



EU Sanctions: Iran

An overview of sanctions adopted by the EU Foreign Affairs Council on 26 July 2010

27 July 2010

On 27 July 2010, the EU imposed its toughest sanctions regime yet on Iran, with ramifications for energy, insurance, transport and financial sectors.

The sanctions package was adopted by the EU Foreign Affairs Council and will come into force on 27 July 2010.

This Council Decision follows the passing of UN Security Council Resolution 1929 on 9 June 2010 by the UN Security Council, and the signing into law in the United States of the Comprehensive Iran Sanctions, Accountability, and Divestment Act by President Barack Obama on 1 July 2010.

The EU sanctions are considerably broader and more stringent than those imposed by the UN, which were focused on preventing the sale and supply of goods used in nuclear production and missile development to Iran. The new EU sanctions aim at energy, financial and transport sectors, and at entities connected with the Iranian government

The sanctions are applicable to all EU Member States and extend over several key areas, and the provisions are summarised below. The range of EU sanctions is set out in the Council Decision of 26 July 2010¹ and Council Regulation 668/2010² which enlarges the list of entities and bodies subject to sanctions in Regulation 423/2007³. All references are to the Council Decision of 26 July 2010 unless otherwise noted.

Insurance⁴

It is prohibited to provide insurance or reinsurance to the Government of Iran, any entities incorporated in Iran or subject to its jurisdiction, or to any entities acting on behalf of or controlled by Iranian entities (for ease of reference, we call these collectively "Iran").

The sole exception to this ban is the provision of health and travel insurance to individuals.

Participation in any activities intended to circumvent this prohibition, knowingly or intentionally, is also prohibited.

Export/Import Restrictions⁵

¹ Official Journal (OJ) 2010 L195/39

² OJ 2010 L195/25

³ OJ 2007 L103/1

⁴ Article 12

⁵ Articles 1 – 3.

Nuclear-related technology

The sanctions prohibit the sale, transfer or supply to Iran of goods or technology which could contribute to enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapons systems. The prohibited items may be found on the Nuclear Suppliers Group list, the Missile Technology Control Regime list, the lists compiled by the UN Security Council and its sanctions Committee and items about which the IAEA has expressed concern or identified as outstanding.

The export to Iran of dual-use goods and technology, as listed in Annex I to Council Regulation 428/2009⁶, is also prohibited. This list is lengthy and comprehensive. The ban also covers arms and all other related material.

Any export to Iran of items as described above is subject to authorisation on a case-by-case basis by the authorities of the exporting Member State, who shall not grant authorisation if they believe that these items will contribute to enrichment, reprocessing or heavy water-related activities. The ban will not apply if the items are for food, agricultural, medical or other humanitarian purposes, the contracts concerning these include appropriate end-user guarantees and Iran has committed not to use the items for the development of nuclear weapons systems.

It will be also be prohibited to provide technical assistance, training, investment services, brokering services, financing or financial assistance (including grants, loans and export credit insurance) in respect of the provision of nuclear-related technology to Iran.

Energy⁷

The sale, supply or transfer of equipment and technology to Iran for the following key sectors is prohibited: refining, production and exploration of oil and gas, and liquefied natural gas. The provision of technical assistance or training, or financing or financial assistance in respect of the above items or any technical assistance or training, is prohibited.

The prohibition on providing finance extends to the granting of any loan or credit to the Iranian oil sector, the acquisition or extension of participation in enterprises engaged in the Iranian oil sector (including the acquisition of participating shares or securities), and the creation of any joint venture in the Iranian oil sector.

The above prohibitions are without prejudice to the execution of any obligation relating to the delivery of goods under contracts concluded prior to 26 July 2010, or to investments made in Iran prior to that date.

There are also exclusions for obligations arising under contracts or agreements, and extensions of a participation, if so obliged under a contract, provided those contracts were concluded prior to 26 July 2010.

Finance⁸

Grants, financial assistance and concessional loans to the Government of Iran, with the exception of humanitarian, developmental and agricultural purposes, are prohibited. This includes the Iranian government's participation in international financial institutions.

Member States of the EU will exercise enhanced monitoring over activities of specific financial institutions within their jurisdiction, including banks domiciled in Iran (and particularly the Central Bank of Iran), and their EU and non-EU based branches and subsidiaries, and also over financial entities that are not domiciled in Iran but are controlled by entities domiciled in Iran.

Funds being transferred to or from Iran are subject to new reporting requirements:

⁶ OJ 2009 L134

⁷ Articles 4, 6 & 7

⁸ Articles 9 – 11, 13 & 14

- Transfers of funds for foodstuffs, healthcare or humanitarian purposes may be carried out without prior authorisation, but transfers above €10,000 must be notified to the relevant competent authority of the Member State;
- Any other transfer under €40,000 may be carried out without prior authorisation, but must be notified to the relevant competent authority if above €10,000; and
- All transfers above €40,000 must be authorised prior to the transfer by the relevant competent authority. Member States are required to inform other Member States of any rejected authorisations.
- All relevant transfers of funds in respect of Iranian interests must be notified to the relevant competent authority within five working days.
- All transactional records must be kept for five years.

The opening of new branches, subsidiaries or representative offices of Iranian banks in the EU, and the establishment by them of new joint ventures, ownership interests or correspondent banking relationships is prohibited.

Financial institutions within the territories of Member States or under their jurisdiction are prohibited from opening representative offices, subsidiaries or bank accounts in Iran.

It is prohibited to participate in the direct or indirect sale or purchase of public or public-guaranteed bonds issued by the Government of Iran, the Central Bank of Iran or any banks domiciled in Iran (including their EU-based branches or subsidiaries), including providing brokering or assistance in respect of the sale or purchase of these bonds.

Transport⁹

All goods from/to a Member State to/from Iran are now required to have additional pre-arrival or pre-departure information.

All Member States are required to inspect all cargo, air and sea, to and from Iran if they have reasonable grounds to believe that the cargo contains items, the sale, supply, transfer or export of which is prohibited under these sanctions. Member States may request inspections on the high seas, with the consent of the flag State. Member States are required to co-operate with inspection requests by other Member States.

Any prohibited items will be seized and disposed of by the Member States, and the costs of this disposal are to be met by the exporter/importer, or any other person responsible for the attempted supply, sale or transfer.

Sea

The provision of bunkering or ship supply services, or servicing of vessels by nationals of Member States to Iranian-owned or contracted vessels, including chartered vessels, is prohibited if that national has reasonable grounds to believe that the vessel carries items prohibited under the sanctions, with the exception of services necessary for humanitarian purposes or if the cargo has been inspected, and if necessary, seized and disposed of.

Air

Member States are to take all necessary measures to prevent access to airports under their jurisdiction by cargo flights operated by Iranian carriers or originating from Iran, with the exception of mixed cargo and passenger flights.

The provision of engineering and maintenance services to Iranian cargo aircraft shall be prohibited if there are reasonable grounds to believe that the cargo aircraft carries items prohibited under the sanctions, with the exception of services necessary for safety or humanitarian purposes, or if the cargo has been inspected, and if necessary, seized and disposed of.

⁹ Articles 15 – 18

Asset Freezes¹⁰

The assets of those persons listed in Annex I to the Council Decision appended to the sanctions are frozen, as well as the assets of those persons engaged in, directly associated with or providing support for Iran's development of nuclear weapon delivery systems.

Council Regulation 668/2010 also expands this list of entities and bodies whose accounts are subject to freezing sanctions.

There are exceptions for making payment due under a contract entered into prior to the freezing of an account by these sanctions, provided that the funds are paid into a frozen account. Payment due under contracts entered into prior to the freezing of an entity which are unrelated to the activities prohibited under the sanctions is permitted, provided that the payment is not directly or indirectly received by one of those persons as described in the previous paragraph. These payments must be notified by the relevant Member State to the UN sanctions committee, who must authorise the payment or refuse it within five days.

Entities present on the list of freezing orders now include subsidiaries of the Islamic Republic of Iran Shipping Lines (IRISL) including Irano Hind Shipping Company, IRISL Benelux NV and South Shipping Line Iran.

Travel and Educational Bans¹¹

Travel to and from Member States by designated persons, listed in Annex I to the Council Decision, is prohibited. This list will updated as and when new persons are designated by the UN and other bodies.

Member States must also take measures to prevent the specialised teaching or training within their territories or by their nationals of Iranian nationals in disciplines which might contribute to Iran's development of nuclear weapons.

United States Sanctions: The Comprehensive Iran Sanctions, Accountability, and Divestment Act 2010

The United States sanctions regime against Iran remains, at present, unchanged, as whilst the above Act was signed into law by President Barack Obama on 1 July 2010, the regulations which will implement the terms of the Act are yet to be issued by the Office of Foreign Assets Control (OFAC).

The provisions of the Act build on previous US sanctions legislation, which amongst other prohibitions banned US persons from exporting, re-exporting, selling or supplying goods and technology to Iran, participating in any transactions including transportation, financing or brokering transactions, and the servicing of accounts of certain Iranian banks. Previous legislation also included prohibitions on US persons trading in Iranian oil or refined petroleum products, or supplying goods or technology which would benefit the Iranian oil industry.

The enabling act passed on 1 July 2010 amends the Iran Sanctions Act of 1996, and prohibits the provision of refined petroleum or support related to the production of refined petroleum to Iran. It includes in its definition of "person" financial institutions, insurers, underwriters, guarantors and any other business organisation including foreign subsidiaries, parents or affiliates.

The effects of the Act are already being felt. Lloyd's of London no longer provide cover to owners of ships taking refined petroleum products to Iran¹², and by 14 July 2010 there had

¹⁰ Article 20

been no reported spot fixtures in July involving Iran-bound product tankers.¹³ Iranian air carriers were refused fuel at airports even though it was uncertain as to whether that action would be prohibited under the new sanctions.¹⁴ Earlier this year insurers Allianz and Munich Re announced their plans to exit Iran.¹⁵

How do the regimes compare?

The latest round of EU sanctions brings the two regimes broadly into line, and somewhat reduces the potential effect in respect of Iran of EU Regulation 2271/96 (the "Blocking Regulation") which was introduced to counteract the extraterritorial effect of the US Iran Sanctions Act of 1996, and effectively prohibited EU entities from complying with US sanctions (though there have been no actions under the legislation).

As of yet, the exact regulations which will be passed by OFAC to implement the Comprehensive Iran Sanctions, Accountability, and Divestment Act are uncertain, and we will provide comment on these regulations as and when they are passed.

The scope of the new EU sanctions represents a significant change to the previous regime and caution and care should be exercised by clients when dealing with any matter which has the potential to be linked to Iran.

Enforcement

In the UK, Regulations made under the European Communities Act 1972 give effect to EU sanctions. The 2007 Iran (European Community Financial Sanctions) Regulations (SI 2007/1374) create criminal penalties for violations of EU sanctions.

It is likely that new laws will be passed in the UK over the next weeks or months that will give effect to the criminal aspects of the Council Decision.

Further information

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¹¹ Articles 19 & 21

¹² Lloyd's Market Bulletin – 8 July 2010.

¹³ *MR tankers operators refuse to ship products to Iran*, Lloyd's List – 14 July 2010.

¹⁴ *BP Reported to Halt Fuelling of Iranian Planes*, Reuters – 5 July 2010.

¹⁵ *Analysis: Sanctions turn screw on Iran*, Insurance Day – 28 June 2010.