

Choosing the Right Legislation for your Canadian Human Rights Sanctions Submission: A Guide

In Canada, there are two main tools the government may use to place civil sanctions on individuals or entities for foreign human rights abuses or corruption: the Justice for Victims of Corrupt Foreign Officials Act (“JVCFOA”) and the Special Economic Measures Act (“SEMA”). Both of these laws (“Acts”) differ slightly on three key points:

- (1) who can be sanctioned, i.e., an individual or entity
- (2) the type of behaviour that justifies sanctions
- (3) the nature of the sanction itself, i.e., what civil prohibitions may be imposed

To use this chart: start in the top left, answer the questions in each green box and follow the arrows corresponding to your answers. Repeat this process until you arrive at the Act or Acts, best suited for a sanctions request in your specific circumstances. In general, focus on sections 1 (red) and 2 (white) of the chart, as the questions pertaining to the sanctionable individual or entity and sanctionable behaviours are likely more significant than the type of sanctions you request. Ultimately, the actual sanctions decision and type of sanction granted are at the discretion of Governor in Council.

For example, in section 1 (red) you will find that only individual foreign nationals can be sanctioned under the JVCFOA. If you wish to sanction an entire State or entity of a State, you need to request sanctions under SEMA. In section 2 (white), the chart indicates that JVCFOA sanctions are only available if there are acts of corruption or if human rights violations were targeted against human rights defenders or whistleblowers. If you wish to request sanctions for gross and systemic human rights violations against other individuals, you need to request sanctions under SEMA. Under section 3 (grey), the chart recommends requesting sanctions under SEMA if you wish to request that specific transactions or Canadian entities be exempt from prohibited transactions with sanctioned entities. The reason for this is that new SEMA regulations are introduced for each sanctioned State. Under the JVCFOA, all sanctioned individuals are included on one list. As such, SEMA allows for unique sanctions and exceptions to be included for each designated country.

If you find multiple correct arrows flowing from a single question, you can follow each arrow to better understand how Canada’s different sanctions laws apply to your different circumstances. In some circumstances it may make sense to request sanctions under both SEMA and the JVCFOA. See Section 6 of this [guide](#) for more information on the different provisions of the JVCFOA. The SEMA portion of this guide is being updated and will be available on this [website](#) soon.

Section 1

START

Who do you want targeted by sanctions?
SEMA s 4(1) - JVCFOA s 4(1)

a Foreign State, Entity of a State, Corporate Entity

SEMA

a Foreign National

Section 2

What is the reason for the sanctions?
SEMA s 4(1.1) - JVCFOA s 4(2)

Gross Human Rights Violations

a Breach of International Peace and Security

a Request by an Association of States

SEMA

Was the violation against a whistleblower or human rights defender?
JVCFOA s 4(2)(a)

Acts of Significant Corruption

No

Yes

Is the individual a foreign public official, directly responsible for or complicit in the acts of corruption?
SEMA s 4(1.1)(d) - JVCFOA s 4(2)(c)

Did the foreign national materially assist a foreign public official in acts of corruption?
JVCFOA s 4(2)(d)

JVCFOA

Was the violation "systemic"?
SEMA s 4(1.1)(c)

If yes,

Section 3

Do you want to request specific exceptions to sanctions for particular transactions or Canadian entities?

No

Yes

SEMA

SEMA

What kind of prohibitions do you want sanctions to include?
SEMA s 4(2) - JVCFOA s 4(3)

Facilitation of Financial Transactions

JVCFOA

Provision of Technical Data

SEMA

Import or Export Bans

Restrictions on Aircraft and Ships

Asset Freezes

Dealing in Property

Provision/Acquisition of Financial Services

Either the SEMA or the JVCFOA or both