

## U.S. Government International Economic Sanctions Bite Maritime Industry Again

The worldwide maritime industry was reacquainted in April 2010 with U.S. government international economic sanctions when President Obama issued an order making it unlawful for U.S. persons to pay ransoms to designated Somali pirates. If the industry needed any reminder that the U.S. government economic sanctions program has teeth, it need look no further than the \$3.1 million fine imposed on Maersk Line, Limited (MLL) announced on July 28, 2010.

That fine was assessed to settle allegations that MLL violated the Sudanese Sanctions Regulations and the Iranian Transactions Regulations multiple times between January 2003 and October 2007. The U.S. Treasury Department's Office of Foreign Assets Control, or OFAC, alleged that MLL violated those economic sanctions with respect to about 4,700 shipments, leading to a potential base penalty amount of about \$62 million, calculated on the basis of gross freight charges.

The penalty amount was lowered significantly under OFAC's Economic Sanctions Enforcement Guidelines because of credit given by OFAC to MLL for not having been found to have violated OFAC sanctions within the past five years, for MLL's substantial and full cooperation with OFAC's investigation, and for substantial steps taken by MLL (and its parent A.P. Moller-Maersk A/S) to prevent future violations. MLL also received credit for the fact that those cargo deliveries alleged to have been in violation only generated a portion of MLL's total \$62 million gross freight charges during the period. MLL received these credits despite not having voluntarily self-disclosed the matter to OFAC, for which it would have received additional credit under OFAC's Enforcement Guidelines.

MLL is only the latest maritime company to have run afoul of U.S. government international economic sanctions. Stena Bulk, LLC, for example, paid about a \$425,000 penalty in early 2009 for alleged violations of the Sudanese Sanctions Regulations relating to the transportation of oil to and from Sudan. Other matters are ongoing. Seacor Holdings Inc. reported in a July 29, 2010 filed Securities and Exchange periodic report that it continues to have pending OFAC allegations that it violated Sudanese Sanctions Regulations in 1999 and 2000.

Ship owners, freight forwarders, and others engaged in the worldwide maritime industry should continue to be mindful of the reach of U.S. government international economic sanctions. Companies formed in the United States, present in the U.S., or even just transacting business in the U.S. must comply with those sanctions. Sanctions currently cover a range of different activities related to a number of countries, including Congo, Cuba, Cote d'Ivoire, Iran, North Korea, Somalia, Sudan and Syria.

As we have indicated in a prior [Briefing](#) (April 2010) discussing OFAC's guidance on the Somalia piracy-related sanctions, the application of the international economic sanctions often involve significant and uncertain issues. For example, it is not always apparent whether a company is sufficiently a "U.S. person" required to comply with the sanctions restrictions. As a consequence, companies should consider seeking OFAC guidance or an express license whenever a transaction may involve or be related to a covered country or in the event of any uncertainty.

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