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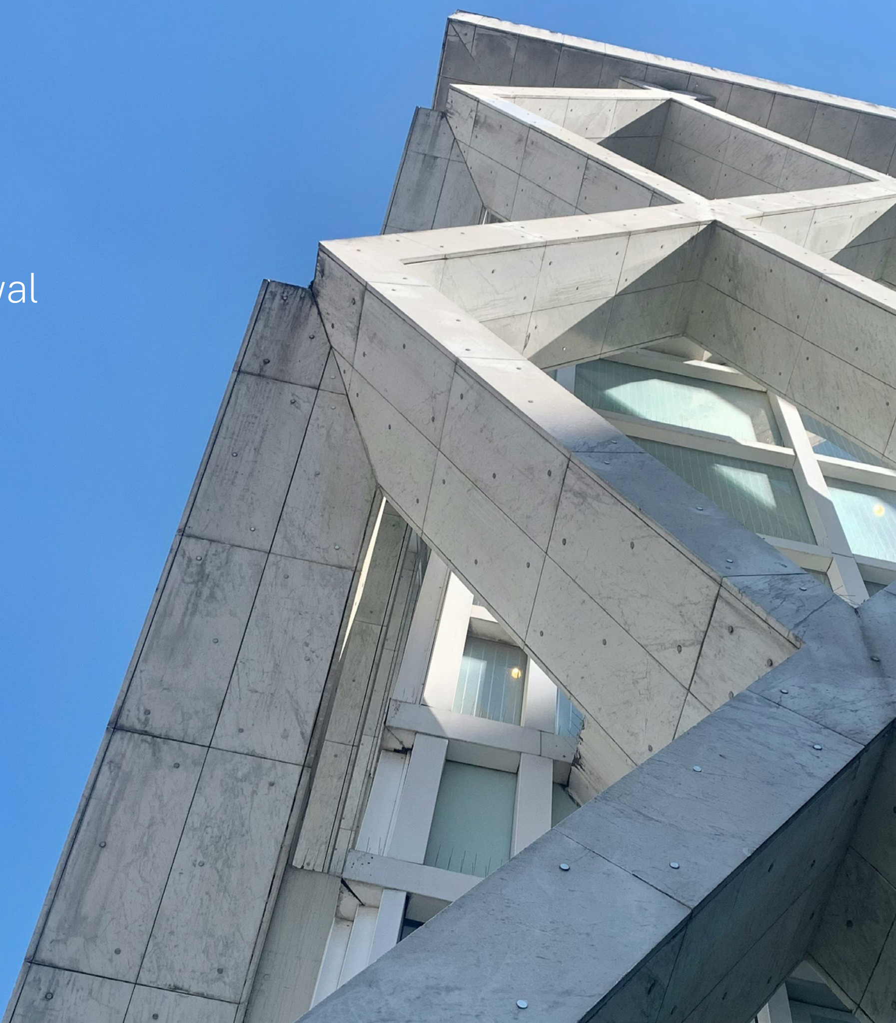

India: Law and Practice

Ayush Mehrotra, Upkar Agrawal and Varsha Goel
Khaitan and Co

INDIA

Law and Practice

Contributed by:
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Khaitan and Co

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Khaitan and Co is among India's top-tier, premier full-service law firms, with over 1300 lawyers, 340+ leaders, a robust pan-India footprint across 11 cities and an international presence in Singapore. Our elite team of dynamic, forward-thinking lawyers combines our rich heritage of excellence with a modern approach characterised by innovative and precise execution. The firm acts as a trusted legal advisor to the biggest names in business from across the globe, including top Indian and multinational corporations, governments, financial sponsors and private equity and venture capital players. Blending in-depth domain expertise and sharp local insight, our lawyers navigate complex sector dynamics and cross-border realities with scrupulous care. Our teams are increasingly agile, specialised and market-leading, covering a wide range of practices and sectors including corporate and M&A, PE – VC, dispute resolution, regulatory, competition, emerging technologies, media and entertainment, data protection and privacy, banking, financial services, insurance, tax, capital markets, trusts and estate planning, employment law and IP.

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1. Trends and Overview

1.1 Sanctions Market

India's sanctions landscape has undergone significant transformation in the last 12 months. The most notable development is India's first autonomous trade sanction on Pakistan, prohibiting all direct and indirect imports or transit of goods originating in or exported therefrom, with immediate effect, citing national security and public policy. This marks a decisive departure from India's traditional posture of implementing only United Nations Security Council (UNSC) mandated sanctions and signals a willingness to deploy trade restrictions as an instrument of bilateral statecraft.

The Indian Government also implemented the UNSC resolution changes in the past year, including amendments relating to travel bans, asset freezes, arms embargoes and adding individuals and entities to sanctioned lists concerning Sudan, the Democratic Republic of Congo, Libya, Haiti, Iraq and Yemen through corresponding updates in the national legislation.

In March 2023, the Indian Government mandated registration for virtual digital asset (VDA) service providers, including overseas operators under the Prevention of Money Laundering Act, 2022 (PMLA). In the past year, the Financial Intelligence Unit – India (FIU-IND), the enforcement agency under PMLA, has increased vigilance by initiating enforcement action against non-compliant offshore VDA platforms, including issuing compliance notices to entities operating in India without registration.

Additionally, Indian businesses are facing increasing pressure from US secondary sanctions targeting countries purchasing Russian oil and gas. In October 2025, the US Treasury's Office of Foreign Assets Control (OFAC) sanctioned 21 Indian entities (19 companies and 2 individuals) for links to the Russian Government. The European Union's (EU) sanctions packages have also extended restrictive measures to select Indian companies with Russian ties in mid-2025 and, more recently, in June 2026.

The EU's 18th and 21st sanctions packages directly designated Indian entities on the EU asset freeze list. Further, in October 2025, the United Kingdom designated Indian refiners/port operators tied to Russian supply chains as sanctioned entities. These designations have created new commercial and compliance challenges for Indian businesses that have historically operated outside the direct reach of foreign sanctions regimes. Overall, the sanctions domain has expanded materially in both scope and complexity over the past 12 months, placing sanctions compliance firmly at the centre of corporate governance and cross-border statecraft strategy.

1.2 Key Trends

Geopolitical dynamics have become a key determinant of corporate strategy, rather than a secondary consideration. Trade sanctions, in particular, have gained prominence in boardroom and governance conversations over the past 12 months. This is primarily due to increasing geopolitical uncertainties and evolving requirements to comply with international obligations and national security. The key trends we are witnessing have been outlined below.

- India's first autonomous trade sanction in the form of an import ban from Pakistan, signalling a paradigm shift from exclusive reliance on UNSC-mandated measures, toward a more assertive domestic sanctions posture (mentioned in the above section too).
- Enhanced know-your-customer (KYC) standards through updated FIU-IND guidelines, imposing stringent customer due diligence requirements including sanction designation verifications, bank account verification and periodic KYC refresh cycles by financial institutions and multi-nationals indicate both recognition and a pro-active approach of the financial sector to stay compliant with sanctions laws.
- Growing alignment with international standards on export control and strategic trade, including closer co-ordination with multilateral export control regimes such as the Wassenaar Arrangement, the Nuclear Suppliers Group and the Missile Technology Control Regime through enforcement of national legislation.
- Emergence of a dual-track Indian trade policy, ie, execution of free trade arrangements across competing geopolitical blocs, coupled with non-enforcement of any autonomous sanctions such as by the US, EU, etc. The FTAs preserve broad national-security exceptions and strengthen rules of origin, customs-risk management and supply-chain cooperation.
- Increased exposure to US and EU secondary sanctions pressure, principally arising from continued Indo-Russia commercial relationships leading to the private sector adopting corporate governance and contracting measures to combat any adverse sanctions implications.

1.3 Key Industries

The following sectors are particularly affected by sanctions regulations in India.

Banking and Financial Services

Compliance obligations under Reserve Bank of India (RBI) directions, screening requirements against UNSC and domestic sanctions lists, enhanced monitoring obligations and the practical challenges of correspondent banking relationships with jurisdictions under sanctions. Additionally, the risk of secondary sanctions, particularly under the US framework pertaining to foreign financial institutions, has become a prominent concern for the banking and financial sector.

Chemicals

Export controls on precursor chemicals and dual-use intermediates, particularly those with potential application in chemical or biological weapons programmes.

Defence and Dual-Use Technology

Controls under the special chemicals organisms, materials, equipment and technologies (SCOMET) list and export licensing requirements, particularly considering India's growing defence exports and technology transfer arrangements.

E-Commerce and Fintech

VDA compliance obligations, cross-border payment monitoring and the challenges presented by decentralised finance platforms that may facilitate sanctions evasion.

Maritime and Shipping

Enforcement of the Pakistan trade ban, scrutiny of vessels carrying Russian oil and monitoring of ship-to-ship transfers in Indian waters.

Oil and Energy

Oil refining, import of Russian crude and international petroleum trade remain at the forefront of sanctions-related scrutiny. India is now the world's largest buyer of Russian seaborne crude and Indian refiners face increasing pressure from both US and EU authorities regarding the origin and pricing of crude oil imports.

1.4 Overview

1.4.1 Types of Sanctions

India implements a variety of sanctions, as outlined below.

Arms Embargoes

Prohibiting the direct or indirect supply, sale or transfer of arms and related material (including technical know-how) to or from designated nations, groups, entities or persons, including a bar on shipping such items abroad for repair, servicing, refurbishment or testing.

Asset Freezes
Immobilising financial assets and economic resources owned or controlled by designated persons or entities, with financial institutions required to block any dealing with the frozen property, subject to specified exceptions.

Blocking Access to the Financial System
Directing financial institutions to deny designated persons the ability to open accounts, process payments, extend credit or access insurance and other financial services and requiring broader de-risking of relationships with sanctioned or high-risk parties.

Suspension or Cancellation of Import-Export Licences
Administrative measures against non-compliant traders, including suspension of importer-exporter certificates.

Trade Prohibitions and Restrictions
Import and export of goods and services to or from designated countries/persons or entities are either banned or subject to mandatory conditions. Such measures range from targeted goods/services-specific sanctions to country-specific sanctions on trade in all goods/services, such as a ban on trade in all goods originating or transiting from Pakistan.

Travel Bans
Barring designated individuals from entering or transiting through Indian territory.

1.4.2 Scope of Sanctions
Indian sanctions laws must be complied with by the following categories of persons and entities:

- all Indian citizens;
- entities or artificial juridical persons incorporated or registered in India;
- persons on ships and aircraft registered in India, irrespective of their physical location; and
- all persons and entities within India undertaking any transaction in India, regardless of their nationality.

Extraterritoriality
Some relevant legislations have extra-territorial reach for situations such as terrorism financing, facilitation, support or conspiracies with sufficient nexus to India or an impact on India's security or interests. The entities involved can be subjected to sanction measures under national legislation, irrespective of their presence within or outside India.

1.4.3 Domestic and/or Supranational Measures
India implements both supranational sanctions measures notified by the UNSC and domestic measures for safeguarding its national security and public order. These measures are implemented through the following national framework.

Supranational Measures
India implements UNSC resolutions in line with its obligations as a member of the United Nations (UN) through orders (UNSCA Orders) issued under the United Nations (Security Council) Act 1947 (UNSC Act).

India does not implement or enforce unilateral sanctions imposed by any regional body or countries such as the United States (US) or the European Union (EU).

Autonomous/Domestic Measures
Sanctions measures are implemented against specific individuals organisations/ entities and countries under the national framework comprising of the Unlawful Activities (Prevention) Act 1967 (UAPA), the Foreign Trade (Development and Regulation) Act 1992 (FTDR Act) read with the Foreign Trade Policy 2023 (FTP) and the Handbook of Procedures 2023 (HBP), the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act 2005 (WMD Act), the Customs Act 1962 (Customs Act), the Foreign Exchange Management Act, 1999 (FEMA) and PMLA.

2. Overview of Regulatory Field

2.1 Primary Regulators
The primary regulators for sanctions activity in India are as follows.

- Ministry of External Affairs (MEA): Issues UNSCA Orders implementing UNSC resolutions. The MEA also serves as the nodal point for communication with UNSC sanctions committees.
- Ministry of Home Affairs (MHA): Administers counter-terrorism sanctions under the UAPA through the Counter Terrorism and Counter-Radicalisation (CTCR) Division. The National Investigation Agency (NIA) operates under the aegis of MHA and is responsible for the investigations and enforcement.
- Central Board of Indirect Taxes and Customs (CBIC): Enforces trade sanctions at the border through customs authorities and the Directorate of Revenue Intelligence (DRI).
- Directorate General of Foreign Trade (DGFT): Administers the export control regime and strategic trade controls. The DGFT maintains the SCOMET list and processes export authorisation applications.
- Reserve Bank of India (RBI): Serves as the principal financial regulator for sanctions compliance within the banking and financial system. The RBI issues Master Directions and circulars governing the obligations of banks and financial institutions.
- Financial Intelligence Unit – India (FIU-IND): Receives and processes suspicious transaction reports and disseminates intelligence to enforcement agencies. FIU-IND also supervises reporting entities for compliance with anti-money laundering and counter-terrorism financing obligations.

2.2 Enforcement

2.2.1 Enforcement Responsibilities

Implementation and enforcement of the statutes constituting the sanctions framework in India is entrusted to the following agencies:

- the MEA enforces obligations under the UNSC Act by issuing and amending UNSCA Orders;
- the MHA and NIA handle UAPA-related enforcement, including proscription of organisations and freezing of assets;
- the Enforcement Directorate (ED) administers proceedings under PMLA and FEMA, with powers of provisional attachment, search and seizure;
- customs and the DRI enforce the Customs Act and FTDR Act at border crossings and through intelligence-led operations;
- the DGFT handles trade-related contraventions through suspension and cancellation of importer-exporter codes and denial of export authorisations; and
- the RBI exercises supervisory enforcement in the financial sector through directions, monetary penalties and licensing actions.

The above agencies also rely on the relevant state machinery for criminal enforcement and prosecution. Prosecutions are conducted before designated special courts established under the relevant statutes, with appeals lying to the respective High Courts and ultimately to the Supreme Court of India.

2.2.2 Breaching Sanctions

The Indian framework, comprising multiple legislations, prescribes criminal penalties based on the nature of the offence under the respective statutes.

UAPA

Death or imprisonment for life for terrorist acts; imprisonment of up to 14 years for raising funds for terrorist organisations; up to ten years for providing support to terrorist organisations; forfeiture of property used in or derived from the commission of the offence; death or life imprisonment for being a member of an unlawful association; imprisonment for a term which may extend up to three years, one year and five years for dealing with funds of an unlawful association, contravention of order made with respect to unlawful places and indulging in unlawful activities, respectively.

WMD Act

Imprisonment for five years, extendable to life imprisonment, together with a fine for trade in prohibited goods or financing of prohibited activities related to weapons of mass destruction.

Customs Act

Imprisonment of up to three years and/ or fine for evasion of prohibitions on import or export; up to two years for false declarations; and confiscation of goods and conveyances.

PMLA

Rigorous imprisonment of three to seven years together with a fine for money laundering offences connected to terrorism financing; attachment and confiscation of proceeds of crime.

2.2.3 Civil Enforcement Action

India's civil enforcement landscape for sanctions-related breaches is shaped by the multi-agency character of its regulatory framework. As regulators undertake these proceedings against private entities, they involve confidential regulatory information and are generally not published. Based on press releases and public reporting, key civil enforcement actions include the following.

- On 19 May 2025, the DGFT issued an order against an exporter who exported triethanolamine 85% to Syria without obtaining the required export authorisation. The exporter contended that the intended end use was the manufacture of cosmetics and personal-care products and the UAE purchaser had diverted the goods without their knowledge. The office of DGFT concluded that the transaction in a dual-use item triggers the mandate of prior authorisation, which, in the present case, was not obtained. Based on the above, civil implications in the nature of pecuniary penalties were confirmed against the exporter.
- FIU-IND, through its order dated 19 June 2024, imposed a penalty of approximately USD2 million on a VDA service provider for failures to comply with PMLA registration and reporting framework.
- The ED has intensified civil enforcement through provisional attachment orders (PAOs) under the PMLA. In its Annual Report 2025-26, the ED has reported 712 provisional attachment orders, attaching assets valued at approximately USD9.7 billion (INR81,422 crore) and filed 657 prosecution complaints. The PAOs reportedly include actions against unlawful activities defined under the UAPA.

2.2.4 Criminal Enforcement Action

In the past three years, no significant criminal enforcement actions have been reported in the public domain concerning sanctions breaches. Notable designation actions include:

- in February 2023, the MHA banned two organisations, the Jammu and Kashmir Ghaznavi Force (JKGF) (43rd group banned) and the Khalistan Tiger Force (KTF) (44th group banned); and
- in May 2025, the UAPA Tribunal upheld the notification issued by the MHA declaring the United Liberation Front of Asom (ULFA), along with all its factions, wings and front organisations, as a so-called unlawful association.

2.2.5 Mitigation

The following steps are recognised as mitigating factors in the event of a sanctions breach.

- Demonstrating lack of knowledge and exercise of reasonable caveats and care are considered as a valid defence and result in mitigation of exposure.
- Voluntary disclosure of violations, particularly under the FTDR Act and FTP for export of SCOMET items and under Section 28 (2) of the Customs Act for duty-related matters helps mitigate penalty exposure, both for civil and criminal implications. 'Voluntary' nature of disclosure is thoroughly scrutinised.
- Proactive co-operation and necessary disclosure to investigating authorities during inquiries and proceedings, including preservation and production of relevant records and documents, is often helpful in mitigating the exposure.
- Establishing reasonable care and caveats by way of robust:
  - (a) an Internal Compliance Programme (ICP) approved by the DGFT;
  - (b) demonstrating a culture of compliance;
  - (c) remedial action/measures taken after discovery, including strengthening of compliance systems, training programmes and disciplinary action against responsible personnel, is also helpful in establishing credibility and bona fide intent to comply.

2.2.6 Strict Liability

Most offences under the relevant legislation that entail personal or criminal implications are subject to the test of knowledge and/or intentional involvement. Few violations (mostly related to legal persons) entail strict liability in the nature of pecuniary fines.

2.3 Licensing

2.3.1 Derogation

The licences and authorisations are issued for specific circumstances under the respective statutes, as follows.

UNSC Act

UNSCA Orders provide carve-outs permitting expenditure on necessities (food, rent, medicines, taxes and utilities), reasonable legal fees and extraordinary exceptional expenses. The government must notify the UNSC to access these limited exceptions.

UAPA

Similar to UNSCA Orders, limited access is authorised for essential living costs (food, rent, medicines, taxes and utilities), reasonable legal fees and extraordinary exceptional expenses, in line with UNSC Resolution 1452 (2002). This is subject to notification to the MEA, with access granted unless a negative decision is made within 48 hours. These provisions ensure that designated persons are not deprived of necessities.

FTDR Act

While import/export of goods or services that are completely prohibited are not subject to any licensing exception, import of certain restricted goods may be permitted on prior approval from the DGFT. Further, export authorisations for SCOMET items are issued upon verified compliance with end-use requirements, through a rigorous inter-ministerial review process.

2.3.2 Provision of Legal Services

The right to legal representation is a fundamental right. As such, all designated individuals and legal persons who are Indian nationals are entitled to access legal services in India without restriction.

For designated individuals or entities who are not Indian nationals, the UNSCA Orders and the UAPA Orders carve out an exception permitting the use of funds, financial assets and economic resources for reasonable professional fees and reimbursement of expenses associated with legal services. This exception is subject to appropriate notification to the government and the absence of a negative decision by the government upon such notification.

2.4 Reporting

Reporting obligations in India are extensive and apply to a wide range of institutions and individuals. The principal obligations are outlined as under:

Financial Institutions

Banks, stock exchanges, depositories, intermediaries, insurance companies and other regulated entities must maintain updated lists of designated terrorists and organisations as notified under the UAPA and UNSCA Orders. These entities must screen customers and transactions against the consolidated list of designated persons and verify whether designated individuals or entities hold funds, assets or economic resources. Where a match is identified, it must be reported immediately to FIU-IND, the designated UAPA Nodal Officers and the relevant sectoral regulator (RBI, Securities and Exchange Board of India, Insurance Regulatory and Development Authority of India, etc). If a match is confirmed, the entity must prevent further financial transactions and inform the central nodal officer. No prior court order is required for freezing.

Foreign Exchange and Cross-Border Reporting

The RBI mandates comprehensive monitoring of foreign exchange transactions, requiring authorised dealers to report cross-border remittances and capital movements under FEMA. All liberalised remittance scheme (LRS) transactions require purpose code declaration and are subject to monitoring for potential sanctions nexus. Customs and export violations prompt mandatory disclosures during investigations.

Other Reporting Requirements

- Registrars of immovable property must report holdings of designated individuals and entities to the relevant authorities.
- Designated non-financial businesses and professions (including real estate agents, dealers in precious metals and stones and certain professionals) must also comply with reporting obligations under the PMLA framework.
- VDA service providers registered under the PMLA must report suspicious transactions and maintain records of all transactions above prescribed thresholds.

3. Recent and Future Legal Developments

3.1 Significant Court Decisions or Legal Developments

The most significant court decisions and legal developments in the past three years have been outlined below.

Insolvency Proceedings by Sanctioned Indian Entity

In January–February 2026, an Indian chemicals trader (ICT) designated on the US OFAC SDN List initiated insolvency applications under the Insolvency and Bankruptcy Code 2016 (IBC) before regional benches of the National Company Law Tribunal (NCLT). These applications were directed against Indian subsidiaries and affiliates of US multinational coatings and chemicals companies (US Affiliates). The US Affiliates had withheld contractual payments to ICT following its SDN designation, apprehending that continued performance could expose their US parent entities, group companies and directors to secondary sanctions liability.

The NCLT declined to accept US sanctions exposure as a valid basis for non-performance. In arriving at this conclusion, the Tribunal placed determinative weight on the wholly domestic character of the underlying transactions: both contracting parties were Indian, the supply of goods occurred entirely within Indian territory, payment obligations were denominated in Indian Rupees and the governing law of the contracts was Indian law. On this basis, the NCLT held that the extraterritorial application of a foreign sanctions regime could not displace enforceable domestic contractual and insolvency obligations.

On 12 June 2026, the Gauhati High Court examined a bank's refusal to process certain foreign exchange transactions arising out of merchant trade transactions where the vessels used for transportation of goods were owned by an Iranian company designated under OFAC sanctions list. The Court observed that mere existence of a foreign sanctions regime does not, by itself, render such sanctions enforceable as part of municipal law in India. However, the bank's refusal was accepted on the grounds that:

- the contractual documentation incorporated sanctions-compliance requirements; and
- the incorrect disclosures by the entity violated Indian laws including FEMA, RBI and anti-money laundering norms.

The Court also observed that sanctions-related concerns may have significant commercial and operational consequences for banks and financial institutions facilitating international payments and part of correspondent banking networks.

On 6 August 2024, the Delhi High Court quashed the DGFT's order invoking catch-all export control provisions on the export of parts of aircraft. The court observed that the Defence Research and Development Organisation (DRDO) inspection had confirmed the civil application of the relevant parts of an aircraft, type certificates and end-user certificates had been provided. That rationality must guide the implementation of export controls to balance economic interests with national security concerns. It establishes that the DGFT cannot invoke catch-all powers arbitrarily where competent technical authorities have certified the civil nature of goods and appropriate end-use documentation has been furnished. The decision is significant for exporters of dual-use goods and technologies seeking clarity on the boundaries of regulatory discretion.

3.2 Future Developments

The decision of the Hon'ble Delhi High Court is awaited in the matter concerning an energy sector entity (CS(COMM) 1006/2025) wherein the court is to decide the issue of whether a foreign jurisdiction's (EU) sanctions can override the contractual obligations of an Indian entity operating under a contract governed by Indian law. This decision is expected to provide much-needed guidance on the extent to which extraterritorial sanctions can be given effect within the Indian legal system.

4. Delisting Challenges

4.1 Process

The procedure for challenging a sanctions designation depends on whether the designation arises under the UNSC Act or the UAPA, as set out below:

Delisting Under the UNSC Act

- The Indian authorities implement UNSC designations without independent judicial review. Accordingly, delisting may be requested through the following international channels:
- the focal point process established under UNSC Resolution 1730 (2006) and the relevant sanctions committee's guidelines, whereby a petitioner may submit a delisting request directly to the focal point; or
- through the country of citizenship or residence of the designated person, which may raise the matter with the relevant UNSC sanctions committee on the person's behalf.

Delisting the ISIL (Da'esh) and Al-Qaida sanctions list

By way of application to the UN Office of the Ombudsperson, which conducts an independent review and makes a recommendation to the sanctions committee.

Delisting Under the UAPA

The UAPA provides separate procedures for different designations, as outlined below.

- Unlawful associations – An application may be made to the MHA for cancellation of the notification declaring the association unlawful. The matter is then referred to the Unlawful Activities (Prevention) Tribunal (a body chaired by a High Court judge) for adjudication.
- Terrorists and terrorist organisations – An application for delisting is made to the MHA. If rejected, the applicant may apply to a review committee established under the chairmanship of a retired or sitting constitutional court judge, which reviews the evidence and makes a binding recommendation.

4.2 Remedies

The remedies available through a successful delisting challenge include the following.

UNSC Act

Removal from the UNSC sanctions list (through the UNSC mechanisms), with consequent updating of domestic UNSCA Orders to reflect the removal. All restrictive measures (asset freeze, travel ban, arms embargo) cease upon delisting.

UAPA

Cancellation of the unlawful association notification; removal from the terrorist or terrorist organisation schedules; unfreezing of previously frozen assets; removal of travel and financial restrictions; and restoration of the entity's legal capacity to operate.

4.3 Timing

The time required to obtain delisting varies significantly depending on the mechanism employed and the complexity of the underlying case.

UNSC Focal Point or Ombudsperson Process

There is no fixed timeline. It depends on the case's complexity, the responsiveness of member states and the caseload of the relevant sanctions committee or Ombudsperson.

UAPA Unlawful Association Notifications

These notifications are valid for five years from the date of issuance. The Tribunal can take up to six months to adjudicate whether there is sufficient cause to declare the association unlawful, from the date the MHA issues the notification. The federal government may, on its own motion or application by the designated persons, delist an association.

UAPA Terrorist Delisting

No statutory timeline is prescribed for the review committee's deliberation.

5. Trade and Export Restrictions

5.1 Services

FTP prescribes prohibitions and restrictions on the import and export of specified services with designated countries, entities or individuals. The principal restrictions on services trade are as follows.

- Prohibition on any financial services or transactions with designated persons organisations or nations as required under applicable UNSC resolutions, implemented by way of UNSCA Order.

- Restrictions on the provision of services to countries and entities subject to UNSC sanctions, including arms-related services, technical assistance, brokering services and training related to prohibited activities.
- Prohibition on making available any funds, financial assets or economic resources to or for the benefit of persons and organisations designated under UNSCA Orders or the UAPA.
- Services (technology) covered under the SCOMET list or under catch-all control provision, also having military end use, without authorisation from the DGFT.

5.2 Goods

India maintains significant prohibitions and restrictions on the import and export of goods. The principal measures include:

- complete prohibition on direct or indirect import or transit of all goods originating in or exported from Pakistan under FTP;
- prohibition on trade in items, materials, equipment, goods and technologies with designated persons organisations and nations as notified under UNSCA Orders and FTP;
- arms embargoes on countries subject to UNSC sanctions (as applicable under the relevant UNSC resolutions);
- SCOMET list items (covering special chemicals organisms, materials, equipment) without specific export authorisation requirements administered by the DGFT; and
- catch-all controls on items with military end-use or weapons of mass destruction applications, empowering the DGFT to require an export licence even where items are not specifically listed on the SCOMET list, where the exporter has reason to believe the items may have use in a military or WMD application.

6. Civil Litigation and Arbitration

6.1 Force Majeure

Indian courts have had limited occasions to consider sanctions as a ground for excusing contractual obligations. The legal framework is governed by Section 56 of the Indian Contract Act, 1872 (doctrine of frustration). Key judicial precedents have been outlined below.

- The Calcutta High Court vide its order dated 27 September 2016 (2016 SCC OnLine Cal 5067) rejected the force majeure defence based on US sanctions imposed on Iranian trade/ financial transaction for non-performance of a contract of supply of Sulphur from Iran to India, between an Indian phosphate manufacturer and a USAR-based trading company. The Court held that the sanctions did not make performance impossible. The sanctions applied only to US persons and not to other parties from trading with Iran. The Court noted that difficulty in procurement and commercial arrangements is insufficient to establish force majeure.
- The National Company Law Tribunal (NCLT) vide its order dated 26 March 2026 (CP(IB)N. 35/ AHM/2026) rejected a sanctions-based frustration/impossibility defence to a payment obligation between two Indian parties in INR. The NCLT did not accept US-Iran sanctions (framed as a reason for impossibility) as a valid excuse for non-performance in this case. Its reasoning rested on three grounds:
  - (a) unilateral foreign sanctions lack legal force in India absent domestic recognition;
  - (b) the specific “US person” nexus alleged was factually not established; and
  - (c) Section 56 frustration requires impossibility/ unlawfulness under the contract’s own governing (Indian) law, which was not shown.

Sanctions imposed by a foreign jurisdiction (such as the US or EU) that do not directly apply to Indian parties are unlikely to constitute a force majeure event in its natural meaning and scope, unless the party can demonstrate that compliance was impossible or such event is explicitly included as a contract suspension/ termination event in the contractual documentation between the parties.

6.2 Enforcement

Indian courts are yet to decide on enforcement of a judgement, whether domestic or foreign, against a sanctioned or designated entity. Any such judicial enforcement would, however, be expected to be examined in light of applicable Indian law, India's international obligations and constitutional safeguards, including principles of due process and protection of fundamental rights.

7. Designation, Compliance and Circumvention

7.1 Executive Body

Designation decisions in India are made by the following bodies, each operating within its statutory mandate.

MEA

Adopts UNSC-derived designations through UNSCA Orders issued under the UNSC Act. The MEA translates UNSC sanctions committee listings into binding domestic orders and is responsible for timely implementation of new designations, amendments and delistings.

MHA (Counterterrorism and Counter-Radicalisation Division)

Designates individuals and entities as terrorists or terrorist organisations under Schedules to the UAPA and declares associations as unlawful.

DGFT

Implements trade embargoes on countries organisations and individuals under the Foreign Trade Policy, including the administration of the SCOMET control list and the issuance of trade prohibition notifications.

7.2 Scope of Designation

India's sanctions framework does not contain an explicit statutory "ownership and control" test equivalent to the US 50% rule or the ownership and control provisions found in EU and UK regulations. However, the extant Indian sanctions framework addresses this issue through the following mechanisms:

- UNSCA Orders apply to funds, financial assets or economic resources owned or controlled by designated persons or held on behalf of such persons, mirroring the UNSC resolutions;
- the UAPA prohibits dealing with funds and assets of unlawful associations and terrorists, including assets held by persons on their behalf or for their benefit;
- the RBI mandates financial institutions to identify and freeze accounts that resemble or are connected to designated individuals or entities; and
- entities are expected to conduct due diligence on a risk-based approach to determine whether they may be dealing with persons who are owned or controlled by designated persons.

7.3 Circumvention

7.3.1 Prohibiting Provisions

Indian sanctions laws do not contain a standalone, express anti-circumvention provision equivalent to those found in US (International Emergency Economic Powers Act) or EU (Council Regulation) sanctions regulations. However, the substance of anti-circumvention is addressed through the combined effect of multiple statutory provisions:

- the UAPA prohibits "indirect" support to or transactions with terrorist organisations, capturing arrangements designed to circumvent the direct prohibition through intermediaries or layered structures;
- the FTDR Act and FTP prohibit "direct or indirect" import or transit of goods from Pakistan, addressing circumvention through transhipment, re-routing or false declarations of origin;
- the WMD Act prohibits financing of prohibited activities "directly or indirectly", targeting layered financing structures, front companies and nominee arrangements;
- the Customs Act treats attempts to evade any prohibition as a criminal offence; and
- RBI directions require financial institutions to identify indirect dealings that effectively benefit designated persons.

7.3.2 Criminal Penalties

While Indian law has no standalone "circumvention" offence, circumvention that amounts to a substantive violation of sanctions laws attracts criminal penalties under the relevant statute.

UAPA

Providing support to or transacting with a terrorist organisation carries imprisonment of up to 10 years;

raising funds for such organisations carries imprisonment of up to 14 years; conspiracy or attempt to commit these offences attracts the same maximum penalties.

WMD Act

Trade in prohibited goods or financing of prohibited activities carries imprisonment of five years extendable to life imprisonment, together with a fine. Attempt or abetment attracts the same penalties.

Customs Act

Attempt to evade any prohibition on import or export carries imprisonment of up to seven years together with a fine; confiscation of goods and conveyances; and monetary penalties of up to five times the value of the goods.

PMLA

Concealment or use of proceeds of unlawful activity (which includes activity contravening the above statutes) carries rigorous imprisonment of three to seven years together with a fine; attachment and confiscation of property involved in money laundering.

Abetment and Conspiracy

Abetment, as defined under Section 45 of the *Bharatiya Nyaya Sanhita 2023* (BNS) and criminal conspiracy (under Section 61 of the BNS) also serve as additional grounds for prosecution. These provisions empower enforcement authorities to take action against individuals who aid, facilitate or participate in any scheme to circumvent sanctions laws.

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