



Foreign Sanctions and Indian-Law Contracts:

The Delhi High Court's Ruling in *Nayara Energy v. SAP¹ India* and the New US Sanctioning Russia and Iran Act of 2026²

Key Dates

18 July 2025

Nayara Energy listed as a sanctioned entity under the EU sanctions regime

18 September 2026

US enacts H.R. 5334, the Lindsey O. Graham Sanctioning Russia and Iran Act of 2026

21 September 2026

Delhi High Court directs SAP India to restore support services to Nayara Energy

Mid-October 2026

Implementation of the Act

On 21 September 2026, the Delhi High Court (**Court**) in *Nayara Energy Limited (Nayara Energy) v. SAP India Pvt. Ltd. (SAP India) & Anr.* issued an interim order directing SAP India to restore support services to Nayara Energy, despite Nayara's designation as a sanctioned entity under the European Union sanctions regime. The ruling addresses a practical question, namely how an Indian court will treat performance under a contract governed by Indian law in circumstances where one of the parties refuses to perform its contractual obligations citing the fact that its counterparty is sanctioned under foreign law.

This holds particular significance because, just three days

before the judgment was passed, on 18 September 2026, the United States of America enacted H.R. 5334, the Lindsey O. Graham Sanctioning Russia and Iran Act of 2026 (**Act**), with key provisions due to take effect no later than 30 days after enactment, i.e., towards mid-October 2026. The Act's broad extraterritorial reach is likely to generate further sanctions-based suspensions, termination notices and similar defences impacting Indian businesses and their multinational counterparties.

This update analyses the position taken by the Court and its implications, and then turns to the Act and the risks it poses for Indian businesses.

The Delhi High Court on Foreign Sanctions and Contractual Obligations

Background

Nayara Energy is an Indian refiner that operates a large refinery and a retail fuel network in India. Rosneft Singapore Pte. Limited (which is a subsidiary of PJSC Rosneft Oil Company) holds 49% of the company. Nayara Energy meets approximately 8% of India's energy needs. SAP India is an Indian subsidiary of SAP SE, Germany. The parties entered into arrangements comprising perpetual software licences and three Order Forms governed by SAP's General Terms and Conditions and

Enterprise Support Schedule (collectively referred to as the "**Contracts**"). They also entered into a separate SAP Delivered Support Agreement for four third-party modules supplied through SAP's partner, Avaali Solutions Private Limited. After Nayara was listed as a sanctioned entity on 18 July 2025, SAP India suspended support services and access to the SAP Marketplace on 24 July 2025 citing an '**export issue**'. On 2 September 2025, SAP India claimed that it was compelled to take immediate steps to comply with sanctions regime

¹ *Nayara Energy Limited v. SAP India Pvt. Ltd. & Anr.*, CS(COMM) 1006/2025, Delhi High Court, judgment on I.A. 23754/2025 dated 21 September 2026.

² Lindsey O. Graham Sanctioning Russia and Iran Act of 2026.



under the Council of the European Union under EU Council Regulation No. 269/2014.

Nayara challenged the suspension and petitioned the Court for an interim mandatory injunction, requiring SAP India to restore the suspended services.

The Court's reasoning and findings

The central question before the Court was whether SAP India, an Indian company, could stop providing contracted support services to its Indian customer, Nayara Energy, on the ground that Nayara had been placed on an EU sanctions list. This question arose from SAP India's assertion that suspension due to export prohibitions was warranted and had been contractually provided for under the force majeure clause in the Contracts; or alternatively that even if the force majeure clause was not triggered, that performance of the Contracts had become impossible as a result of the imposition of EU sanctions, and therefore void.

The Court first held that the governing law of the Contracts was Indian law and that the Contracts expressly stated that Indian law would prevail over conflicting foreign law, rules and regulations. The separate Delivered Support Agreement made the same choice and conferred jurisdiction on the courts in New Delhi.

Against this context, the Court held that an Indian court cannot take judicial notice of foreign law and that the foreign law must be pleaded and proven as a question of fact. It rejected SAP India's attempt to rely on the EU sanctions and German law without providing formal evidence of the same as a question of fact. And accepted Nayara submission that foreign laws had to be proved before they could affect an Indian-law contract. The Court held that the legal opinions filed by the respective parties on the issue in contention did not meet the threshold of legal admissibility as they were not supported by sworn affidavits, did not establish the experts' credentials, were not supported by authoritative materials, and had not been tested through examination and cross-examination. The question

of whether the EU sanctions ultimately apply was therefore left for trial, and that, at the interim stage, SAP India could not rely on unproved foreign law to justify departing from its Indian-law obligations. The Court further held that the onus of proving the foreign laws rested with SAP India.

Dealing specifically with SAP India's Arguments that EU sanctions excused performance or made the Contracts void or impossible to perform, the Court, after analysing the relevant contractual provisions, arrived at the prima facie conclusion that the force majeure clause was not triggered. In any event, the Court also noted that the force majeure clauses extended performance deadlines rather than allowing either party to walk away altogether. More fundamentally, since SAP India had not proved the foreign law it was relying on, its impossibility defence could not succeed at this stage. Even if the legal position had been established, SAP India could deliver the services through non-EU hubs, which might be more expensive or inconvenient, but commercial hardship but not a legal impossibility.

As part of its analysis, the Court also clarified that SAP India could not rely on a sanctions clause in a different agreement to suspend the main support services. In doing so, the Court considered the scope, nature, commercial value and territories involved in the agreement, and also that the different agreement had not been incorporated into the Contracts.

Accordingly, the Court found that Nayara had a strong case that the Contracts could not be terminated at will, and that SAP India's defences were not supported by proper evidence. It also found that Nayara would suffer serious harm that could not be remedied by damages, because the SAP systems were critical to running India's largest private refinery and Nayara supplies around 8% of the country's energy needs. Weighing the practical impact on both sides, the Court concluded that the balance favoured Nayara and ordered SAP India to restore services to the position before 24 July 2025, until the matter is decided finally. The question of whether the EU sanctions ultimately apply remains open for trial.

The Lindsey O. Graham Sanctioning Russia and Iran Act of 2026: Implications for Indian Businesses

The Act creates a wider set of tools for the United States to pressure Russia and parties that continue specified Russian-linked activity and also extends existing sanctions on Iran. It combines tariffs on goods entering the United

States with sanctions and other restrictions affecting banks, vessels, ports, financial messaging, energy activity and US persons. Secondary sanctions are measures aimed at non-US persons because of their dealings with a





targeted country or person, rather than at the target itself. For Indian businesses, the immediate concern is not only direct designation but also the risk that US-linked suppliers, financial institutions and service providers may suspend or restructure otherwise lawful Indian arrangements.

Secondary Tariffs on Third Countries

Section 113 is likely to be the provision of greatest consequence for India. It empowers the US President to impose tariffs of up to 100 per cent ad valorem on all goods imported into the United States from any country that ranks among the top five importers of Russian crude oil or natural gas (by volume) and continues making new purchases after the Act's enactment. India, as one of the largest importers of Russian crude since 2022, would likely qualify. The same tariffs apply to countries identified as 'facilitating Russian oil sanctions evasion', which is defined broadly to include jurisdictions where persons engage in transactions supporting shadow fleet vessels or the circumvention of sanctions on Russian-origin oil.

The US Trade Representative is required to reassess the list of qualifying countries every 180 days, in consultation with the Secretary of State and the Secretary of Energy. This is not a one-time determination but an ongoing compliance exposure. The duties imposed under Section 113 are additive, meaning they apply on top of any other duties, fees, or charges already applicable to the goods.

Secondary Sanctions on Financial Institutions

Section 103 mandates sanctions on designated Russian banks, including Sberbank, VTB Bank, Gazprombank, the Central Bank of the Russian Federation, and any other financial institution organised under Russian law and owned in whole or in part by the Russian government. These sanctions extend to any foreign financial institution that engages in 'significant transactions' with any of the above entities.

The sanctions that may be imposed on foreign financial institutions include blocking of property, two or more of the sanctions under Section 235 of CAATSA, and prohibition or strict conditions on maintaining correspondent or payable-through accounts in the United States. Indian banks that process payments for Russian crude oil imports, or that participate in alternative settlement mechanisms (such as rupee-rouble arrangements) involving designated Russian banks, face the risk of designation. The Secretary of the Treasury retains discretion to exempt a foreign

financial institution where imposition is not consistent with US economic or foreign policy interests.

Vessel, Port, and Defence Sanctions

Section 102 creates a broad sanctions framework with several India-relevant provisions. Foreign persons that knowingly sell, lease, or provide goods or services to Russia's defence industrial base (including dual-use machinery, munitions components, and items on the US Common High Priority Items List) are subject to property blocking sanctions and visa restrictions. The same applies to persons conducting significant transactions with the Russian armed forces.

Foreign vessels used to transport Russian-origin crude oil, natural gas, petroleum, coal, or uranium may be identified as blocked property if they exhibit non-standard maritime behaviour, lack adequate insurance (excluding Russian insurers), or evade the Price Cap Coalition's price cap. Sanctions extend to owners, operators, managers, and entities providing insurance, reinsurance, or crewing services to such vessels. Section 102(b)(6) also authorises the US President to sanction the owner or operator of any foreign port that allows a sanctioned vessel to dock or receive services. Indian port operators and terminal authorities handling Russian oil shipments face direct exposure under this provision.

Other Prohibitions

The Act imposes several prohibitions on US persons that would indirectly affect Indian entities with US-connected counterparties, joint ventures, or financing arrangements. New investment in Russia by US persons is prohibited, and US persons may not approve, finance, or guarantee transactions by foreign persons that would be prohibited if performed by a US person (Section 107). New US investment in Russia's energy sector is banned, as are exports of US-origin energy products to Russia (Section 108).

Section 110 targets entities providing global financial messaging services (such as SWIFT and its alternatives) that are used to circumvent sanctions on Russian financial institutions. Entities determined by the US Treasury to be knowingly facilitating such circumvention are liable for designation. Indian entities that use or facilitate alternative messaging channels for settling Russian transactions should note this provision.



Exceptions, Waivers, and Penalties

The Act provides certain carve-outs, including an exemption for humanitarian assistance transactions (Section 114(a)) and a 270-day wind-down period for foreign entities divesting from Russian operations (Section 114(i)). The President may waive any sanctions provision subject to congressional certification (Section 115). These carve-outs

are narrow and their availability will depend on political considerations.

Violations of the Act's prohibitions attract penalties under the International Emergency Economic Powers Act (IEEPA), including civil penalties, criminal penalties and imprisonment for willful violations.

Key Risks for Indian Businesses

The Act poses significant and multi-faceted risks for Indian businesses operating across sectors. While the stated objective is to target Russian economic interests, the extraterritorial reach of the sanctions means that Indian entities - even those with no direct nexus to Russia - may find themselves caught in the crossfire. The following are the principal areas of exposure:

- Tariffs of up to 100%, in addition to existing tariffs, on all Indian exports to the US if India remains a top-five importer of Russian crude oil or natural gas. Given India's position as a significant importer of Russian crude since 2022, this threshold is likely to be triggered. The economic ramifications for Indian exporters across pharmaceuticals, textiles, IT services and engineering goods could be severe, eroding price competitiveness in the US market and potentially redirecting trade flows.
- Secondary sanctions on Indian banks processing payments with Sberbank, VTB, Gazprombank, or other designated Russian financial institutions, including potential loss of US correspondent banking access. The loss of correspondent banking relationships would impair the ability of Indian financial institutions to process dollar-denominated transactions globally, affecting trade finance, cross-border remittances, and international investment flows.
- Designation of Indian-owned or Indian-flagged vessels transporting Russian-origin energy products, and of entities providing insurance or crewing services to such vessels. Indian shipping companies may face asset freezes and exclusion from global maritime commerce networks, jeopardising India's strategic interests in maintaining an independent merchant fleet.
- Sanctions on Indian port operators that allow sanctioned vessels to dock or receive services. Major Indian ports which have processed Russian crude shipments face the risk of being cut off from US commerce and financial systems, with cascading effects on port revenues and India's broader logistics infrastructure.
- Risk of designation for entities using or facilitating alternative financial messaging systems to settle Russian transactions. As Indian firms have increasingly explored SPFS (Russia's SWIFT alternative) and rupee-rouble settlement mechanisms, this provision could capture a wide range of banks, payment processors, and trading houses engaged in these channels.
- Counterparties (particularly those with US nexus) may invoke sanctions-related force majeure, hardship, or illegality clauses to terminate, suspend, or renegotiate existing contracts with Indian entities perceived to have Russian exposure. Even where contracts do not contain express sanctions clauses, counterparties may rely on general termination for convenience provisions, material adverse change clauses, or representations relating to sanctions compliance to exit or modify commercial arrangements. Indian businesses should expect increased scrutiny of their Russia-related activities during counterparty due diligence, and may face requests for enhanced representations, indemnities, or audit rights in new contracts.
- Indian entities may face claims from counterparties, shareholders, or investors alleging breach of sanctions-related representations, failure to disclose material risks, or tortious interference with business relationships. Conversely, Indian entities may need to pursue claims against counterparties who wrongfully terminate contracts or refuse to perform on the



basis of alleged (but unsubstantiated) sanctions risks. Cross-border enforcement of judgments and arbitral awards may also be complicated where US courts or enforcement agencies view the underlying transaction as sanctions-tainted.

- Indian entities may encounter difficulties obtaining or maintaining insurance coverage (including trade credit

insurance, directors' and officers' liability insurance, and marine cargo insurance) for transactions or activities perceived to have Russian exposure. Insurers may invoke sanctions exclusion clauses to deny coverage for losses arising from designated transactions, or may refuse to renew policies for entities engaged in Russia-related trade.

The Act's impact is imminent and Indian entities with exposure to the Act's provisions should begin compliance planning and risk mitigation immediately.

The reasoning in *Nayara* applies in principle to US sanctions as well. US legislation and regulations are foreign law in an Indian court and must be pleaded and proved by admissible evidence from properly qualified experts, rather than assumed from a statute or an untested legal opinion. An Indian-law governing clause, particularly one that gives Indian law priority over conflicting foreign rules, will be significant. Where the contract does not allocate sanctions

risk clearly, commercial hardship or the cost of rerouting performance will not necessarily amount to impossibility. The result will still depend on the contract wording and the evidence about the relevant US regime. Though the decision is at an interim stage, and the Court did not finally decide whether the EU sanctions ultimately apply to the contract, in the interim, Indian customers could have a plausible basis to seek continuation of services.

Please feel free to address any further questions or request for advice to:

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