe sanctions imposed on Russia in response to its military aggression against Ukraine. These measures include, among others, the prohibition to provide certain business-related services as well as trade bans on Russian diamonds and restrictions on other products that indirectly impact the diamond sector. For instance, certain jurisdictions have implemented export bans on luxury goods and dual-use items. Furthermore, in a coordinated effort, the G7 countries have imposed phased restrictions on the purchase, import, or transfer of certain Russian diamonds and diamond jewellery, including when they are processed in a third country.

Example

✦ The Russian diamond industry is sanctioned with restrictions prohibiting the import of Russian diamonds into the EU. In case a Belgian diamond trader would buy diamonds of Russian origin from a dealer in Dubai, the transaction is prohibited.

2.2.2 Sanctions against foreign governments and regimes

Some trade restrictions are imposed on foreign governments to pursue certain geopolitical goals or to influence the foreign government's behaviour. It is important to distinguish comprehensive trade sanctions from sanctions targeting only the government. While the first affects all entities in the country, the second affects only the country's governmental bodies and state-owned or -controlled enterprises. Government sanctions can also be limited to specific sectors. Currently⁶, sanctioned governments are, for instance, the Government of Russia and the Government of Venezuela (both imposed by the US).


Example

✦ The Russian government is currently subject to sanctions imposed by several countries, including the United States and the European Union. These sanctions target various sectors. For instance, the sanctions may prohibit traders from engaging in business transactions with Russian state-owned companies linked to the diamond mining industry.

In this context, if a Belgian diamond trader wants to purchase diamonds from a Russian state-owned entity that is linked to the diamond mining industry, the transaction would generally be subject to several sanctions. These sanctions may include restrictions on financial transactions, trade and other activities related to the diamond mining sector.

⁵ Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen. Not all of the countries are actively enforcing the boycott. Currently three countries within the Arab League that enforce a boycott against Israel: Syria, Lebanon and Iraq.

⁶ As per the date of last update of this document.



This means that when a diamond trader is dealing with state-controlled companies, it is not sufficient to check only whether the entity itself is listed on a sanction list (entity-related sanctions), but also whether the transaction is compliant in view of restrictions imposed on the government in the country (targeted country-related sanctions).

2.2.3 Ethical business responsibilities and related trade restrictions

Several targeted country-related sanctions are related to unethical business practices. Sanctions can be imposed for certain non-ethical business practices, which often relate to peace and security concerns in sensitive regions. This includes restrictions on doing any business, including diamond trade, if the trader 'knows or has reasons to know' that the transaction could reinforce internal repressions or violations of human rights. Such provisions are rather typically EU sanctions.

Example

✦ A Belgian diamond trader is negotiating a new contract for the procurement of rough diamonds in Zimbabwe. One of the people who participates in the negotiations is a military official active in a local conflict. This is a red flag and a 'reason to know' that the transaction may contribute to local instability. An additional investigation is required to check whether sanctions may apply.

The direct or indirect financing of certain activities is an important concern in a number of countries. It is a business' legal obligation to apply appropriate due diligence procedures and investigate the ultimate purpose of the transaction for trade in such countries.

Human rights violations and regional instability are currently officially recognised as a concern for countries such as Zimbabwe, the Central African Republic and the Democratic Republic of Congo (see Annex A for further guidance).

2.2.4 Sanctions on Russia impacting the diamond sector

Since the annexation of Crimea in 2014, the EU has progressively adopted sanctions against Russia, including import bans on Russian diamonds. These sanctions aim to weaken Russia's economy by restricting its access to global markets and disrupting its supply of essential goods and technologies. The import bans have had a significant impact on the diamond sector, causing disruptions in the supply chain and reducing the availability of Russian diamonds in the EU market.

The EU sanctions regime (together with the regimes imposed by G7 countries) has reshaped the dynamics of the diamond market and posed significant challenges for industry players reliant on Russian diamonds as a revenue source.

The following subsections analyse the diamond trade-related restrictions laid down in the EU regulation imposing measures against Russia⁷.

2.2.4.1 Export bans

Under the EU sanctions regime, certain products cannot be sold, supplied, transferred or exported to Russia or for their use in Russia.

2.2.4.1.1 Export ban on luxury goods

Under the restriction imposed on luxury goods, the following transactions are prohibited:

- ✦ Direct and indirect sales, supplies, transfers, or exports to Russia.
- ✦ Transits via EU territory from a non-EU country towards Russia.
- ✦ Sales to anyone located outside Russia who will later bring the goods to Russia.
- ✦ Sales of restricted luxury goods already imported into Russia.

Banned luxury goods include natural and synthetic diamonds, diamond dust and jewellery and watches, whether or not incorporating diamonds⁸.

⁷ Council Regulation (EU) No 833/2014.

⁸ Goods referred to in Article 3h and listed in Annex XVIII to Council Regulation (EU) No 833/2014.



The export ban only applies to goods exceeding 300 euros in value per item, as stated in the customs value in the export declaration. It should be assessed per item, based on the quantity of that good as indicated in the export declaration and expressed in carats for natural diamonds and in grams for synthetic diamonds and diamond dust. If no supplementary unit is specified, the threshold can be assessed based on the number of packages stated in the export declaration.

Example

- ✦ A Belgian jewellery store has received an order from Russia of a 18k gold ring incorporating a diamond. The value of the diamond is less than 300 euros, while the total value of the ring is above 1.500 euros. This transaction is in scope of the export ban on luxury goods and is therefore prohibited.

2.2.4.1.2 Prohibitions on diamonds for industrial uses

The EU has implemented export restrictions on certain products aiming at targeting sensitive sectors and limiting Russia's access to essential items and technology that contribute to the enhancement of Russian industrial, military and technological capacities.

Examples of sanctioned items relevant for the diamond industry are the following:

- ✦ Rock-drilling or earth-boring tools, with working parts of diamond or agglomerated diamond.
- ✦ Dies for drawing or extruding metal, with working parts of diamond or agglomerated diamond.
- ✦ Tools for drilling, other than for rock-drilling, with working parts of diamond or agglomerated diamond.
- ✦ Tools for boring or broaching, with working parts of diamond or agglomerated diamond.
- ✦ Interchangeable tools, with working parts of diamond or agglomerated diamond.
- ✦ Hand tools, including glaziers' diamonds, of base metal.

Example

- ✦ A European equipment manufacturer based in Belgium produces rock-drilling tools with certain working parts that incorporate polycrystalline diamond cutters. These tools are commonly used in various industries, including the oil and gas sector.

Due to the EU product restrictions targeting sensitive sectors, the Belgian manufacturer is prohibited from selling, supplying, transferring or exporting these rock-drilling tools directly or indirectly to anyone located in Russia or for their use in Russia.

2.2.4.2 Import bans

With the adoption of the 12th package of sanctions against Russia at the end of December 2023, the EU has introduced phased import restrictions directly affecting the diamond sector. The list of sanctioned products has been extended to include non-industrial natural and synthetic diamonds that are mined, processed, or produced in Russia as well as Russian diamonds processed in a third country and articles incorporating Russian diamonds⁹.

The measure introduced is a ban prohibiting the purchase, import, or transfer, whether directly or indirectly, of diamonds (and products incorporating diamonds) classifiable under the following customs codes¹⁰:

- ✦ 7102 10: Unsorted diamonds.
- ✦ 7102 31: Non-industrial diamonds, unworked or simply sawn, cleaved or bruted.
- ✦ 7102 39: Non-industrial diamonds, other than unworked or simply sawn, cleaved or bruted.

⁹ Goods referred to in Article 3p and listed in Annex XXXVIII A to Council Regulation (EU) No 833/2014.

¹⁰ List of products included in Annex XXXVIII A to Council Regulation (EU) No 833/2014.





- ✦ 7104 21: Synthetic or reconstructed diamonds, unworked or simply sawn or roughly shaped.
- ✦ 7104 91: Synthetic or reconstructed diamonds, other than unworked or simply sawn or roughly shaped.
- ✦ 7113: Articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal, incorporating diamonds.
- ✦ 7114: Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal, incorporating diamonds.
- ✦ 7115 90: Other articles of precious metal or of metal clad with precious metal, incorporating diamonds, not elsewhere specified, excluding platinum catalysts in the form of wire cloth or grill.
- ✦ 7116 20: Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed), incorporating diamonds.
- ✦ 9101: Wristwatches, pocket-watches and other watches, including stopwatches, incorporating diamonds, with case of precious metal or of metal clad with precious metal.

The ban applies to the following items¹¹:

- ✦ Natural and synthetic diamonds and jewellery, watches or other products incorporating diamonds¹², if:
 - They originate in Russia; or
 - They have been exported from Russia directly into the Union or indirectly to any third country; or
 - They have transited through Russia, regardless of their origin.
- ✦ Natural diamonds¹³ that have been cut and/or polished in a third country and that consist of diamonds originating in or exported from Russia with a weight equal to or above 1.0 carats per diamond at the time of importation into the EU.
- ✦ Natural and synthetic diamonds and to jewellery, watches or other products incorporating diamonds¹⁴ that have been processed in a third country and that consist of or incorporate diamonds originating in or exported from Russia with a weight equal to or above 0.5 carats or 0.1 grams per diamond at the time of importation into the EU.

Example

- ✦ A Belgian jewellery retailer buys from an Israeli jewellery manufacturer golden rings on which diamonds have been mounted. If the mounted diamonds have been sourced in Russia, the purchase is prohibited.

Following the implementation of the ban, purchasing, importing or transferring, directly or indirectly, any of the listed products covered by the ban will not be allowed. Therefore, the restriction applies to **all transactions involving the purchase of Russian diamonds (and articles incorporating Russian diamonds) regardless of their importation into the EU.**

Example

- ✦ A Belgian diamond trader purchases Russian diamonds from a trader in Russia and then sells (and sends) the diamonds to a trader in the UAE. The transaction is prohibited because the purchase and resale of diamonds to a third country (even without the physical passage through the EU) is also sanctioned.

¹¹ As per date of last update of this document.

¹² Goods listed in Parts A, B and C of Annex XXXVIII A to Council Regulation (EU) No 833/2014.

¹³ Goods listed in Part A of Annex XXXVIII A to Council Regulation (EU) No 833/2014.

¹⁴ Goods listed in Parts A, B and C of Annex XXXVIII A to Council Regulation (EU) No 833/2014.





The import does not apply to Russian diamonds and products containing Russian diamonds that were physically located in the EU (or in other third countries) before the time of the imposition of the sanctions.

Example

- ✦ If a jewellery retailer in the European Union imported a batch of Russian diamonds before the imposition of the import ban, the retailer can continue to sell these Russian diamonds within the EU without any restrictions. Customers within the EU can still purchase these diamonds, and the retailer can transfer them to other EU member states or even export them to third countries. However, if the retailer attempts to import another batch of Russian diamonds after the import ban taking effect, those diamonds would be subject to the restriction. they would not be allowed to enter the EU market.

In addition to the import ban, the EU imposes restrictions on Belgian diamond dealers specifically within the diamond sector. These restrictions prohibit them from providing 'technical assistance' or any related services in connection with the direct or indirect purchase, import, transfer, provision, manufacture, maintenance, and use of Russian diamonds or jewellery incorporating diamonds.

Within the diamond sector, 'technical assistance' encompasses a range of activities including repairs, development, manufacturing, assembly, testing, maintenance and other technical services. It also includes forms of support such as instruction, advice, training, transmission of working knowledge or skills and consulting services. These restrictions apply to both verbal and non-verbal forms of assistance.

Example

- ✦ A Belgian diamond dealer receives a request from a client to provide 'technical assistance' for a Russian diamond they purchased. The client wants the diamond to be cut and modified in some way. However, due to the EU restrictions, the Belgian diamond dealer is prohibited from offering any technical support related to the requested service.

Similarly, it is also prohibited to facilitate transactions involving the purchase, import, or transfer of Russian diamonds or jewellery between a Russian individual and an entity established in a third country. This prohibition applies even if no commission is paid to the Belgian trader facilitating the transaction. Furthermore, the restrictive measure prohibits financing or providing financial assistance for the purchase, import, or transfer of Russian diamonds or jewellery containing diamonds, as well as for services related to the Russian diamond trade.

Example

- ✦ A Belgian trader is approached by an Israeli trader who wants to purchase a Russian diamond from a third-country seller. The Israeli trader seeks assistance from the Belgian trader in facilitating the transaction, such as arranging the payment or providing logistical support. However, due to the EU restrictions, the Belgian trader is prohibited from engaging in any activities that facilitate the purchase, import, or transfer of Russian diamonds. This prohibition applies regardless of whether the Belgian trader receives a commission for their services or not.





2.2.4.2.1 The origin determination of rough diamonds in EU

Following the implementation of the import ban, in order to import diamonds above a certain carat size¹⁵ into the EU, diamond dealers need to prove the country of origin of the imported diamonds via a traceability-based verification and certification mechanism common to all G7 countries¹⁶. This includes providing evidence of the origin of the diamonds used as inputs for the processing of the imported diamonds when the imported products have been processed in a third country.

The G7 certification mechanism requires a prior registration of the diamonds' identifying information into a traceability platform by the producer. The information is then verified through the distributed ledger and certified by the competent authorities. To this end, all EU importers active in the diamond industry need to present the diamonds for initial verification, including physical checks, and certification to the Federal Public Service Economy at the Diamond Office located in Antwerp¹⁷. Once the G7 certificate has been issued, EU diamond traders can proceed with the customs clearance of the goods.

Evidence of the country of origin is required even when importing articles incorporating diamonds.

In order to comply with such origin determination, AWDC has published the G7 Import Guidelines that can be found [here](#).

2.2.4.2.2 The import bans on diamonds imposed by other countries

Import bans specifically targeting the Russian diamond industry have been implemented also by other jurisdictions. In particular, as members of the G7, Canada, the UK and the US have imposed phased import restrictions on Russian diamonds similar to the sanctions implemented by the EU.

In the US, there has been an import ban on non-industrial Russian diamonds since March 2022. The ban applied to rough diamonds of Russian origin, but allowed the importation of polished Russian diamonds if they were processed in a third country. Additional prohibitions were however introduced by OFAC in 2023, including the importation ban of non-industrial diamonds, unsorted diamonds, and diamond jewellery of Russian origin. The US sanctions regime prohibits the import or entry into the US, including importation for admission into a foreign trade zone located in the US, of non-industrial diamonds mined, extracted, produced, or manufactured wholly or in part in Russia.

Similar phased restrictions on the import of Russian diamonds have been implemented by Canada and the UK.

In Canada, the sanctions regime prohibits the import, purchase, or acquisition of unset and unmounted unsorted and non-industrial natural diamonds, as well as synthetic or reconstructed diamonds and diamond-incorporating products. It also prohibits the import, purchase, or acquisition of unset and unmounted unsorted and non-industrial natural diamonds mined or produced in Russia, if they are exported, processed, and/or polished in a third country.

Under the UK sanctions regime, there is a prohibition on the import, acquisition, supply or delivery of unsorted and non-industrial natural diamonds, synthetic diamonds, and diamond-incorporating articles consigned from, originating in, or located in Russia. Additionally, the import of unsorted and non-industrial diamonds originating in Russia and processed in a third country is prohibited.

EU diamond traders involved in international trade should be aware of the existence of import bans on Russian diamonds implemented by the above-mentioned countries. Since these import bans have the potential to impact their business operations, it is crucial for EU diamond traders to acknowledge and understand these regulations to ensure compliance and avoid any legal or financial consequences.

¹⁵ See section 2.2.4.2.

¹⁶ Full operativity of the G7 certification system as of 1 March 2025.

¹⁷ Authority referred to in Article 3p and listed in Annex XXXVIII B to Council Regulation (EU) No 833/2014.



2.2.4.3 Service ban

In addition to the restrictions on products, the EU prohibits providing certain business-related services to the Russian government, Russian nationals or individuals residing in Russia, legal persons, entities or bodies established in Russia and those controlled or owned by Russian people or entities.

This service ban encompasses a wide range of activities, including technical testing and analysis services. Consequently, Belgian companies and individuals engaged in analysing and testing the characteristics and properties of diamonds are prohibited from directly or indirectly providing these services to any legal entity established in Russia. This prohibition also extends to activities performed for non-Russian entities that are subsidiaries of a company established in Russia, as long as the services ultimately benefit the Russian entity.

Example

- ✦ A Belgian diamond analysis laboratory offers services to various clients worldwide. If a Russian-based company or a subsidiary of a Russian company approaches the Belgian laboratory seeking diamond analysis services, the laboratory is prohibited from providing these services directly to the Russian entity. Even if the laboratory is approached by a non-Russian entity that is a subsidiary of a Russian company, the services cannot be provided if they ultimately benefit the Russian entity.

2.2.5 Sanctions on Belarus impacting the diamond sector

Like the measures previously mentioned, the EU also enforces similar sanctions on Belarus as it does on Russia¹⁸. Specifically, there is a ban on the direct or indirect import, purchase, or transfer of diamonds from Belarus. This prohibition covers diamonds that originate in, are exported from, or transit through Belarus, and it includes both non-industrial natural and synthetic diamonds, as well as diamond jewelry.

Additionally, the EU sanctions foresee a ban on the export of luxury goods and the provision of services, similar to the restrictions imposed on Russia.

2.3 // Financial restrictions and diamonds as 'economic resources'

As a high-value commodity that can easily be exchanged, diamonds are considered not only as a commercial product but also as an 'economic resource', a financial asset or even a payment method similar to a currency. This is the reason why diamond traders should also consider any applicable financial restrictions that might impact a transaction. Often, country trade restrictions include assets freeze, prohibition to make funds available to the government of a country or state-owned entities. Even if the diamonds are provided as a commercial product against payment, they can still be used as a financial asset or currency. As a consequence, diamonds could be impacted by purely 'financial' restrictions (e.g. part of an asset freeze).

Example

- ✦ A Belgian diamond trader sells diamonds to a company owned by an official of the Belarus government. EU sanctions forbid making funds available to the owners of the company. Even though the customer is paying for the diamonds, the transaction will be prohibited.

¹⁸ Council Regulation (EC) No 765/2006.

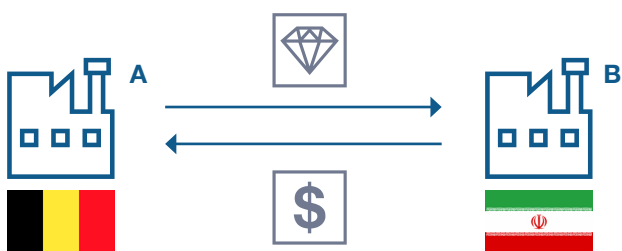


2.4 // Practical examples of sanctions impacting diamond trade imposed on certain countries

As explained earlier, different elements can apply simultaneously. Moreover, different jurisdictions (such as EU, US and local) could have an impact and should be considered at the same time. The cases below illustrate how to consider trade sanctions with a focus on the **destination or country**.

2.4.1 Case 1- Iran

Scenario A: Belgian trader A is selling diamonds to Company B in Iran. Company B is not a sanctioned entity. The diamonds are going to be used for jewellery. The transaction is done in US dollars.



Attention points

- ✦ There is a direct US nexus in the transaction because of the use of US dollars (point 1.3-2).
- ✦ US comprehensive country sanctions against Iran apply.
- ✦ The EU and Belgium impose targeted sanctions on Iran, but these do not include the diamond sector.

Conclusion

- ✦ The transaction is not allowed as the US sanctions against Iran are **directly** applicable due to the use of US dollars (direct US nexus).

Scenario B: Belgian trader A is selling diamonds to Company B in Iran. Company B is not a sanctioned entity. The diamonds are going to be used for jewellery. The transaction is done in euros.



Attention points

- ✦ US comprehensive country sanctions apply against Iran.
- ✦ The EU and Belgium impose targeted sanctions on Iran, but these do not include the diamond sector.
- ✦ The transaction is done in euros.

Conclusion

1. The transaction does not seem to have a direct US nexus. If we consider the EU sanctions regime only, the prohibition on trade in diamonds with Iran has been lifted in 2016 and the transaction can be considered compliant.
2. However, the US imposes 'secondary' sanctions for trade with Iran, which can be applicable even when there is no direct US nexus in the transaction. All potential indirect nexus (US owners, US persons in the board of directors, etc.) should be investigated, to assess whether US sanctions could still apply through that indirect nexus. For continuous or significant transactions without any US nexus, the risk of retaliation from the US authorities should also be considered.
3. The banks should evaluate their US exposure separately (maybe the bank is part of a US group) and may refuse to support the transaction because of their own US nexus.
4. The EU blocking statute may protect the EU companies, yet an additional risk analysis is necessary and it remains to be seen how this can be applied in practice.

2.4.2. Case 2 - Russian Federation

2.4.2.1. 1.a) Import of Russian rough diamonds from Russia to Belgium.



Scenario: Belgian diamond trading company A buys Russian rough diamonds from Company B, which is established in Russia and it is not a sanctioned entity. The diamonds are shipped from Russia to Belgium directly. The invoice is issued in euros.

Attention points

- ✦ **Origin verification and compliance with import ban:** the diamonds being purchased from Company B in Russia are indeed of Russian origin. The EU imposes a direct import ban on rough diamonds originating in or exported from or transiting through Russia.
- ✦ **Involved Entities:** Company B is not a sanctioned entity. However, a proper due diligence should always be conducted to ensure that there are no connections to sanctioned parties that indirectly owned or controlled Company B.
- ✦ **Payment arrangement and Currency:** Although the invoice is issued in euros, it is important to ensure that the payment is made in a currency that does not pose any additional restrictions. Always check if the payment has been done through a legitimate financial institution that is not subject to sanctions.
- ✦ **Shipping and Transportation:** Ensure that the shipping of the diamonds from Russia to Belgium is done in compliance with all relevant customs and trade regulations. In general, always verify that the transportation does not involve any sanctioned entities (i.e. sanctioned Russian airlines) or prohibited routes (i.e. through Russia).

Conclusion

- ✦ Even if the entity from which they are purchasing the diamonds is not sanctioned, the transaction is prohibited in application of EU import ban on Russian rough diamonds as the diamonds are originating in Russia and are directly shipped from Russia.

2.4.2.1. 1.b) Import of Russian rough diamonds from Russia to Belgium.



Scenario: Belgian diamond trading company A buys Russian rough diamonds from Alrosa. The diamonds are shipped from Russia to Belgium directly. The invoice is issued in euros.





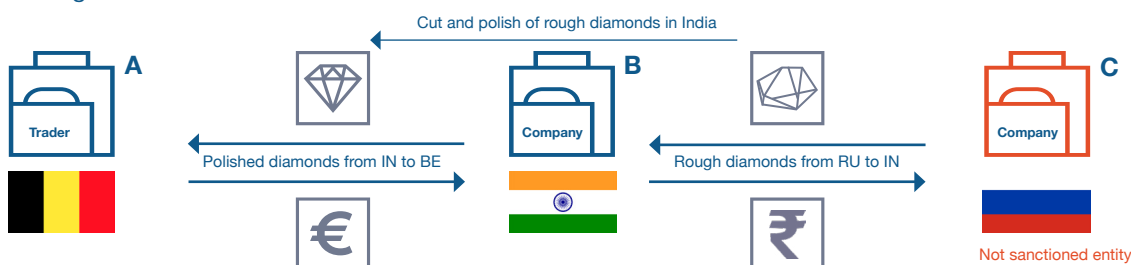
Attention points

- ✦ **Origin Verification and Compliance with Import Ban:** Verify the origin of the diamonds and ensure compliance with the import ban on Russian diamonds.
- ✦ **Involved Entities:** Given that Alrosa is a sanctioned entity, engaging in transactions with them may be prohibited. It is crucial to conduct thorough due diligence to avoid any direct or indirect involvement with sanctioned individuals or entities.
- ✦ **Payment arrangement and Currency:** Check that the payment for the diamonds is made in a currency that does not pose any restrictions, and through a legitimate financial institution that is not subject to sanctions. Avoid using any prohibited payment methods or channels.
- ✦ **Shipping and Transportation:** Ensure that the shipping of the diamonds from Russia to Belgium is done in compliance with all relevant customs and trade regulations. Verify that the transportation does not involve any sanctioned entities or prohibited routes.

Conclusion

- ✦ The transaction is prohibited for two reasons: Alrosa is a sanctioned entity and, since the diamonds are originating in Russia, the application of EU import ban on Russian rough diamonds forbids this transaction.

2.4.2.1. 1.c) Import of Russian rough diamonds from Russia to India, cut and polished in India and then imported in Belgium.



Scenario: Belgian diamond trading company A purchases polished diamonds from Company B located in India. Company B buys the rough diamonds from Company C, which is established in Russia. The rough diamonds of Russian origin are then cut and polished in India by Company B before selling them to Trader A.

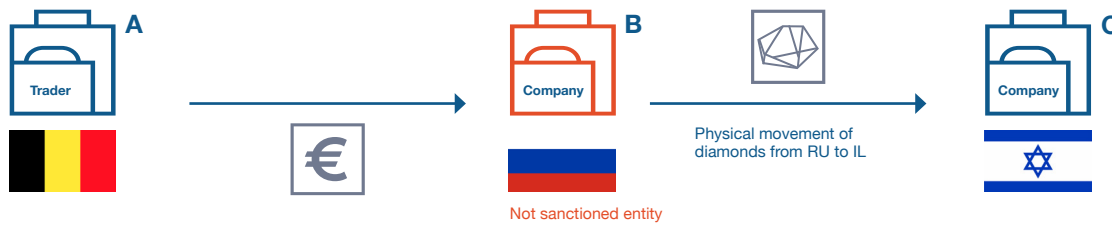
Attention points

- ✦ **Origin Verification and Compliance with Import Ban:** Verify the origin of the diamonds and ensure compliance with the import ban on Russian diamonds. The polished diamonds purchased from Company B come from Russian rough diamonds; EU imposes an import ban on diamonds processed in a third country.
- ✦ **Involved Entities:** Company C is established in Russia and it is not a sanctioned entity. However, due diligence should be performed on all involved entities Company B in India and Company C in Russia. It's crucial to ensure that none of these entities are subject to sanctions or involved in any illicit activities.
- ✦ **Payment arrangement and Currency:** The invoice issued by Company B to Trader A is in euros. Check that the payment for the diamonds is made through a legitimate financial institution that is not subject to sanctions. Avoid using any prohibited payment methods or channels. It is important to ensure that the payment is made in a currency that does not pose any additional restrictions.
- ✦ **Shipping and Transportation:** The polished diamonds are shipped to Europe from India but they have been previously imported in India from Russia.

Conclusion

- ✦ The transaction is not allowed because of the import ban on Russian diamonds processed in a third country.

2.4.2.1. 1.d) Case of buyer and seller (not receiving the diamonds).



Scenario: Belgian diamond trading company A purchases rough diamonds from Company B established in Russia. The invoice is issued by Company B to Trader A in euros. The diamonds are shipped from Company B to Company C located in Israel.

Attention points

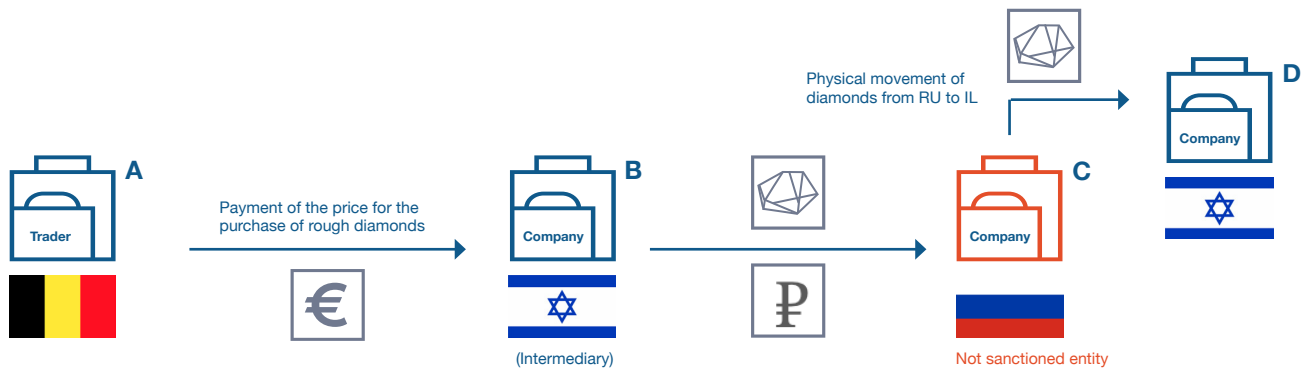
- ✦ **Origin Verification and Compliance with Import Ban:** Verify the origin of the diamonds and ensure compliance with the import ban on Russian diamonds. The EU imposes restrictions on any direct or indirect purchase of diamonds originating in Russia. Trader A directly purchases diamonds from Russian Company B. The diamonds are not imported in the EU but shipped to Israel.
- ✦ **Involved Entities:** Company B is established in Russia and it is not a sanctioned entity. However, due diligence should be performed on all involved entities Company C in Israel and Company B in Russia. It is crucial to ensure that none of these entities are subject to sanctions or involved in any illicit activities.
- ✦ **Payment arrangement and Currency:** The invoice issued by Company B to Trader A is in euros. Check that the payment for the diamonds is made through a legitimate financial institution that is not subject to sanctions. It is important to ensure that the payment is made in a currency that does not pose any additional restrictions
- ✦ **Shipping and Transportation:** The polished diamonds are shipped to Israel from Russia. No diamond is imported into the EU.

Conclusion

- ✦ The transaction is not allowed as the import ban prohibits any direct purchase of diamonds originating from Russia, regardless of their importation into the EU.



2.4.2.1. 1.e) Case of buyer and seller (not receiving the diamonds) with an intermediary.



Scenario: Belgian diamond trader A is willing to purchase rough diamonds. Israeli Company B acts as its intermediary and buys the diamonds from Company C established in Russia. Company C issues an invoice to Company B in ruble, and Company B issues an invoice to Trader A in euros. The diamonds are shipped from Russia by Company C to Company D established in Israel.

Attention points

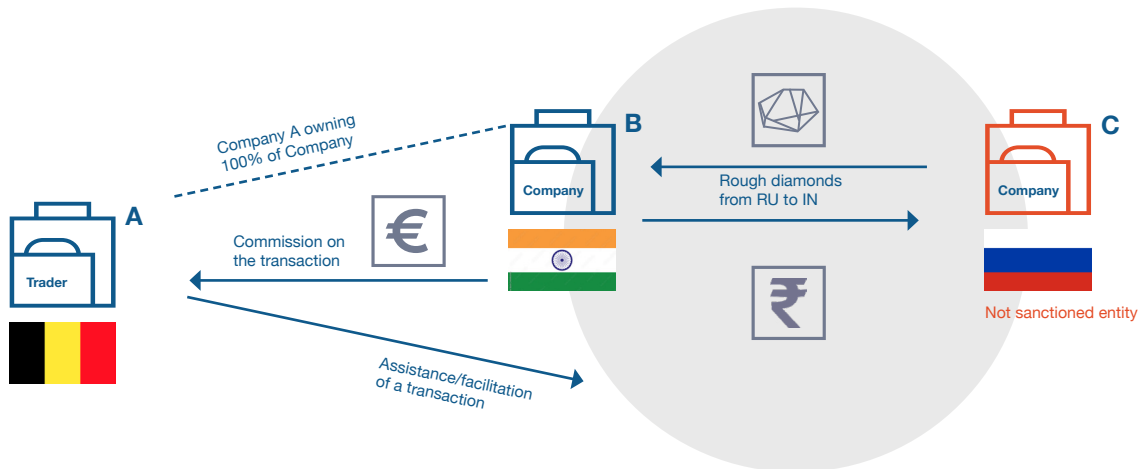
- ✦ **Origin Verification and Compliance with Import Ban:** Verify the origin of the diamonds and ensure compliance with the import ban on Russian diamonds. The EU imposes restrictions on any direct or indirect purchase of diamonds originating in Russia. Trader A purchases diamonds from Russian Company C via an intermediary located in Israel. The diamonds are not imported in the EU but shipped to Israel.
- ✦ **Involved Entities:** Company C is established in Russia and it is not a sanctioned entity. However, due diligence should be performed on all involved entities Company B and D in Israel and Company C in Russia. It is crucial to ensure that none of these entities are subject to sanctions or involved in any illicit activities.
- ✦ **Payment arrangement and Currency:** The invoice issued by Company B to Trader A is in euros. Check that the payment for the diamonds is made through a legitimate financial institution that is not subject to sanctions. It is important to ensure that the payment is made in a currency that does not pose any additional restrictions.
- ✦ **Shipping and Transportation:** The polished diamonds are shipped to Israel from Russia. No diamond is imported into the EU.

Conclusion

- ✦ The transaction is not allowed as the import ban prohibits any indirect purchase of diamonds (in this case through an intermediary) originating in, exported from or transiting through Russia, regardless of their importation into the EU.



2.4.2.2. Facilitation of a sale transaction of Russian rough diamonds: importation of rough diamonds from Russia to India by an Indian subsidiary of a Belgian diamond trading company.



Scenario: Indian diamond trading company B purchases rough diamonds from Company C established in Russia. The diamonds are shipped directly from Russia to India. The invoice is issued by Company C to Company B in Indian rupees. Company B is owned by Belgian diamond trader A, which has arranged the transaction between Company B and Company C by finding the seller for its subsidiary. For this service, the mother company receives a commission on the transaction by Company B. The invoice for the services provided is issued in euros.

Attention points

- ✦ **Origin Verification and Compliance with Import Ban:** Verify the origin of the diamonds and ensure compliance with the import ban on Russian diamonds. The EU sanctions regime imposes a restriction on the provision of technical assistance, facilitation or other services related to the purchase, import or transfer of Russian diamonds or jewellery incorporating diamonds or to their provision, manufacture, maintenance and use. The diamonds are purchased by the Indian company directly from a Russian company and are shipped directly to India.
- ✦ **Involved Entities:** Company C, the seller, is established in Russia and it is not a sanctioned entity. However, due diligence should be performed on all involved entities Company B in India and Company C in Russia. It is crucial to ensure that none of these entities are subject to sanctions or involved in any illicit activities.
- ✦ **Payment arrangement and Currency:** The invoice issued by Company B to Trader A is in euros. The Indian company is owned by the Belgian trader. The Belgian mother company facilitates the purchase of rough diamonds by finding the seller for its subsidiary. For the services provided, the Belgian trader receives a commission fee on the purchase transaction.
- ✦ **Shipping and Transportation:** No diamond is imported into the EU.

Conclusion

- ✦ The Belgian diamond trading company is not allowed to provide such services to its subsidiary as the arrangement of a transaction by an European trader for the purchase of rough diamonds originating in or exported from Russia is prohibited even when the purchase transaction involves companies established in third countries.



2.4.2.3.a) Export of diamonds (part of luxury goods) from Belgium to Russia: sale of polished diamonds to an individual located in Russia.



Scenario: Belgian diamond trading company A sells a polished diamond to a person located in Russia. The value of the diamond exceeds 300 EUR in value. The transaction is performed in euros.

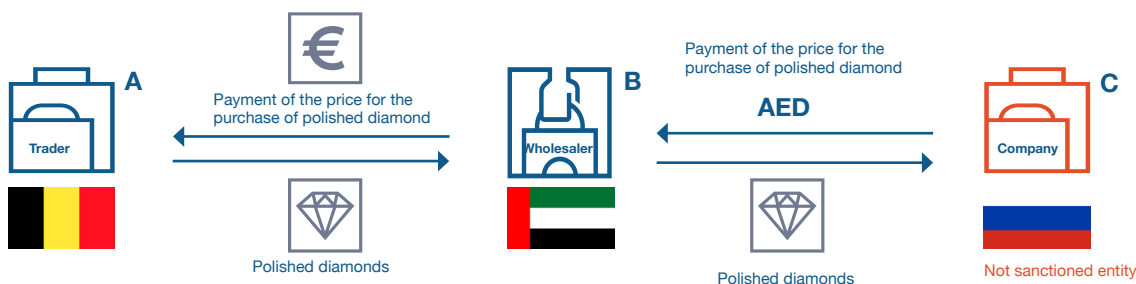
Attention points

- ✦ **Compliance with Export Ban:** The EU has imposed restrictions on direct or indirect sale, supply, transfer, or export of luxury goods, including diamonds, exceeding EUR 300 in value per item, to any Russian person or entity or for their use in Russia. The value of the diamond is above the threshold value.
- ✦ **Involved Entities:** The Russian person is located in Russia and is not listed in the sanctions list.
- ✦ **Shipping and Transportation:** The diamond is shipped from Belgium to Russia.

Conclusion

- ✦ The transaction is not allowed because of the export ban imposed on luxury goods.

2.4.2.3.b) Export of diamonds (part of luxury goods) from Belgium to Russia: Belgian diamond trading company A sells polished diamonds to a wholesaler located in the United Arab Emirates.



Scenario: Belgian diamond trading company A sells polished diamonds to a wholesaler located in the United Arab Emirates. The value of the diamonds exceeds 300 EUR in value per item. The transaction is performed in euros. The UAE wholesaler then sells the diamonds to Company C, established in Russia. Company C is not listed as a sanctioned entity. The invoice is issued in AED.



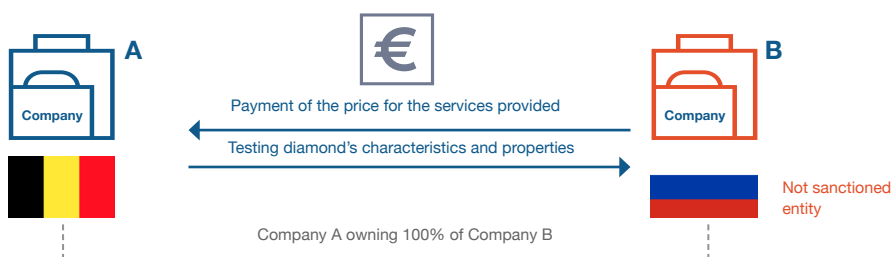
Attention points

- ✦ **Compliance with Export Ban:** The EU has imposed restrictions on direct or indirect sale, supply, transfer, or export of luxury goods, including diamonds, exceeding EUR 300 in value per item, to any Russian person or entity or for their use in Russia. The diamonds are sold from Belgium to the UAE and their value is above the threshold value. The EU dealer does not sell directly to the Russian company. It is the UAE wholesaler that sells the diamonds to a Russian entity and export them to Russia.
- ✦ **Involved Entities:** The Russian company is not sanctioned and is located in Russia.
- ✦ **Shipping and Transportation:** The diamond is shipped from Belgium to UAE and then re-exported to Russia.

Conclusion

- ✦ The transaction is not allowed as it consists of an indirect sale and export of diamonds to Russia.

2.4.2.4. Provision of services: provision of services to a Russian subsidiary of a Belgian company.



Scenario: Belgian company A operates in the field of diamonds characteristics and properties analysis and tests. The company provides such services to its Russian subsidiary. The invoice related to the services provided is issued in euros.

Attention points

- ✦ The EU imposes a ban on certain services to the Russian government, Russian nationals or individuals residing in Russia, legal persons, entities or bodies established in Russia as well as those controlled or owned by Russian people or entities.
- ✦ Technical testing and analysis services are services that fall under the service ban.
- ✦ Belgian company A provides technical testing and analysis services.
- ✦ These services are provided by Company A to its subsidiary established in Russia.
- ✦ The subsidiary is not listed in the sanctions list.

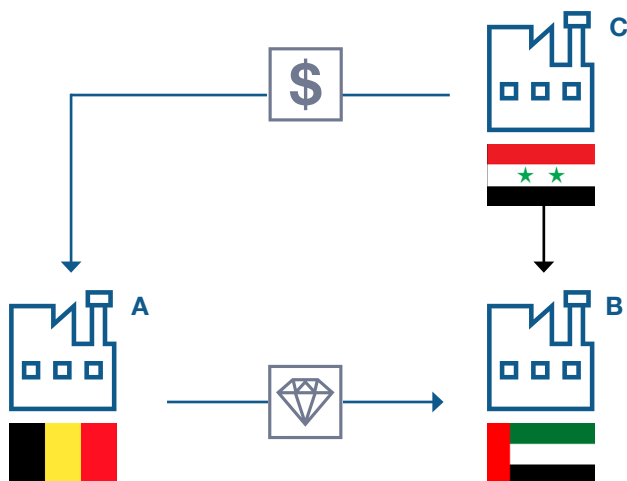
Conclusion

- ✦ The transaction is subject to the service ban and therefore is not allowed.



2.4.3. Case 3 - Dubai

Scenario: Belgian Company A is sending polished diamonds to Company B in Dubai. The diamonds are officially intended to be tendered locally. The invoice in US dollars will be paid by a Company C in Syria. Company B and Company C do not appear on a sanction list.



Attention points

- ✦ No country sanctions are applicable for trade with the UAE from a US/EU/Belgian perspective.
- ✦ Comprehensive country sanctions are applicable to Syria, both by the US and the EU.
- ✦ There is a direct US nexus in the transaction because of the use of US dollars (point 1.3-2).

Conclusion

1. The shipment of the goods would in principle be allowed to Dubai as no sanctions are applicable from either the EU or the US towards the UAE.
2. But the fact that the payer is located in a sanctioned destination is an important red flag. It raises concerns that the diamond sale is done for the benefit of Syrian entities. Both direct and indirect business transactions with all entities in Syria are forbidden. It is therefore very likely that banks would block such payments.

Annex A of this document provides an overview of the current sanctions imposed on the diamond trade and producer countries.

03 // Part 3. Entity-related sanctions





Aside from country-related sanctions, the number of sanctioned entities around the world is ever increasing. A sanctioned entity can be a person, a company, an organisation, a group or even a vessel. Entities can be 'listed' for a variety of reasons, such as non-proliferation, counter-terrorism, human rights violations, transnational crime and others. The lists of sanctioned entities are often national and published by a country's authority, or sometimes international (e.g. list by the UN). They can have a different coverage and scope. In some cases, an entity can be designated in more than one jurisdiction (e.g. in EU and US). The lists are regularly updated to cover ownership changes, aliases, new entries, removals, etc.

Transactions with companies directly or indirectly owned by sanctioned entities (even if the company itself does not specifically appear on a sanction list) can be seen as an indirect transaction for the benefit of the listed entity and can thus be prohibited. In order to determine whether engaging with an entity not directly listed is nevertheless restricted, the EU operators need to assess two criteria:

1. **Ownership:** An entity is considered owned by a listed entity or individual when the sanctioned person possesses more than 50% of the proprietary rights of that entity.
1. **Control:** Control includes several criteria such as power to appoint or remove a majority of board members, management, etc.

When one of these criteria is met, the entity owned or controlled by the sanctioned individual or entity is subject to the same sanctions applicable to the listed person.

Example

- ✦ If a diamond trader deals with a company 70% owned by a sanctioned individual, the business activities could be in violation of trade sanctions. Similarly, if a diamond trader deals with a Belgian entity 48% owned by a sanctioned Russian oligarch, further investigations are required to exclude that the listed person does not have control over the Belgian company.

Diamond trading companies need to ensure that they are not involved in restricted or forbidden activities with listed entities. All parties involved in a transaction are relevant for a sanctions check: supplier, customer, ultimate beneficial owner, directors of customer/supplier, payer, even freight forwarder and bank.

Diamond traders should implement appropriate measures to keep track of the sanctions relevant to them. Different screening tools and solutions exist to consolidate all sanction lists and update them periodically. The traders can make use of the Bureau Van Dijk screening tool provided through AWDC¹⁹ or any other screening solution combining all relevant lists.

Annex B contains a list of sanctioned entities that are active in the diamond industries. Note that this list is not an official list, but a consolidation of entities that were encountered in the process of preparing this document. The list is of indicative nature and should only be considered as such.

¹⁹Access for Belgian registered diamond traders through www.registereddiamondcompanies.be. If the Belgian diamond trader does not have access to this tool yet, contact the AWDC AML & Compliance Helpdesk to get access.





3.1 // Sanctioned party lists applicable to diamond trade

Sanctioned party lists are rarely sector specific. For instance, there exists no international consolidated list that combines all sanctioned entities relevant for the diamond sector. Sanction lists would normally be grouped by:

- ✦ Country/organisation imposing the sanctions.
(e.g. UN consolidated list, EU consolidated list, Australian consolidated list, etc.)
 - The sanction lists published by the US, UN, EU, or countries such as Japan and Australia include sanctioned entities located anywhere in the world.

Example

- ✦ A Canadian company is listed on an EU sanction list because it has 'provided support to armed groups in unstable countries, through the illicit exploitation and trade of natural resources, including diamonds'. Diamond trading companies are prohibited to do any business with this sanctioned company, irrespective of whether the transaction is related to a sensitive destination or activity or not.
- ✦ Entities targeted because of specific country sanction programmes.
 - Even though the reason for the sanction is related to a particular country, the restrictions on entities are not limited to entities located in this country. The location of the company is not relevant for entity-targeted sanctions.
 - (e.g. US programme: Democratic Republic of the Congo (DRC) sanctions programme): A company located in Belgium can be sanctioned under the sanction programme for Congo because it has a link with Congo.

Example

- ✦ A Belgian diamond trader is owned or controlled by a sanctioned organisation in Congo. The diamond trader in Belgium will also fall under the same sanctions imposed on the Congolese entity.
- ✦ Reason of imposition of the sanction .
 - Even when the reason for the sanction is not directly related to the diamond trade, the sanction provisions can affect the sector. For example, if an entity is sanctioned for 'chemical weapons concerns' all trade may be forbidden, including with diamonds, and not only business in chemicals.

Example

- ✦ A person is listed on a sanction list because he/she 'illicitly derives large profits from diamond mining'. Any business activities with this person would be forbidden, even if they are not related to the diamond sector. Diamond traders cannot enter in any business relationship with connection to this entity, including if the person would be only indirectly involved. A person is sanctioned for reasons of 'undermining the democracy' in a country and any trade at the benefit of this person is forbidden. This includes trade with all companies this person owns or controls, including if he has any other companies active in the diamond sector.





Targeted entity sanctions also affect banks

All companies in the business relationship related to the sanctioned entity (even indirectly), can be sanctioned. This means that also banks can be sanctioned for the same reasons as any other company could be and the same restrictions apply to them as to, for example, a diamond trading company.

- ✦ Certain sanctions on banks impose full restrictions on all activities. In such cases, it is recommended to refrain from using this bank for any activities. Examples of such sanctions are the US 'Specially Designated Nationals' (SDN) banks.
- ✦ Other sanctions impose restrictions for certain financial activities with the bank, like dealing in 'debt' or 'equity'. For example, a credit/credit line cannot be requested from such a sanctioned bank as it can be considered as dealing in debt and hence as a violation of the sanctions provisions.

However, a wire transfer through the bank would be possible. It is important to note that certain instruments used in commercial transactions, e.g. opening a letter of credit, can be interpreted as 'making funds available' to the bank. Such sanctions on banks with limited restrictions are, for example, the US sectorial sanctions imposed on Russian banks.

Example

- ✦ A Belgian diamond trading company opens a branch in Russia. For the activities of the branch, the Belgian trader considers taking a credit from a local bank sanctioned by both EU and the US. The trader should refrain from this, as taking the credit would be a violation of the US and EU sanctions.

Example

- ✦ A Belgian diamond trading company considers receiving a credit line from a Russian bank sanctioned by the US as part of sectorial sanctions. The loans will be in USD (US nexus). The company would be subject to US sanctions regulations due to dealing in debt with the sanctioned bank.

Annex B provides an indicative list of several banks in Russia subject to different sanctions restrictions.

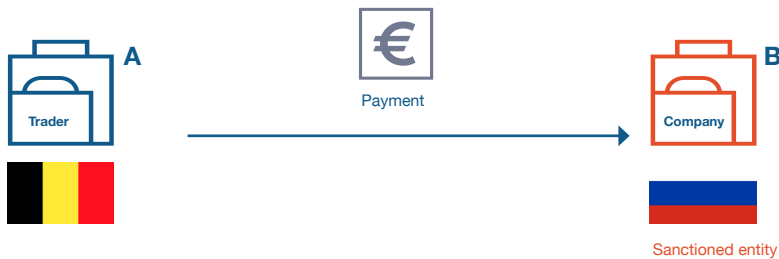
Every company should check its business partners against the lists relevant for its business, even when this would not seem relevant at first glance. An example might be a European list of narcotics dealers, which will have an impact on a jewellery importer, while a local list of a country not involved in the transaction might be less relevant. An analysis is required in order to determine the sanction lists to screen against, depending on the company's sanction risk exposure²⁰. Diamond traders may consider screening against additional lists, even if not directly applicable to their business, in order to get more complete information for due diligence purposes (e.g. AML lists, PEP lists).

²⁰Examples of potential relevant lists would be: UN Security Council Sanctions; EU Consolidated Sanctions List, German Proliferation Concerns, Swiss Restricted List, UK 'Proliferation Concerns' and 'Bank of England-Financial Sanctions'. US sanctions lists: OFAC Specially Designated Nationals, Department of State sanctions, US Sectorial Sanctions list.



3.2 Practical examples of entity-related sanctions' applicability to diamond trade

3.2.1 Case 1: Direct transaction (transfer of funds) from EU entity to a Russian sanctioned entity.



Scenario: Belgian trader A makes funds available for Russian company B which is listed among the EU sanctioned entities.

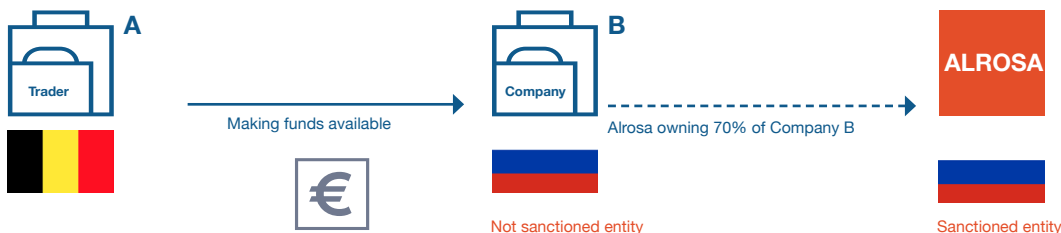
Attention points

- ✦ **Transaction analysis:** Trader A directly makes funds available for a sanctioned Russian company.
- ✦ **Involved Entities:** Russian company B is listed among the sanctioned entities under the EU sanctions regime.

Conclusion

- ✦ The transaction between Belgian trader A and Russian company B is not allowed as Russian company B is a sanctioned entity under the EU sanctions regime.

3.2.2 Case 2: Transaction with a Russian entity owned by Alrosa



Scenario: Belgian trader A makes funds available to Russian company B which is 70% owned by Alrosa. Alrosa is listed as a sanctioned entity under the EU sanctions regime.

Attention points

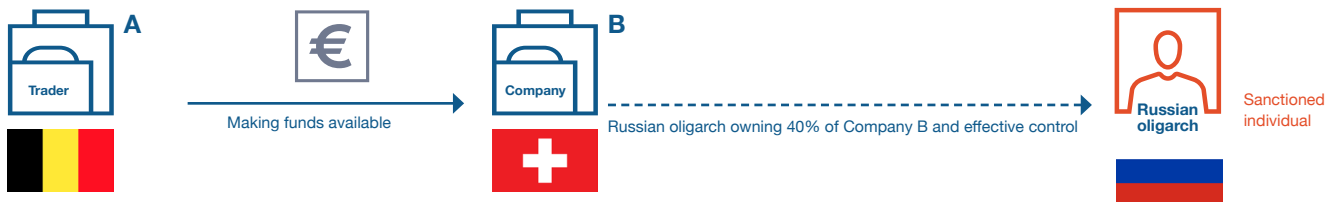
- ✦ **Transaction analysis:** Trader A directly makes funds available to a Russian company B.
- ✦ **Involved Entities:** Russian company B is not a sanctioned entity. However, due diligence should be performed on all involved entities: the Russian company B is 70% owned by Alrosa, which is a sanctioned entity.

Conclusion

- ✦ When engaging with entities owned or controlled by listed persons, EU diamond traders should assess whether the transaction can be seen as an indirect transaction for the benefit of the listed entity and therefore be prohibited. Given that Alrosa possesses 70% of the proprietary rights of Company B, the ownership criterion is met and, therefore, the transaction is not allowed.



3.2.3 Case 3: Transaction with a Swiss entity controlled by a sanctioned Russian oligarch



Scenario: Belgian trader A makes funds available for Swiss company B which is 40% owned by a Russian oligarch. The Russian individual has the power to appoint and remove the majority of the management body of Company B and he is listed as a sanctioned person under the EU sanctions regime.

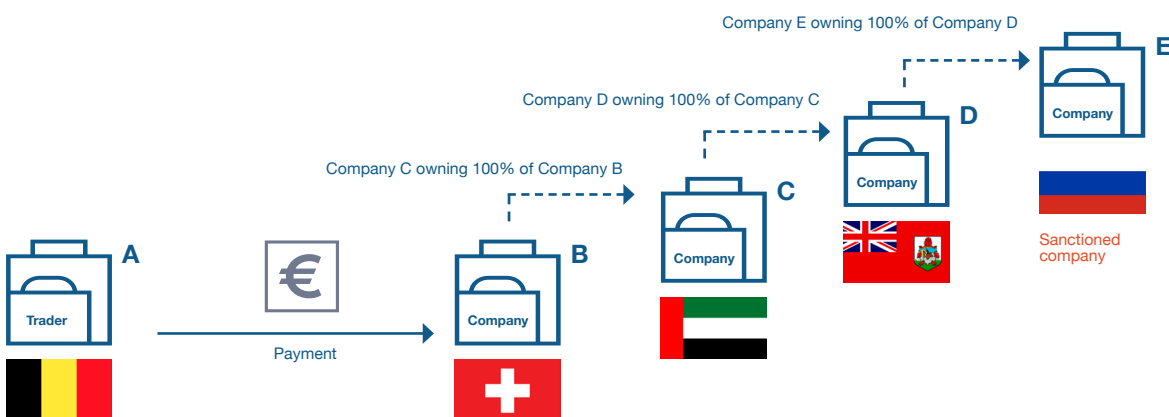
Attention points

- ✦ **Transaction analysis:** Trader A makes funds available to a Swiss company B.
- ✦ **Involved Entities:** Swiss company B is not a sanctioned entity. However, it is 40% owned by a sanctioned Russian individual. The Russian oligarch effectively controls Company B.

Conclusion

- ✦ When engaging with entities owned or controlled by listed persons, diamond traders should assess whether the transaction can be seen as an indirect transaction for the benefit of the listed entity and therefore be prohibited. Given that the sanctioned Russian oligarch possesses only 40% of the proprietary rights of Company B, the ownership criterion is not met. Further investigations are required to verify whether the Russian oligarch has effective control over Company B. As the listed individual has the power to appoint and remove the majority of the management body of Company B, it can be concluded that he effectively controls Company B. Therefore, the transaction is prohibited.

3.2.4 Case 4: Shell companies scheme



Scenario: Belgian trader A makes funds available for Swiss company B which is 100% owned by UAE entity C. Company C is 100% owned by Bermuda Company D, which, in turn, is 100% owned by sanctioned Russian Company E.





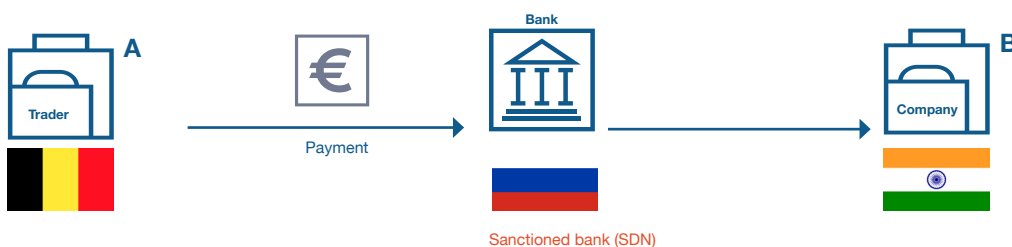
Attention points

- ✦ **Transaction analysis:** Trader A makes funds available for a Swiss company.
- ✦ **Involved Entities:** The Swiss company is not listed as a sanctioned entity nor is directly owned or controlled by a sanctioned entity. The ownership chain constitutes a shell companies scheme benefitting the Russian company E. Company E is the only sanctioned entity.

Conclusion

- ✦ When engaging with entities owned or controlled by listed persons, EU diamond traders should assess whether the transaction can be seen as an indirect transaction for the benefit of the listed entity and therefore be prohibited. In the present case, the Swiss company is not directly owned nor controlled by a sanctioned entity. However, Russian companies often use a network of shell companies in third countries to hide the identity of the beneficial owner. The sanctioned Russian entity possesses 100% of the proprietary rights of Company D, which in turn owns 100% of the property rights of Company C, which owns 100% of Company B. Given that this constitutes a shell companies scheme aiming at obscuring ownership by the sanctioned Russian company, the transaction is prohibited.

3.2.5 Case 5: A “paying through” transaction from EU to India via a Russian sanctioned bank



Scenario: Belgian diamond trading company A send a payment to Indian company B via VTB bank, a sanctioned Russian bank.

Attention points

- ✦ The EU imposes full transactions ban on Russian bank VTB.

Conclusion

- ✦ The payment is not allowed as it is prohibited to deal or make any transactions with VTB bank.





3.3. Evaluation of the scope and applicability of the sanctioned entity restrictions

What is the validity of the sanction?

Some sanctions are valid only for a specific period. The name of the entity may appear on a sanction list only to record a previous listing of the entity or to highlight that specific attention should be paid to this entity. In this case, future transactions would not be restricted. For example, certain content providers would keep old entries in their lists to support companies in case they need to investigate if they had business with sanctioned entities in the past five years.

Is the jurisdiction of the sanction applicable to the case?

Some sanctions only have a local applicability. For example, the entity is listed on a Singaporean sanction list, while the transaction is from Belgium to Canada without any Singaporean involvement. In such a case, it could be possible to continue with the transaction, but due care needs to be exercised. When the sanction is not directly applicable to the case, the reasons why the entity is subject to sanctions should be considered as not only legal, but also reputational risks should be assessed before engaging in business with this entity.

Note, however, that this is not the case for US sanctions, as explained in point 1.3 of the current document. Due to their far-reaching scope, one should take these sanctions into account as well if there is a potential (direct or indirect) US nexus. For example, if the entity is designated as OFAC Specially Designated National (SDN), one of the strictest sanction programmes, the diamond trader would, in most cases, need to comply with the sanction, and especially if the transaction is in US dollars.

What is the purpose of the sanction and is the type of business activities restricted?

Similar to country sanctions, entity sanctions can also have a different scope: they can be general, prohibiting all types of business activities, or limited to only certain financial activities, trade in specific products or provision of certain services.

A full prohibition of involving directly or indirectly in any business activity with this entity, is applicable for the majority of the sanctioned entities. This includes transferring, paying or exporting to or otherwise **dealing in the property or interests in property with the sanctioned entity**. Companies owned for more than 50% or controlled by this entity should also be treated as sanctioned. Such a full prohibition list is for example the OFAC Specially Designated National list.


For certain limited scope sanctions, it is possible to trade with the entities as long as the transaction does not fall under the scope of the targeted activities. For example, an investor active in the diamond sector can be sanctioned for trade in military or dual use technology, yet business with polished diamonds can be allowed.

Annex B of the current document provides an indicative list of several entities active in the diamond sector which are subject to entity sanctions.



04 // Part 4. Dual-use controls in the diamond sector





Often, trade restrictions imposed on a country target a specific group of products such as dual-use items (used for both civil and military purposes). The traders have to assess whether the diamond products could be considered as dual use and if so, if specific licences are required to export.

4.1 // Dual-use concerns in the diamond industry

Although natural diamonds as such are not considered a dual-use product, they can have dual-use applications. This is mostly relevant when the diamonds are used for industrial purposes. For instance, diamonds are used as semiconductor materials, and, as such, they have been recently added to the EU and US control lists, together with the related technology.

Some examples of a dual-use items relevant for the diamond industry are:

- ✦ Platinised catalysts specially designed or prepared for promoting the hydrogen isotope exchange reaction between hydrogen and water for the recovery of tritium from heavy water or for the production of heavy water.
- ✦ Hetero-epitaxial materials consisting of a 'substrate' having stacked epitaxially grown multiple layers of diamond.
- ✦ Diamond semiconductor 'substrates', or ingots, boules, or other preforms of this material, having resistivities greater than 10 000 ohm-cm at 20 °C.
- ✦ Polycrystalline 'substrates' or polycrystalline ceramic 'substrates', having resistivities greater than 10 000 ohm-cm at 20 °C and having at least one non-epitaxial single-crystal layer of diamond on the surface of the 'substrate'.
- ✦ Technology for the production of the substrates of films of diamond for electronic components.
- ✦ Synthetically produced diamond material with an absorption of less than 10-5 cm⁻¹ for wavelengths exceeding 200 nm but not exceeding 14.000 nm.
- ✦ Technology for the fabrication of optics using single point diamond turning techniques to produce surface finish 'accuracies' of better than 10 nm rms on non-planar surfaces exceeding 0,5 m².

In case the product is considered as controlled (see the list above) for dual-use or military purposes, diamond traders should verify whether they need obtain an export license from the competent authorities in the country of export. For example, in Belgium the competent authorities are Strategic Goods Control Unit in the Flemish Region, Licensing Office in Brussels-Capital region and Direction de la Gestion des Licences d'Armes in the Walloon region.





4.2 // 'Catch-all controls'

Even if products are not listed on the relevant control lists, there may still be grounds to prohibit or limit their export due to concerns about how they will be used and/or who will be the user. This applies when the diamonds ultimate use could be for military purposes, or in connection with the production of weapons of mass destruction, or for human rights violations.

A specific procedure has to be followed in Belgium for the **export of synthetic diamonds**. When using a customs representative to draw up customs declarations for the export of synthetic diamonds in Belgium, it is required to provide a signed declaration to the customs representative, indicating whether or not the synthetic diamonds fall under the EU Dual Use Regulation (classifiable under 6C004.f)²¹. If applicable, the relevant export licence issued by the component authorities has to be provided to the customs representative as well.

4.3 // Examples of product controls in diamond trade

4.3.1 Case 1: Transfer of industrial use diamond from Belgium to Saudi Arabia



Scenario: Belgian trader A exports polycrystalline diamond to Saudi Arabia.

Attention points

- ✦ Polycrystalline diamond may be used as a material in cutting tools.
- ✦ The polycrystalline diamonds are considered dual-use items as they match the technical description of the item classified under ECCN 3C005.b of the EU Dual use regulation.

Conclusion

- ✦ As the exported goods are dual-use items and as such are controlled, an export licence should be obtained in order to export them to Saudi Arabia.

²¹ Such declaration (* Declaration Dual Use ENG – 12102020*) is available in Dutch and English on the website of the AWDC: [Link](#).





4.3.2 Case 2: Transfer of industrial use diamond from Belgium to Russia



Scenario: Belgian trader A exports polycrystalline diamond to Russia.

Attention points

- ✦ Polycrystalline diamond may be used as a material in cutting tools.
- ✦ The polycrystalline diamonds are considered dual-use items as they match the technical description of the item classified under ECCN 3C005.b of the EU Dual use regulation.
- ✦ The goods are sold to a company established in Russia.
- ✦ The EU prohibits the sale, supply, transfer or export of dual-use goods to any person, entity or body in Russia or for the use in Russia.


Conclusion

- ✦ Given that the goods are dual-use items and the EU prohibits the export of these goods to Russia, the transaction is prohibited.



05 // Part 5. Counteracting the risk of sanctions circumvention





Sanctions targets often employ different techniques to evade the implemented penalisations. The frequent use of these circumvention schemes as well as the complexity of the supply chain increases the risk for EU traders to be involved in practices that bypass the restrictive measures. This not only exposes them to severe legal, financial and reputational consequences for sanctions violation (see section 1.4) but also undermines the effectiveness of the sanctions. By finding alternative ways to engage in prohibited activities, sanctioned entities can continue their harmful actions, rendering the sanctions ineffective.

To mitigate these risks, it is essential for traders to have a proper due diligence procedure in place. This involves thoroughly screening each transaction and all parties involved to ensure compliance with sanctions. Additionally, traders have to duly document the findings of the investigations performed, as this can serve as evidence of compliance efforts.

Example

- ✦ A diamond trader in Belgium receives an inquiry from a potential buyer located in Lebanon. To mitigate the risk of involvement in circumvention schemes and ensure compliance with sanctions, the trader conducts a thorough due diligence procedure. They screen the buyer, investigate their background, and verify their connections to any sanctioned entities or individuals. During the investigation, the trader discovers that the potential buyer has indirect ties to a sanctioned entity. As a result, the trader decides to decline the transaction to avoid legal, financial, and reputational consequences associated with sanctions violations.

To mitigate the risk of involvement in sanctions circumvention schemes, diamond dealers should be aware, understand and assess the most relevant risks of sanctions circumvention in the diamond sector. This allows the identification of potential red flags when dealing with new business partners or new transactions.

Examples of these indicators are the following:

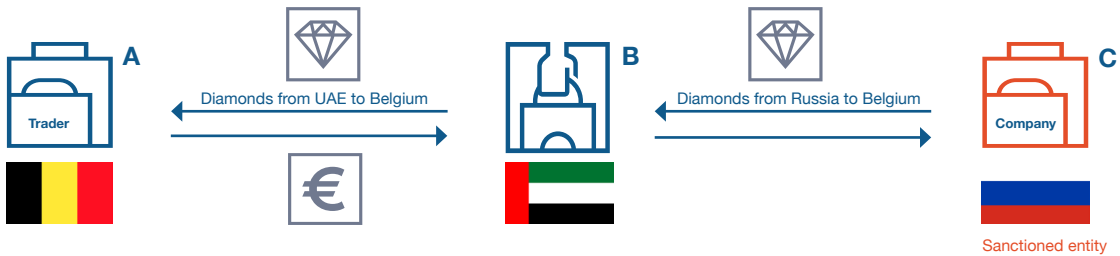
- ✦ Use of alternative shipping routes.
- ✦ Network of shell companies in third countries (often registered on nationals of these countries 'nominal owners').
- ✦ Recent changes in ownership structure.
- ✦ Complex ownership structure.
- ✦ Newly registered company.
- ✦ Little or no web presence.
- ✦ Diversion via friendly countries.
- ✦ Transshipment, deception techniques including alteration of physical identification of vessels, false flags, signal disablement or manipulation.
- ✦ Customer's connections to military business or military organisations.

When a red flag has been detected, a detailed investigation of the business partners, including banks, transportation and insurance companies and the transaction is required. Furthermore, it is recommended to include contractual clauses prohibiting the re-export to sanctioned countries or persons and to request end-use statements of the counterpart.

The investigation performed needs to be duly documented and all relevant documents properly stored as evidence of compliance efforts.



5.1 // Example of involvement in a sanction circumvention scheme: diversion of import from Russia via UAE



Scenario: Belgian trader A import diamonds purchased from the trader B located in Dubai. The diamonds have been purchased by the trader from a Russian sanctioned company.

Attention points

- ✦ **Origin Verification and Compliance with Import Ban:** The EU imposes an import ban on Russian diamonds so the origin of the diamonds should always be verified. The diamonds purchased by Company B come from Russia.
- ✦ **Involved Entities:** Company C is established in Russia and it is a sanctioned entity. Company B is not a sanctioned entity but has business relationships with Russia (even with sanctioned entities): the funds received by trader B from the Belgian trader A can potentially be diverted to the Russian sanctioned entity.

Conclusion

- ✦ This scheme is a violation of the EU's import ban enforced on Russian diamonds. In addition, there is a risk that the funds received from the Belgian trader by Company B could be diverted to the Russian sanctioned entity, which violates sanctions regulations.



06 // Part 6. Anti-boycott requirements





Several countries around the world implemented anti-boycott measures in their national legislation, preventing companies from agreeing to and including boycott language in their commercial documentation. This is a general countermeasure against any discriminatory business behaviour such as the boycott of the Arab league against Israel.

Anti-boycott requirements restrict diamond traders to accept specific contract language in relation to:

- ✦ Refusing or agreeing to refuse to do business with or in a boycotted country or with a national of a boycotted country or a boycotted person. This includes, among other things, agreeing to comply with a country's boycott laws.
- ✦ Refusing to employ or otherwise discriminate against a person, in deference to a boycott request, on the basis of race, religion, sex or national origin.
- ✦ Furnishing information, in response to a boycott request, about the race, religion, sex, or national origin of an owner, officer, director or employee.
- ✦ Furnishing information about any person's past, ongoing, or proposed future relationships (or the absence of relationships) with other parties, if that information is sought for boycott-related reasons.
- ✦ Furnishing information about any person's association with or support for any charitable or fraternal organisation supporting a boycotted country.
- ✦ Paying, honouring, confirming or otherwise implementing a letter of credit that contains any prohibited boycott requirement or request. Conducted, a detailed investigation of the business partners, including banks, transportation and insurance companies and the transaction is required. Furthermore, it is recommended to include contractual clauses prohibiting the re-export to sanctioned countries or persons and to request end-use statements of the counterpart.

Agreeing to include boycott clauses in trade contracts can be considered as a punishable activity under certain trade sanction regimes (for instance as administered by the US or Germany). Diamond traders may need to consider revising the contractual language of their business relations in order to avoid having any direct or indirect boycott language in them. In general, anti-boycott legislation is not intended to harm the own industry, but to protect the industry from adverse effects of the countries imposing the boycott.

The anti-boycott regulation can lead to conflicting situations, such as European companies might face when trading with Iran. From an EU point of view, the transactions can be allowed (under certain conditions), but the US could sanction companies for this, even when there is no US nexus. The so-called 'blocking statute' that the EU Commission has established, provides the following rules: *'allowing EU operators to recover damages arising from the extra-territorial sanctions within its scope from the persons causing them and nullifies the effect in the EU of any foreign court rulings based on them. It also forbids EU persons from complying with those sanctions, unless exceptionally authorised to do so by the Commission in case non-compliance seriously damages their interests or the interests of the Union'*²². The blocking statute can be imposed against other sanctions as, for example, the US sanctions against Cuba.

As mentioned above, it is important to understand that these kind of regulations are mainly intended to protect local businesses from adverse effects of the sanctions, rather than sanctioning them for compliance with these extraterritorial requirements. Nonetheless, a minimum of compliance will be required as, for instance, contract clauses agreeing with the boycott might be challenged.

²² https://ec.europa.eu/fpi/what-we-do/updated-blocking-statute-support-iran-nuclear-deal_en



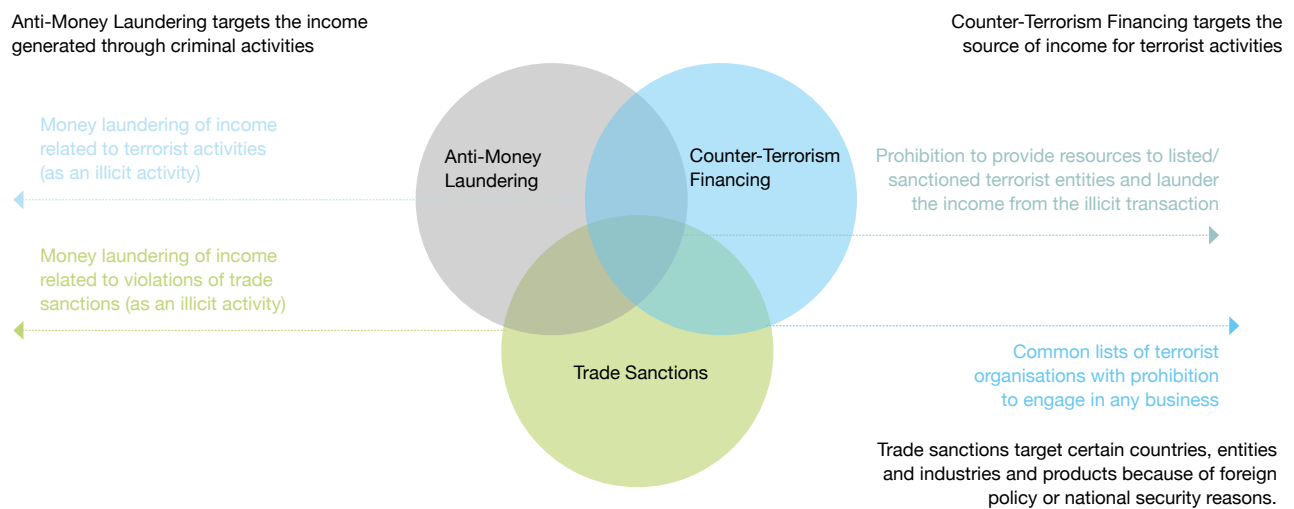
07 // Part 7. Related/following AML/CFT requirements and risks



7.1 // Differences and overlap with AML/CFT regulation

Diamond trade is a heavily regulated activity and many layers of regulation should be considered, besides the trade sanctions restrictions explained in this document. One regulation that has a certain overlap with trade sanctions is Anti-Money Laundering and Counter Financing of Terrorism Regulation (AML/CFT). However, it needs to be emphasised that trade sanctions and AML/CFT regulation are two separate regulatory frameworks and should be considered in conjunction to ensure compliant operations.

For example, one of the touchpoints of the trade sanctions regulation and AML/CFT regulation is the restriction of activities related to terrorism. Terrorists, terrorist groups and organisations, entities deemed to engage in or facilitate terrorist activities are placed on sanction lists. These lists are thus important for both regulatory frameworks: for trade sanctions checks and for AML/CFT checks. See below an overview of the overlaps between the different legislations:



The scope and target of the legal frameworks is different. For example, countries that are considered 'sensitive' or 'high risk' from an AML perspective, are not always considered sensitive from a trade-sanction perspective (while other countries might be considered as sensitive by both). For example, today Serbia and Tunisia are monitored jurisdictions for AML purposes, but are not sanctioned/embargoed countries from a trade-sanctions perspective.

In case there is an overlap in a country from an AML/CFT perspective and from a sanctions perspective, there might still be some differences in the compliance legal requirements and both sets of rules should be considered. For example, certain elements, such as the amount of a financial transaction, may be essential to take into account for an AML risk assessment, but are not relevant from a trade sanctions perspective and vice versa.



For example, Iran is placed on an FATF list with strategic AML deficiencies, which means enhanced due diligence measures should be taken proportionate to the risks arising from Iran (e.g. the diamond trader should be extra vigilant and take appropriate measures to mitigate the risk of money laundering for their trade with a party located in Iran).

At the same time, as explained above, Iran is as well subject to strict restrictions from a trade-sanctions perspective (which means that a Belgian company should take into account that it might be sanctioned by the EU if it trades in particular sanctioned activities, or by the US for any activities with Iran. Both the AML and trade sanctions requirements should be kept in mind for this transaction. Where synergies exist, they should be used, but awareness of differences in scope should remain.

For a detailed overview of the AML/CFT requirements applicable to dealers in diamonds, please refer to [AWDC's AML policy template](#).

7.2 // AML/CFT related financial sanctions

AML/CFT requirements and trade sanctions are often confused and can lead to a false sense of compliance when the full scope is not considered. Described below are the financial embargoes imposed by the AML/CFT regulations. Although they can be supplementary of nature, they should be considered in parallel to the financial sanctions that can be imposed by the various trade sanction programmes.

The Belgian AML/CFT regulation of 18 September 2017²² has binding provisions on financial embargoes. Dealers in diamonds have obligations relating to asset freezing or other restrictive measures and specific due diligence requirements in the context of the fight against terrorism, terrorist financing or the financing of the proliferation of weapons of mass destruction.

As a member state of the European Union and the United Nations, Belgium applies all EU and UN financial sanctions. Based on the UN Resolution 1373 of 2001, EU Directive 2580/2001 and 881/2002, Belgium has established a national sanction list for persons/entities who have committed, attempted to or facilitated acts of terrorism. All three lists are available via the site of the FPS Finance – General Administration of Treasury²³.



²³ Law of 18 September 2017 on the prevention of money laundering and terrorist financing and on the restriction of the use of cash.

²⁴ By the Decree Law of 6 October 1944 on the control of transfers of goods or assets between Belgium and foreign countries, by the Law of 11 May 1995 on the implementation of decisions of the United Nations Security Council, by the Law of 13 May 2003 on the implementation of restrictive measures adopted by the European Union Council against States and against certain persons and entities and by the Royal Decree of 28 December 2006 on specific restrictive specific measures against certain persons and entities in the context of the fight against terrorist financing,



7.3 // AML/CFT compliance policy and obligations

Both AML/CFT and trade sanctions compliance require the establishment of a robust internal compliance policy.

Based on the AML/CFT legislation, dealers in diamonds have the obligation to check their customer database and new potential customers, to check whether they are listed as a sanctioned person or entity on the financial sanctions lists (AML concerns specific lists published by UN, EU and Belgian list). As part of the Customer Due Diligence and Know Your Customer procedure, this check also applies to the customer's agent(s) and beneficial owner(s).

For trade sanctions as well, entities should be screened against the applicable lists. The lists for AML and trade sanctions purposes may defer:

Example

- ✦ The US Sectorial Sanctions list (applicable to entities in particular sectors) has restrictions only from a trade sanctions perspective. There would be no AML reporting requirements when dealing with an entity listed only on this list and no other. On the other hand, the Politically Exposed Persons (PEP) list would have significance only from an AML perspective as it presents a higher risk for potential involvement in bribery and corruption.

When a (potential) customer is listed as a sanctioned entity for AML purposes, the General Administration of Treasury of the FPS Finance should be notified immediately and asset freezing needs to be done if applicable.

In order to comply with the AML/CFT requirements diamond traders shall:

- ✦ Develop, implement and execute adequate policies, procedures and internal control measures. These should include risk management models, customer acceptance, customer due diligence, monitoring of transactions and customers, notification of suspicions to the CTIF-CFI and recordkeeping.
- ✦ Appoint, among the members of the management body, a person responsible for ensuring the execution and enforcement of the obligations on financial sanctions.

Non-compliance with the AML/CFT requirements can result in administrative and/or criminal penalties on international, European and national level (AML is only enforced nationally for the reporting entities).

A strong internal compliance policy supported by a proper process, use of adequate screening tools and regular training and awareness raising of staff are important to be compliant with both AML/CFT regulations and trade sanction requirements.



08 // Part 8. Preventive measures and attention points





8.1 // Attention points checklist

Several elements should be checked in order to evaluate if transactions are compliant with trade sanctions or if there are 'red flags'. In case the answer of any of the questions below is 'yes', further analysis is required to assess the risk of committing a trade sanction violation.

1. Destination concerns

- ✦ Are you involved in trade with countries subject to trade sanctions?
 - If yes, are the sanctions comprehensive or targeted?
 - Comprehensive.
 - If targeted, is your business impacted?²⁵
- ✦ Are there reasons to believe that the diamond-related transaction can contribute to human rights violations or reinforce internal repressions in the region?
- ✦ Are there reasons to believe that the transaction can relate to illicit diamond mining?
- ✦ Is the transaction linked to companies or persons active in sensitive sectors such as the military, oil and gas or chemical sector?
- ✦ Do you provide 'economic resources' (including through diamonds) to a government of a country where financial restrictions are applied?

2. Entity concerns

- ✦ Is your business partner a state-owned company from a sanctioned foreign government?
- ✦ Did the screening of all parties involved in the transaction against sanctioned party lists give a match? (Note: consider all parties on all potentially relevant sanction lists.)
 - After reviewing the match, are any of your business partners sanctioned entities?
 - Is the transaction indirectly related to a sanctioned entity?²⁶
- ✦ Are any of your business partners located in a destination with applicable comprehensive sanctions or holding a citizenship in such countries?
- ✦ Are any of the parties involved owned or controlled by a sanctioned entity?
- ✦ Would a person under asset freeze get access to the diamonds or other economic resources through your transaction?
- ✦ Is the transaction going through sanctioned banks?
- ✦ Are financial restrictions applicable to the entities involved?

3. Product concerns

- ✦ Are the diamonds for industrial use?
 - If so, are they going to be used for the creation of dual use or military products?

²⁵ For EU country sanctions check: [Link](#).

For US country sanctions check: [Link](#).

²⁶ Bureau Van Dijk screening tool provided by the AWDC platform can be used for screening against sanction party lists.



4. US sanctions applicability (in case potential business in US sanctioned regions or with US sanctioned entities is being assessed)

- ✦ Is the transaction denominated in US dollars?
- ✦ Is your company established in the US or is it a foreign branch of a US-established company?
- ✦ Is your company owned or controlled by US persons? Is there a US person on your company board of Directors?
- ✦ Are US citizens or US green card holders involved in the transaction?
- ✦ Are US-origin products involved or is the transaction passing US soil?
- ✦ In case the above questions are answered negatively and the US sanction is the only sanction applicable against this entity/country:
 - Did you consider the reasons for the sanction as a factor in your due diligence process and assess whether there are any concerns relating to unethical business practices? Are there any concerns following this process?
 - Can you consider the business with the US-sanctioned entity as 'continuous' or 'substantial'?
 - Is boycott language included in your commercial documents?

8.2 // Preventive measures

In order for companies in the diamond sector to be able to follow up the trade sanction compliance requirements in a consistent manner, an appropriate Internal Compliance Policy should be integrated into the company's trade sanction compliance processes.

An effective trade sanction compliance policy includes designating responsible people, stating an official compliance company commitment, integrating trade compliance checks in the business process and establishing the appropriate tools to support the company's activities such as a sanctioned entity screening solution.

The main elements of the internal compliance policy include:

- ✦ A trade sanctions compliance commitment.
- ✦ A clear definition regarding the scope of regulatory obligations covered by the policy.
- ✦ Sanctions compliance attention points.
- ✦ Organisational structure and responsibilities.
- ✦ Transaction screening processes and procedures.
- ✦ Integration of tools to support sanctioned party list screening and perform automated checks.
- ✦ Training and awareness.
- ✦ Monitoring and reporting.
- ✦ Evaluation and audit.
- ✦ Handling non-compliance issues and taking corrective actions.

Considering that companies active in the diamond sector already have structures in place to comply with multiple other legal requirements such as the Kimberly Process and AML legislation, the trade sanctions compliance programme can potentially be integrated in already existing structures.





[Annex A. Country Chart: Sanctions applicable for countries most relevant to the diamond sector](#)

[Annex B. List of sanctioned entities active in the diamond sector](#)






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