

INTERNATIONAL TRADE SANCTIONS

INTERNATIONAL SANCTIONS AGAINST IRAN: AN UPDATE ON THE LATEST EU COUNCIL DECISION

EU foreign ministers agreed at a meeting on Monday 23 January 2012 to impose further sanctions on Iran with a particular focus on Iranian oil. The EU Decision, published as Council Decision 2012/35/CFSP of 23 January 2012, contains a range of measures including:

1. A ban on the import, purchase or transport of Iranian oil, petroleum products and petrochemical products, as well as a ban on the provision of insurance related to any of those activities;
2. A ban on the sale, supply or transfer of key equipment and technology to the Iranian petrochemical industry;
3. A ban on the provision of precious metals and banknotes to the Iranian government and the Central Bank of Iran; and
4. An expansion of the list of persons/entities subject to the existing asset freeze.

Council Implementing Regulation (EU) No 54/2012 was also agreed on 23 January 2012 and puts into effect the asset freezes contained in the Decision. The Council will take further steps to implement the remaining elements of the Decision in due course.

In this update, we summarise the principal changes which have been introduced.

1. The ban on Iranian oil

It is now prohibited to import, purchase or transport Iranian crude oil, petroleum products and petrochemical products. It is also prohibited to provide, directly or indirectly, financing or financial assistance, including insurance and reinsurance, in relation to these prohibited transactions.

In order to ease the impact that these new measures will have on European energy supplies, a grace period has been included in the legislation. This means that existing contracts relating to Iranian crude oil and petroleum products concluded before 23 January 2012 can be executed until 1 July 2012. Contracts concluded before 23 January 2012, which relate to Iranian petrochemical products, can be executed until 1 May 2012.

The scope of these new prohibitions is very wide and relates to purchasing or transporting Iranian oil products anywhere in the world, not just within the EU. Therefore, it would be prohibited,

for example, for an EU vessel to transport Iranian oil to Asia, even though the vessel and her cargo would not be calling in the EU or passing through EU territorial waters. Similarly, insurers and reinsurers could not underwrite risks associated with the transportation of Iranian oil, even if the voyage itself were carried out exclusively by persons and companies with no link to the EU.

These new prohibitions represent a serious escalation of the EU's sanctions against Iran. The main EU sanctions legislation, which has been in place against Iran since 25 October 2010 (EU No. 961/2010), did not prohibit the import or export of oil or gas to and from Iran.

Oil is reported to account for 80% of the Iranian government's income from exports. As such, the EU embargo on Iranian oil, which has been under discussion since the report of the International Atomic Energy Agency ("IAEA") into Iran's nuclear program was published in November 2011, is intended to significantly reduce the Iranian government's income streams. The ultimate objective is to dissuade Iran from continuing with its nuclear program, which the IAEA and western governments believe is geared towards the development of nuclear weapons.

2. The ban on key equipment and technology for the petrochemical industry

The sale, supply or transfer of key equipment and technology for the petrochemical industry in Iran, or to Iranian or Iranian-owned entities which are involved in the petrochemical industry outside of Iran by nationals of EU Member States, or from the territories of Member States, is prohibited. It is also prohibited to provide such entities with technical or financial assistance in relation to key equipment and technology for the petrochemical industry. Contracts related to the above which were concluded before 23 January 2012 can, however, be performed.

3. The ban relating to gold, precious metals and banknotes

The direct or indirect sale, purchase, transportation or brokering of gold, diamonds and precious metals to, from or on behalf of the Iranian government or the Central Bank of Iran, either directly or indirectly, is banned. It is also prohibited to deliver new or unissued Iranian banknotes to the Central Bank of Iran.

4. The expansion of the asset freeze

In addition to introducing a ban on Iranian oil, the EU has also expanded the lists of persons and entities subject to an asset freeze. Some of the more notable additions and the reasons for their listing are set out below:

- > *Central Bank of Iran* – said to be involved in activities to circumvent sanctions
- > *Bank Tejarat* – said to be directly facilitating Iran's nuclear efforts and assisting in the circumvention of international sanctions
- > *Tidewater Middle East Co.* – said to be owned or controlled by the Iranian Revolutionary Guard Corps
- > *Hanseatic Trade Trust and Shipping (HTTS) GmbH* – said to be controlled by and/or acting on behalf of IRISL.

Three further entities (Turbine Engineering Manufacturing, Sad Export Import Company and Rosmachin) have been identified by the EU as front companies used to circumvent international sanctions and have also been added to the list of sanctioned entities/persons.

The listing of front companies which have been involved in circumventing the sanctions is a useful reminder that there are individuals and companies who will hide behind front companies in order to try to circumvent international sanctions. This highlights the importance of carrying out thorough due diligence prior to engaging in trade which has any connection with Iran, even when that trade does not, at first glance, appear to be in breach of international sanctions and where the counterparty does not appear to be a sanctioned entity.

Should you have concerns about any sanctions issues arising in your business, we would be happy to advise on any specific transactions. Please contact Michelle Linderman or your usual contact at Ince & Co in the event of any query.



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