



## Cari's Legal Exchange — Iran Sanctions: Implications for Global Trade

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In this episode of Cari's Legal Exchange, Cari Stinebower, chair of Winston's International Trade Practice, is joined by Dainia Jabaji, of counsel and member of Winston's International Trade Practice, to discuss the current state of play with respect to U.S. sanctions on Iran and the implications for global trade. Together, they cover the breadth of the existing Iran sanctions program, the reach of secondary sanctions under the current Administration's objectives, assess potential sanctions relief in the coming weeks, the challenges financial institutions face in reentering sanctioned markets, risks arising from *force majeure* claims tied to the Strait of Hormuz closure, and the expected rise in oil, gas, shipping, and supply-chain disputes.

Watch the full conversation for timely guidance on navigating these rapidly evolving developments.

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### AUDIO TRANSCRIPT

#### **Cari Stinebower**

Hello everyone, I'm Cari Stinebower, Chair of Winston & Strawn's International Trade Practice. Today, March 17th, I'm here with Dainia Jabaji, of counsel and member of the International Trade Practice here at Winston. Dainia has vast experience in white-collar financial regulatory and international trade investigations, enforcement, compliance, and defense.

Today, Dainia and I will be discussing the current state of play with respect to Iran, U.S. sanctions, and what to expect in the coming days. So let's get to it. To start, I will just give a brief update of where we are as of today.

So the news this morning was that we still do not have proof of life of Mojtaba Khomeini, and it appears that the security chief for Iran has been eliminated by the Israelis overnight. So what that means from a practical perspective is that the tensions between the United States and Iran will continue. We have additional information coming through the press that potential de-escalation between Iran and the United States has been rejected by the Iranian regime.

So the implications for the security of the Strait of Hormuz, for supply chain, for international shipping continue to escalate. We've seen the price of Brent crude over \$100 in pre-market trading this morning, and the implications for the fertilizer trade is also significantly increased. With that, Dainia, where are we as it now stands on U.S. sanctions on Iran? Can you level set for us?

#### **Dainia Jabaji**

Yeah, thanks, Cari, and happy to be here with you today. So when it comes to U.S. economic sanctions, the U.S. continues to maintain very broad and comprehensive sanctions targeting Iran. It's maintained a sanctions program targeting Iran since the 70s.

And in the past couple of decades, it's prohibited conducting virtually any business with Iran absent a license or exception. And so those sanctions still remain in place as of today. That includes things like importing goods from Iran, exporting goods to Iran, conducting any direct or indirect business with the government of Iran, entities located in Iran absent a license or exception.

And then it also covers certain sectors of the Iranian economy that could kind of open the door to sanctions being imposed on those that are found to be operating in those sectors, even if they're not Iranian companies.

**Cari Stinebower**

And the major question we always get from our non-U.S.-based clients is what are the implications on the secondary sanctions side? Do they exist still and what do they look like?

**Dainia Jabaji**

Yes, they definitely still exist. And given Trump's maximum pressure campaign against Iran that has been in place since the beginning of his presidency, we have seen them used very liberally. So it's targeting essentially non-U.S. companies that are doing business in Iran and particularly those that are helping Iran evade sanctions. And they allow for the U.S. government to impose a kind of menu of sanctions on firms that are operating in Iran or with Iranian counterparties up to and including sanctions designation themselves.

**Cari Stinebower**

And so as we see the price of Iranian crude continue to increase and still being exported to certain jurisdictions, would you expect an enforcement mechanism or would you just wait to see how this plays out over the next few weeks?

**Dainia Jabaji**

Well, I think these next few weeks will certainly be critical. So it'll be interesting to see what happens. But we've already seen, as we kind of predicted a while back, that there would be some easing of sanctions on Russia, Russian oil.

So we just saw that there was a general license that was published that would allow for the trading in certain Russian oil that's already out on ships. And so we'll see what that covers and how long this lasts. I think it could be the case that there is some easing of sanctions if the Iranian regime falls and we get kind of a more Western friendly or some kind of ally in there that we can kind of negotiate with.

But until then, I think that these risks remain, and we'll have to see what the Treasury Department comes out with in terms of general licenses. I think they'll likely target other programs like Russia and like we see in Venezuela as well.

**Cari Stinebower**

And exactly to that point, do you think that the Venezuela model might be something we would see applied in Iran?

**Dainia Jabaji**

I think we could. Again, I think we would have to see how things kind of play out and what kind of regime we have in place following the war. But, you know, I think it's important to note, too, that the Iran sanctions program is much more complex than the Venezuela sanctions program.

So to the extent that there are general licenses that are rolled out at the end of this that start to open up the possibility of doing business in Iran or the possibility of trading in Iranian oil and gas, I think it might be the case that those are harder to actually actually abide by in practice. So we'll see what happens there.

**Cari Stinebower**

So assuming that we do see some sanctions relief and we know from your background as a former banker that sometimes the financial institutions are reluctant to jump full feet into the general licensing activity. What would you expect the insurers and the bankers of the world to do if we saw some sanctions relief in Iran?

**Dainia Jabaji**

Well, I think what we can do is kind of take a recent example of Syria and even there where you had kind of the full, effectively a full lifting of Syria sanctions. We have seen even some financial institutions that have still been reluctant to engage in any transactions because the penalties can be very, very harsh, very severe, and they're imposed on a strict liability basis. And so I think what the government hopes is that the banks would just start to allow these transactions.

But there's a little bit of a disconnect. And what we're seeing at times is banks are having conversations with the government, with the government actually asking them to please go ahead and process the transactions. And so I expect to see something similar there, especially in the case of Iran, which is like I said, just much more complex.

And there's kind of other pitfalls that they'll have to look out for.

**Cari Stinebower**

And as we see sanctions start to roll back, financial institutions get more interested in reentering the markets. There are other risks that the clients are going to face. And I think we've seen some already with respect to walking away from contracts, potential risk for supply chain, for the ship owners, the ship managers, the charter parties.

What do you think we're going to see with respect to litigation, arbitration and mediation clauses?

**Dainia Jabaji**

That's a great question. And I think we are already starting to see it play out, given the straight of her moves closing. And we've seen some ship insurers that have kind of pulled back coverage.

We've seen kind of parties that are engaged in this trade, specifically in the oil and gas business, that are kind of at a loss right now. And so what we've seen is some companies that have already declared a force majeure. And I think that parties kind of tend to rely on saying, oh, it's there if we need it.

It's there in our contract. And they don't realize there's sometimes a time limitation on when they can actually declare it. And there has to be an actual legal impossibility of carrying out the contemplated action in the contract.

So usually they're not as broad as people think. And so I think it would be prudent on companies to take a look at their contracts if they are impacted right now, see if it is something that they should be bringing and declaring as a force majeure and otherwise just preparing for an uptick in litigation in this space, whether it's against the shipping counterparties, oil and gas business generally, or just the downstream kind of effects that this has caused and the parties that are involved in those businesses.

**Cari Stinebower**

For sure. For sure. And I think what we what we saw after the 2022 restrictions on the aviation space in the Russian Federation, what we learned from that was specifically that the clauses, as you say, are super important.

So, one of when you go to arbitration, some of the things that are taken into account are whether the risk was mitigated in advance, whether alternative routes were considered. In this case, it would be the longer voyages and alternative supply chain, whether there was a potential for shipping via air or, you know, other risk mitigation factors. So I think the next couple of years, to your point, is going to be really interesting with respect to litigation and arbitration.

Well, do you have any final words with respect to what we can expect in the Iran sanctions space?

**Dainia Jabaji**

I wish I could predict it a little better. I think we're all kind of in this wait-and-see period. I think we can, you know, kind of take some examples of seeing what has happened in Venezuela as well as Syria, and try to apply it the best we can.

But for now, I think we'll just kind of be buckled up and watching closely to see what happens.

**Cari Stinebower**

Thank you, Dainia, and thank you to everyone that tuned in to listen. If you have any questions on sanctions in general or how things are developing in the Iran space, we would be happy to discuss offline. You can reach out to Dainia or to me, and we can continue the conversation.

Thanks again for participating in the Legal Exchange.

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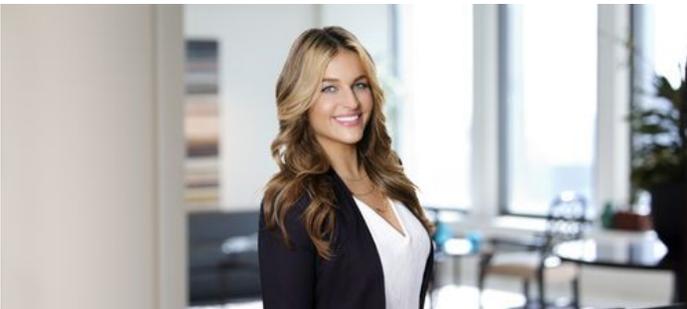
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Dainia Jabaji

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