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EU Tightens Sanctions on Iran

With the adoption of Council Decision 2010/413/CFSP concerning restrictive measures against Iran, repealing Common Position 2007/140/CFSP, and its publication in the Official Journal of the European Union (EU) on July 27, 2010, the EU imposed new sanctions on Iran. It is anticipated that these sanctions will have an impact on many, if not all, companies doing business with Iran and Iranian companies. Even existing relations and agreements could be impacted.

On June 17, 2010, the European Council underlined its concern about Iran's nuclear program and welcomed the adoption of United Nations Security Council Resolution 1929 (UNSCR 1929). In addition to the measures already imposed under UNSCR 1929, the Council of the EU was invited to implement accompanying measures targeted at the areas of trade, the financial sector, the Iranian transport sector, key sectors in the oil and gas industry and additional designations, in particular for the Islamic Revolutionary Guards Corps.

Following the adoption of these measures, the EU maintains a sanction regime even stricter than the UN sanctions under UNSCR 1929. With this step, the EU joins the United States, which already imposes comprehensive sanctions against U.S. citizens' involvement with Iran or Iranian entities and specifically implements UNSCR 1929, and Canada, which also already imposed similar measures. Given that the EU is Iran's largest trading partner, the new EU sanctions are expected to have a significant impact.

The New Sanctions

The most recent EU sanctions include sanctions in the field of the transfer of products and technology, financial measures, the transport industry and an update of the list of sanctioned persons, entities and bodies. The long list of sanctions includes, amongst others, the following measures:

- Ban on the sale, supply or transfer of key equipment and technology for certain key sectors of the Iranian oil and gas industry, including Iranian and/or Iranian owned enterprises in those sectors outside Iran;
- Ban on the provision of technical assistance or training and other services related to key equipment and technology, as well as financing or financial assistance for any sale, supply transfer or export of key equipment and technology;
- Ban on the direct or indirect supply, sale or transfer of goods and technology included in the list of dual-use items (i.e., items that can also be used for military purposes);
- Restrictions on financing of certain enterprises in the oil and gas industry;
- Restrictions on the transfer of funds to and from Iran;
- Restrictions on the operations of Iranian banks in the EU, including specific limitations on insurance deals;
- Increased inspection of Iranian cargo coming to the EU and going to Iran, including a ban on cargo flights from Iran to the EU; and
- Increased number of persons, entities and bodies subject to sanctions.

The Regulation implementing the new sanctions into EU legislation is expected in September. The lists of sanctioned persons, entities and bodies have already been amended and took effect on July 27.

Many companies will be effected by the new sanction regime, including companies that have a longstanding history of business with Iran.

Potential Impact on Current Business

Based on the new sanctions, for example, service providers operating under existing contracts may have to stop providing services involving products that will be subject to the new list of restricted goods, services and technology. Even in situations where contracts existed prior to the sanctions coming into force, activities that are prohibited going forward will not be grandfathered, and must be halted. Additionally, regardless of a particular company's actions to comply with the sanctions, it should be noted that third parties in a transaction, including financial institutions, may take actions to block, freeze, reject or otherwise report the transaction to the EU enforcement Authorities.

New Licensing Requirements

The new provisions will impose certain licensing requirements as well. For example, where a commercial transaction involves anything other than foodstuffs, healthcare, medical equipment or humanitarian donations, and the transaction results in a transfer of funds to and/or from Iran exceeding €40,000, a license from the competent national Authorities will be required prior to the transfer. The license application process will take time and companies are strongly recommended to allow sufficient time to obtain the required license prior to actually exporting the products to Iran. In addition, all transactions with a value exceeding €10,000, but not exceeding €40,000, must be reported to the Authorities.

Global Compliance and Enforcement

It is crucial to ensure compliance with the existing and new sanction measures against Iran. Compliance with the EU restrictions against Iran should be part of a global trade compliance program that includes compliance with all relevant laws such as U.S. and Canadian sanctions against Iran. Failure to comply with the sanction measures can have serious consequences for companies and individuals involved and may lead to significant financial damages and potentially even criminal prosecution. It remains to be seen, but we anticipate that with the heightened EU measures, EU authorities may refer, investigate and prosecute matters with U.S. officials related to Iran that run afoul of the various relevant export and sanctions restrictions.

If your company is currently doing business with Iran or considering new business with Iran, it is strongly recommended that you review the impact of both the latest and the previously existing sanctions prior to entering into any agreement or transaction.

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