

The Role of Freight Forwarders in Sanctions Compliance

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Introduction

Due to globalization and ever more complex supply chains, the types of actors and functions with a role in the export and import of goods has significantly evolved. Freight forwarders in particular have come under increasing attention due to their growing role in global trade. Illicit trade networks and sanctioned actors seeking to import sensitive advanced conventional weapons often try to use the services of freight forwarders to mask their activities. In regions that serve as links between exporters and importers through transshipment ports, it is especially important to be aware of the import role that freight forwarders play and their compliance responsibilities. This tip sheet's objective is to explain the role of freight forwarders, red flags regarding their role in particular, and compliance recommendations.

What is a Freight Forwarder?

Due to the rising complexity of supply chains, many trade operations are increasingly contracted out to third parties. For goods to be exported from a producer to their ultimate destination, a lot of paperwork and procedures must take place, such as export declarations and compliance with shipping requirements. Exporters often hire a freight forwarder to act as their agent in moving cargo to an end-user. Freight forwarders have expertise in the recipient country's import rules and regulations, the exporter's legal requirements, the methods of shipping best suited to the export, and the documentation required by foreign trade. Examples of specific operations executed by freight forwarders include:

- Preparing price quotations for exporters by advising on freight costs, port charges, consular fees, the costs of special documentation, insurance costs and handling fees.
- Recommending the best packing method to protect the merchandise during transit or can arrange to have the merchandise packed at the port or containerized.
- Routing documents to the seller, the buyer, or supplying a letter of credit to a bank.
- Making arrangements with customs brokers overseas to ensure that the goods comply with customs export documentation regulations.

The term freight forwarder is often used interchangeably with non-vessel operating common carrier, or (NVOCC).

Regulations Regarding Freight Forwarders

Standards for and oversight of the freight forwarding community are established at international and national levels, comprising both public and private entities. For air cargo, freight forwarders are licensed by the International Air Transport Association (IATA). In the United States, the Federal Maritime Commission licenses US-registered forwarders to handle ocean freight. In the United Kingdom, freight forwarders are not licensed, but many are members of the British International Freight Association (BIFA). In general, despite the international and national variations in licensing and standards, freight forwarders are usually legally liable for the goods and the related transaction while overseeing the transport-related transactions.

Freight Forwarders and Sanctions Compliance

Freight forwarders, due to their vital role in facilitating global trade, must comply with national and international legal and administrative obligations. Engaging in prohibited conduct or committing the violations may subject violators to significant penalties. Because illicit defense networks may to exploit the services of freight forwarders to procure ACW-related items to sanctioned end-users, it is important for these companies to understand their compliance exposure and implement strong compliance programs.

For example, in the United States, freight forwarders have compliance responsibilities under the Export Administration Regulations (EAR) even when their actions are dependent upon information or instructions given by those who use their services. This means that these agents are responsible for the representations they make in filing data related to the export. Moreover, such agents cannot proceed with any transaction knowing that a violation of the EAR has, is about to, or is intended, to occur. Agents are expected to be familiar with red flags and to abide by Know-Your-Customer (KYC) good practices.

Some of these red flags include:

- The customer or its address is similar a list of denied or restricted persons.
- The customer or purchasing agent is reluctant to offer information about the end-use of the item
- The product's capabilities do not fit the buyer's line of business
- The item ordered is incompatible with the technical level of the country to which it is being shipped
- The customer is willing to pay cash for a very expensive item when the terms of sale would normally call for financing
- Delivery dates are vague, or deliveries are planned for out of the way destinations

Best Practices

In addition to understanding legal requirements and red flags, there are a number of practices that freight forwarders can implement to ensure compliance. Forwarders should mitigate their own and their clients' risks of liability by establishing a compliance program that scrutinizes export transactions and checks the parties to transactions. In addition, because freight forwarders and exporters work together, it is important to develop compliance procedures for both parties' mutual benefit. This includes building compliance partnerships and sharing compliance strategies with each other and other parties to transactions as part of Standard Operating Procedures. In order to stay informed regarding current trends, regulatory updates, and compliance risks, freight forwarders should maintain good relationships with their regulatory bodies and immediately communicate and questions or concerns to them.

