Biden’s Executive Order on Israel / West Bank Sanctions: Global Business Compliance Considerations

February 2, 2024

On February 1, 2024, President Joe Biden’s executive order introduced sanctions targeting individuals and entities that contribute to instability in the West Bank, notably through violence or threats against civilians. This directive, with its broad implications, mandates a closer examination of how businesses worldwide engage with Israel and the West Bank, especially given the region’s significant contributions to the global technology sector.

The sanctions bring to the forefront the issue of indirect liability, a concept that extends a business’s accountability to its wider network of partnerships and supply chains. This complexity is particularly pronounced in today’s globalized economy, where the multifaceted layers of production and distribution can obscure the ultimate destination or use of products and services. As a result, businesses utilizing Israeli innovations, for instance, may inadvertently find themselves supporting sanctioned activities, highlighting the need for thorough due diligence.

On February 1, 2024, the State Department invoked the executive order to impose sanctions on individuals for a range of disruptive conduct in the West Bank. This included leading violent riots, attacking civilians and activists, with actions such as arson and physical violence. The executive order, particularly under section 1(a)(i)(B)(2), casts a wide net, sanctioning those “responsible for or complicit in, or to have

directly or indirectly engaged or attempted to engage in" these activities.

Financial institutions and companies across sectors must now intensify their scrutiny of transactions and relationships connected to Israel and the West Bank to ensure compliance with the new sanctions. This increased vigilance could have far-reaching effects on international trade and investment, potentially deterring engagement with the region due to the heightened risks and compliance requirements.

The executive order's broad scope may also spark legal debates over its interpretation, particularly concerning actions that "threaten the peace, security, or stability" of the West Bank. This ambiguity adds a layer of complexity to international business operations, requiring careful navigation to avoid unintended consequences.

Drawing from historical precedents, such as sanctions against Iran and Russia, the potential for these new measures to impact global business and economic landscapes is significant. The sanctions could disrupt supply chains, particularly in industries dependent on resources from the region, and complicate international trade relations. Moreover, the potential for reduced foreign investment could have a profound effect on the region's economic development and necessitate a reevaluation of existing trade agreements and partnerships.

In response, businesses must adopt a multifaceted strategy to mitigate risks and adapt to the evolving landscape. This includes:

1. **Enhanced Due Diligence:** Corporations must strengthen their due diligence processes to identify and assess any direct or indirect connections to entities or activities that might be targeted under the new sanctions regime. This involves a comprehensive review of partners, suppliers, and customers within the region to ensure

they are not involved in activities undermining stability in the West Bank.

2. **Reevaluation of Business Relationships and Investments:** Companies may need to reevaluate their business relationships, investments, and operations in the region. This could involve restructuring agreements, divesting from certain ventures, or seeking alternative suppliers and partners that comply with the new regulations.
3. **Strengthening Compliance Infrastructure:** Investing in robust compliance infrastructure is essential. This includes technology systems that can monitor transactions and relationships for potential sanctions violations and platforms that facilitate the reporting and management of compliance issues. Automation and artificial intelligence can play a significant role in enhancing the efficiency and effectiveness of these systems.
4. **Open Communication with Regulators:** Establishing and maintaining open lines of communication with relevant regulatory bodies, such as the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the State Department, is vital. This ensures that corporations are up-to-date with any changes or updates to the sanctions list and understand the regulatory expectations.
5. **Contingency Planning:** Developing contingency plans to address potential disruptions to operations or supply chains resulting from the sanctions is critical. This includes identifying alternative markets, suppliers, and logistics routes to ensure business continuity in the face of sanctions-related challenges.
6. **Contractual Compliance Review:** A thorough examination of all contractual documents, both current and forthcoming, is imperative to ensure alignment with sanctions regulations to embed specific provisions that mandate adherence to sanctions laws. Such clauses are crucial as

they afford the legal groundwork for altering or dissolving agreements in the event a business partner falls under the ambit of the sanctions. This proactive legal safeguarding is essential for maintaining operational integrity and legal compliance in the face of the evolving sanctions landscape.

7. **Stakeholder Engagement:** Engaging with stakeholders, including investors, customers, and business partners, to communicate the steps being taken to comply with the executive order and manage risks is essential. Transparency in these efforts can help maintain trust and mitigate reputational risks associated with potential sanctions violations.

By embracing a proactive and comprehensive approach to compliance and strategic planning, businesses can navigate the complexities introduced by the Israel / West Bank sanctions, safeguarding their operations and maintaining their strategic objectives in the face of these new challenges.

Author: Mahmoud Abuwasel
Title: Partner – Disputes
Email: mabuwasel@waselandwasel.com
Profile:
https://waselandwasel.com/about/mahmoud-abuwasel/

Lawyers and consultants.
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com