

# Comparative Analysis of Legal Regulation of International Transactions in the USA and the EU

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## Abstract:

This article provides a comparative analysis of the approaches of the USA and the European Union (EU) to the legal regulation of international transactions. Key differences in legal systems are examined, including common law in the USA and civil law in the EU, as well as their impact on regulatory effectiveness in the modern economic landscape. Particular attention is paid to issues of export control, sanctions policy, data protection, and harmonization of norms. The study explores various barriers and opportunities for aligning approaches through international agreements and collaboration with international organizations.

**Keywords** — legal systems, international transactions, USA, European Union (EU), harmonization of norms, sanctions policy, taxation.

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## I. INTRODUCTION

The growing integration of global markets highlights the importance of international transactions as a key element of international economic relations. The USA and the EU, as major economic and political players, have developed their own approaches to the legal regulation of such transactions. Despite a shared goal of ensuring transparency, security, and predictability in cross-border operations, the approaches of the USA and the EU differ significantly, impacting the effectiveness and practical application of legal norms.

The legal regulation of international transactions encompasses a wide range of issues, from contract law to antitrust and taxation. The USA approach emphasizes flexibility and reliance on common law precedents, while the EU focuses on unified regulations and directives. These differences create both opportunities and challenges for participants in international transactions, especially amid economic instability and growing digitalization.

Understanding the nuances of legal regulation in these jurisdictions holds both theoretical and practical importance. For multinational companies

and investors, it is important to account for these differences to minimize risks associated with international transactions. Furthermore, comparative analysis can help identify best practices that contribute to the harmonization of international law. The aim of this study is to provide a comparative analysis of the approaches of the USA and the EU to the legal regulation of international transactions, with an assessment of their effectiveness.

## II. MAIN PART. COMPARISON OF APPROACHES TO THE REGULATION OF INTERNATIONAL TRANSACTIONS AND THEIR EFFECTIVENESS IN THE USA AND THE EU

The USA and the EU hold leading positions in the global economy and have developed unique approaches to regulating international transactions. These approaches reflect their legal traditions, economic priorities, and political strategies, resulting in significant differences in their implementation and effectiveness. Comparing these systems offers insights into how legal mechanisms impact cross-border operations and create opportunities or barriers for participants.

The USA's legal regulation is rooted in a common law system, which provides flexibility and allows the

law to adapt to the unique circumstances of each transaction. However, this system also creates challenges, arising from inconsistencies between federal and state laws due to the federal structure of governance. For instance, conflicts may arise in areas such as consumer protection, labor laws, and taxation.

The Uniform Commercial Code (UCC) serves as a widely adopted framework for regulating commercial transactions across the country. Although it aims to harmonize commercial law, the UCC is not federal legislation but a model code that states adopt and adapt individually [1]. This can result in variations in its implementation and interpretation between jurisdictions, which may introduce some level of unpredictability, particularly in nuanced legal matters. However, the core principles of the UCC generally remain consistent, providing a reliable foundation for most commercial dealings.

In contrast to the USA, the EU adopts a civil law system based on regulations and directives. EU regulations are binding for all member states and have direct legal effect in areas where they apply, ensuring uniformity in legal application. Directives require implementation at the national level, as they allow for adaptation to local conditions. This approach ensures a high degree of predictability but is less flexible, sometimes making it challenging to respond quick to changes in the international economy.

The USA actively employs sanctions policy as a regulatory tool. The Office of Foreign Assets Control (OFAC) enforces both primary and secondary sanctions, increasing pressure on participants in international transactions involving sanctioned entities. This renders the American approach more assertive but also draws criticism from international partners. The EU applies a collective approach to sanctions policy, coordinating measures at the level of all member states. This method improves legitimacy but reduces the efficiency and rigidity of enforcement. The table 1 provides a comparison of the effectiveness of the regulatory approaches of the USA and the EU in key aspects of international transactions.

TABLE I

PRACTICAL CASES: COMPARISON OF USA AND EU APPROACHES [2, 3]

Case	USA	EU
Siemens AG and FCPA	Siemens was fined for violating the Foreign Corrupt Practices Act (FCPA), demonstrating the strictness of the USA anti-corruption system.	The EU focused on corporate governance reforms for Siemens, showcasing a softer approach aimed at long-term improvements.
Sanctions on Iran and INSTEX mechanism	The USA imposed secondary sanctions on Iran, affecting European companies and highlighting the rigidity of USA sanctions policy.	The EU developed the INSTEX mechanism to bypass USA sanctions and protect European companies' economic interests.

Export control in the USA is enforced through tools such as the International Traffic in Arms Regulations (ITAR) and the Bureau of Industry and Security (BIS), as it emphasizes the protection of national security. The EU regulates exports through Council Regulation (EC) No. 428/2009, aiming to balance economic and political interests. At the same time, the USA does not exhibit a high rejection rate among export license applications. According to the 2023 report [4], approved applications still significantly outnumber rejected or returned without action (RWA) applications (fig. 1).

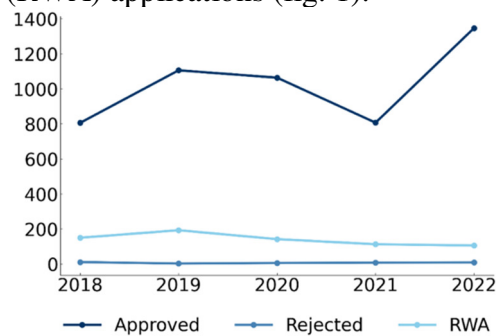


Fig. 1. Number of approved, rejected and RWA applications in USA

In the EU, there is a lower rejection rate for export license applications. Of these standard licensing decisions, 4,069 (96,1%) were issued, 63 (1,5%)

were refused, and 102 (2,4%) licenses were revoked in 2022 [5].

The approaches of the USA and the EU have both advantages and disadvantages. The American approach is characterized by high responsiveness and flexibility, thanks to its common law system [6]. Strict enforcement tools, such as the Foreign Corrupt Practices Act (FCPA), make the system more stringent and improve compliance among participants. This also increases costs for businesses, particularly for international companies that must navigate secondary sanctions and the variability of state-level enforcement.

The European approach provides predictability and unification, simplifying business operations within the EU. Regulations and directives create a stable legal environment, which is especially important for cross-border transactions. The rigidity of norms and the lengthy approval processes sometimes reduce the EU's competitiveness in external markets.

The USA and EU approaches to regulating international transactions differ in their objectives, tools, and degree of rigidity. The USA focuses on protecting national interests and employs sanctions mechanisms, while the EU is oriented toward creating a unified market and harmonizing norms. These differences create both barriers and opportunities for harmonization, which can be achieved through international agreements and active collaboration through international organizations.

### **III. LEGAL BARRIERS AND OPPORTUNITIES FOR THE HARMONIZATION OF REGULATION IN THE USA AND THE EU**

The legal regulation of international transactions between the USA and the EU is complicated by significant differences in legal systems and regulatory approaches. These differences create legal barriers that hinder the harmonization of norms and also open opportunities for developing joint solutions through international mechanisms and agreements.

One of the main barriers is the divergence in legal systems. The USA adheres to a common law system and emphasizes regulatory flexibility that allows

unique circumstances of each case to be considered. This can lead to legal uncertainty, especially in cases of conflicts between federal laws and state legislation. At the same time, the EU relies on a civil law system and employs unified regulations and directives that are mandatory for all member states. This makes predictability certain but limits the ability to quickly adapt to changing conditions.

An additional obstacle is the absence of unified regulatory standards in key areas, such as export controls and data protection. In the USA, export control is enforced through tools like the International Traffic in Arms Regulations (ITAR) and export control laws, which focus on safeguarding national security. The EU adopts an approach aimed at balancing economic interests and security concerns. This creates challenges for multinational companies that must comply with differing standards in the two jurisdictions.

Sanctions policy also poses a significant barrier to harmonization. USA secondary sanctions, enforced by the Office of Foreign Assets Control (OFAC), place pressure on European companies that engage with entities subject to American sanctions. This leads to conflicts between the USA and the EU, where the latter seeks to protect its businesses through mechanisms such as INSTEX.

International agreements, such as the United Nations Convention on Contracts for the International Sale of Goods (CISG), have already proven effective in regulating cross-border transactions. The EU actively applies the provisions of this convention, whereas the USA uses them selectively. Aligning approaches to its application could significantly simplify transactions between the two regions.

The role of international organizations in the harmonization process cannot be overstated. Organizations like the WTO and OECD play a central role in facilitating dialogue and consensus-building on complex legal and regulatory issues. The WTO sets global trade rules that help mitigate disputes and establish predictable frameworks for international commerce. Through providing a neutral forum for negotiation and dispute resolution, the WTO contributes to reducing the friction caused by divergent national regulations. Aspects of

taxation of transnational companies and their interaction with legal systems is an important component of regional structures. The OECD is instrumental in addressing cross-border tax challenges through initiatives like the Base Erosion and Profit Shifting (BEPS) project. It is directed to curb tax avoidance by multinational corporations. These organizations provide recommendations and work to develop legally binding agreements that can serve as the foundation for uniform regulatory approaches across jurisdictions.

Joint initiatives aimed at combating economic crimes, such as money laundering and terrorism financing, could serve as another step toward aligning approaches. Data security can also be ensured through the adoption of these measures, as its relevance and problems continue to grow each year [7]. Both the USA and the EU recognize the substantial importance of addressing economic crimes that undermine financial stability and security. Collaborative efforts, such as the Financial Action Task Force (FATF), have already established global standards for combating money laundering and terrorist financing. Their implementation often varies and lead to gaps in enforcement. Establishing a unified mechanism for monitoring suspicious transactions could significantly enhance transparency and coordination, similar to the practices of financial reporting used in GAAP standards [8]. The mutual recognition of enforcement decisions, including asset freezes and sanctions, could ensure that economic crimes are addressed consistently, regardless of jurisdiction. Such steps would not only strengthen trust but also reduce opportunities for criminals to exploit regulatory inconsistencies.

Legal barriers between the USA and the EU, such as differences in legal systems, approaches to sanctions policy, and data protection, create obstacles to harmonization but simultaneously highlight the importance of collaborative efforts. The harmonization of norms through international agreements, standards, and joint projects can simplify cross-border transactions and strengthen legal predictability in the international arena.

#### IV. CONCLUSIONS

A comparative analysis of the legal regulation of international transactions in the USA and the EU revealed significant differences in approaches, driven by the characteristics of their legal systems, economic priorities, and sanctions policies. Despite these differences, both regions pursue common goals: ensuring transparency, predictability, and security in cross-border transactions. Challenges to harmonizing norms, such as discrepancies in sanctions approaches, taxation, and data protection, create barriers to unification. There are significant prospects for aligning approaches through international agreements and enhancing the role of international organizations. For multinational companies, it can be important to consider these differences and leverage opportunities to mitigate risks. It contributes to strengthening global economic stability and improving the efficiency of international transactions.

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