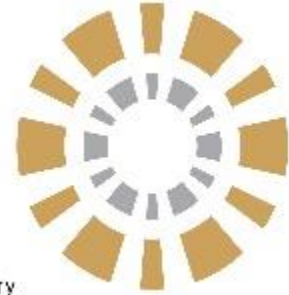


GJEPC INDIA



Sponsored by the Ministry of Commerce & Industry

GJEPC/ Advisory/ 2022-23

16th April 2022

To,

All the Members of GJEPC

Further to the trade advisory issued by GJEPC on 6th April 2022, we have noted that the OFAC has added Alrosa to its SDN list which has serious implications for doing business with them. Being designated in OFAC SDN means Alrosa's US based assets are frozen; it cannot do any US dollar transactions and US companies are prohibited to deal with the miner in any form, which includes but not restricted to financial transaction of any form.

Members were requested to share their concerns by GJEPC in a trade meeting held on 8th April 2022, and based on the responses received, it is understood that the fresh sanctions against Alrosa has raised many concerns amongst them. A consolidated questionnaire based on such questions received was shared with JVC Legal, a US based organisation which provides general guidance on compliance and other issues to gem & jewellery industry.

Please find attached general guidance received from JVC Legal for your perusal, which may be utilised by members as advisory without any obligation to the Council.

The current situation is dynamic, and we will go on sharing updates with members as and when we get any further information on this.

Kindly note that the guidance is a general advice and not a legal advice as every company dealing with Alrosa may have their unique transactions/dealings, holding structures etc and therefore you are requested to kindly solicit legal opinion from your legal firm/ lawyer for your individual case/s as it may be accordingly.

As always, GJEPC is at your disposal for any help you may need on this.

With Regards,

Sd/-
Chairman
GJEPC

Encl :

Advice from JVC Legal : https://www.gjepc.org/download/Questions_from_rade.pdf

Authorizing the Wind Down of Transactions Involving Public Joint Stock Company Alrosa

https://www.gjepc.org/download/russia_gl24.pdf

Advice from JVC Legal:

We would like to seek clarification on certain points as mentioned hereunder in view of recent sanctions imposed on ALROSA by OFAC:

1. It is mentioned in the Sanction Implications as under:

"These prohibitions include the making of any contribution or provision of funds, goods or services by, to, or for the benefit of any blocked person and the receipt of any contribution or provision of funds, goods or services from any such person."

Whether it means that this prohibits any contribution only by way of funding i.e. investment?

No, the language here refers to any commercial activity and trade-not just investment.

2. If the answer to above is No, then

Whether the sanctions are applicable only to US Entities and US Citizens?

If Yes, then whether it would cover a PHG Ltd Parent Company / Holding Company or a Group Company of a US entity irrespective of their location eg. India / UAE / HK?

US sanctions are applicable to US entities and those transiting the US. If the India company has an entity or office in the US, sanctions could apply. Worth engaging your private counsel here on specific facts.

3. Further, in the above case, will it be applicable to an entity ABC Ltd (located outside US) which is not a Holding / Parent / Group Co of a US entity but some/all Director / Management of ABC Ltd are common with PHG Ltd.

Maybe. It depends on where the other entity is located and the sanctions that apply in that country.

4. What is the date from which the sanctions will be effective?

Depends on what was covered in each rollout of sanctions, February 24, March 11, and April 7. There is also a General License 24 that gives guidance on how to wind down with Alrosa by May 7 (attached here).

5. What are the implications on the goods that have already been bought and in stock before the effective date of sanction?

Assuming we're discussing goods already in India, they are still legal to sell in the US according to sanctions.

However, US commercial sentiment has shifted towards "no Russian goods" and you might be asked to sign assurances that your shipment has "no Russian goods" from any time. Negotiate with your counterparts on this. Segregating goods to the full extent possible seems like a wise commercial move to satisfy the evolving expectations of the US market.

6. What are the implications on the goods that are received after the effective date but the payments for which were made before the effective date of sanction?

Need more clarity on this question, but if you mean Alrosa rough that is cut and polished in India, it is still legal/nonsanctioned so the timing not relevant. For US entities engaging in this behaviour, it was 14 days after Feb 24 to finish out any debt transaction.

7. Post this sanctions, is there any obligation for entities to make a declaration on the invoice while selling polished or rough diamonds?

We don't know from a sanctions perspective. But assurances on invoices may serve you well commercially—see SoW from WDC and Diamond Source Warranty Protocol from USJC. Our understanding is that the sanctions are currently likely to last years, not months.

Additionally, we understand 'secondary sanctions' may come into play and some Indian companies could end up on the SDN list. It would probably be helpful to keep current on the OFAC lists to assure your US customers that your business and your vendors are not on those lists.

8. While buying rough diamonds from the open market, do we need to seek any declaration from the supplier?

Yes. This is advisable immediately.

9. Rough import from any company and manufactured in india with Mixed origin on KP, what declaration should we give on invoices or letter head ?

We don't know how to answer this yet. We are in discussion with the State Department on this issue specifically and will give detail when they have decided how to handle and communicate this to us.

10. Can we continue exporting polished diamonds processed in India (Substantial Transformation) out of rough diamonds purchased from Alrosa to USA

Yes under sanctions. But, your customers in the US might not want to purchase them. It would be advisable to segregate your goods to the extent possible.

11.Does a USA based subsidiary of an Indian Company need to adapt to any new legal framework / guideline / compliance.

Yes, must follow all US laws and sanctions. Should have AML in place. Should follow updates on sanctions and comply.

**The above is general guidance to be shared with your membership and should not be construed as legal advice