



**THOMPSON  
HINE**

November 2010

**INTERNATIONAL TRADE &  
CUSTOMS UPDATE**

**EU Issues Stringent New Sanctions Against Iran**

The European Union (EU) recently issued comprehensive sanctions against Iran. These sanctions follow similarly far-reaching sanctions by the United States under the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA), which took effect in July. Together, these sanctions make it much more difficult for companies, wherever located, to conduct business with Iran or Iranian interests without penalties or restrictions.

**INTRODUCTION**

Following the EU's July 26, 2010 Council Decision, the European Commission issued new Iran sanction regulations ("EU sanction regulations") on October 25. The new regulations severely restrict transactions with Iran, Iranian enterprises and persons in Iran. The regulations apply not only to EU nationals, but also to any legal person, entity or body in respect of business done within the EU.<sup>1</sup>

The primary thrust of the EU sanction regulations is to target Iran's energy sector, in an effort to block its nuclear program. Enacted in response to sanctions imposed by the UN Security Council in June, the EU sanction regulations are significantly more restrictive than the UN sanctions.

The regulations define the term "Iranian person, entity, or body" very broadly to include non-Iranian businesses with Iranian shareholders. Thus, the regulations have far-reaching implications for EU and non-EU businesses.<sup>2</sup>

**GOODS OR TECHNOLOGY FOR THE OIL AND GAS SECTOR**

The EU sanction regulations primarily target Iran's oil and gas sector. They prohibit supply of, technical assistance related to and brokering of certain listed equipment and technology to Iranian persons, entities or bodies engaged in the oil and gas industry.<sup>3</sup> The oil and gas industry includes exploration and production of crude oil and natural gas, refining and liquefaction of natural gas.<sup>4</sup>

The equipment and technology covered by this prohibition are listed in Annex VI of the regulations. The list encompasses equipment and technology used in the oil and gas industry, including drilling equipment, heat exchangers, pumps, piping, tubes, vessels, software and materials (e.g., drilling mud, cement and zeolites).

Because "Iranian person, entity, or body" is so broadly defined, even non-Iranian oil and gas companies with a minority Iranian shareholder fall within the scope of this prohibition.



The prohibition applies to contracts and investments that take effect after the adoption of the Council Decision on July 26, 2010. Obligations arising from contracts concluded prior to July 26 are permissible so long as EU member states are properly notified.<sup>5</sup>

### **DUAL-USE GOODS AND TECHNOLOGY**

The EU sanction regulations restrict transactions involving transfer of dual-use goods and technology to Iranian persons, entities or bodies. Restricted activity includes export, import, technical assistance, brokering and financial assistance.<sup>6</sup> The regulations create two groups of dual-use items (many of which already were restricted) found in Annexes I and IV, the former having tighter restrictions.<sup>7</sup>

The EU sanction regulations prohibit transactions involving Annex I dual-use items, subject to limited exceptions.<sup>8</sup> Transactions involving Annex IV dual-use items are subject to prior authorization by EU member states.<sup>9</sup> Authorization will not be granted if the items are used in nuclear proliferation-sensitive activities or oil and gas-related activities.

Again, the expansive definition of “Iranian person, entity, or body” significantly broadens the potential reach of these restrictions.

The restrictions parallel Annex I items for proliferation-sensitive (Annex II), internal repression (Annex III) and military items found on the Common Military List of the EU.

### **INVESTMENT RESTRICTIONS**

The EU sanction regulations forbid investment activity with Iranian persons, entities or bodies engaged in the production of prohibited goods or technology. Prohibited investment activity includes granting loans or credit to, acquiring or extending participation in and creating a joint venture with Iranian persons, entities or bodies engaged in the production of prohibited goods or technology.<sup>10</sup>

Prohibited goods or technology include those that are dual-use, military-related, proliferation-sensitive, oil and gas-related or that could be used for internal repression.<sup>11</sup>

The oil and gas sector is defined to include certain types of exploration, production and refining activities.<sup>12</sup> In addition to prohibiting certain investment activity, the EU sanction regulations forbid “cooperating” (*e.g.*, cost-sharing) with Iranian persons, entities or bodies in the oil and gas sector.<sup>13</sup>

Certain investment activity is exempted from this prohibition. Investment activity related to the manufacture of certain dual-use goods or technology (found in Annex IV) is permissible, with member state authorization.<sup>14</sup> Additionally, financial obligations related to the oil and gas sector arising from contracts concluded prior to July 26, 2010, are permissible so long as member states are properly notified.<sup>15</sup>



## **FREEZING OF FUNDS AND ECONOMIC RESOURCES**

The EU sanction regulation freezes all funds and economic resources of persons listed in Annexes VII or VIII, with limited exceptions. These annexes list individuals suspected of supporting proliferation-sensitive nuclear activities. Funds and economic resources shall not be made available directly or indirectly for the benefit of listed persons.<sup>16</sup>

## **BANKING RESTRICTIONS—TRANSFER OF FUNDS AND FINANCIAL SERVICES**

The EU sanction regulations also place notification and authorization restrictions on transfer of funds, beyond certain threshold amounts, between persons subject to EU jurisdiction and Iranian persons, entities, or bodies.

- Transfers of funds between €10,000 and €40,000 not related to foodstuffs, health care or medical equipment require member state notification.<sup>17</sup>
- All transfers of funds over €40,000 are subject to member state authorization, which will not be granted if the funds would contribute to Iran's proliferation-sensitive sectors or the oil and gas sector.<sup>18</sup>

These requirements will likely have the indirect (and probably intended) effect of discouraging covered fund transfers.

## **FINANCIAL INSTITUTIONS**

Under the EU sanction regulations, credit and financial institutions are prohibited from engaging in certain transactions with Iranian credit and financial institutions. This extends beyond credit and financial institutions located in Iran, to those located outside of Iran but controlled by persons domiciled in Iran.<sup>19</sup>

Prohibited transactions include, but are not limited to, opening a bank account with, establishing a banking relationship with, opening a representative office and concluding agreements for, and establishing a business relationship (*e.g.*, joint venture) with an Iranian credit or financial institution.<sup>20</sup>

The EU sanction regulations also require that credit and financial institutions subject to EU jurisdiction continue to exercise vigilance over account activity, payment instructions and records, to prevent contribution to proliferation-sensitive nuclear activities.<sup>21</sup>

## **INSURANCE RESTRICTIONS**

The regulations prohibit entities subject to EU jurisdiction from providing insurance or re-insurance to Iranian persons, entities and bodies.<sup>22</sup> However, compliance with agreements concluded before July 26, 2010, is exempted.<sup>23</sup>



## TRANSPORTATION RESTRICTIONS

Cargo exported to or imported from Iran is subject to member state inspection, if the member state believes it contains items whose transfer is otherwise prohibited.<sup>24</sup>

Nationals of member states are prohibited from bunkering, providing ship supply services or other servicing of vessels to a vessel controlled by an Iranian person, entity or body if they have reason to believe the vessel carries prohibited items.<sup>25</sup>

## CONCLUSION

The EU sanction regulations represent a significant development in the application of non-U.S. sanctions against countries such as Iran that are considered global security threats. With these regulations, the EU has for the first time imposed sanctions nearly as severe as those imposed by the United States. Thus, the EU sanctions likely will have a significant impact on many companies that still do business in or with Iran.

## FOR MORE INFORMATION

For more information, please contact:

James A. Losey	202.263.4135	<a href="mailto:James.Losey@ThompsonHine.com">James.Losey@ThompsonHine.com</a>
Matthew R. Nicely	202.263.4179	<a href="mailto:Matthew.Nicely@ThompsonHine.com">Matthew.Nicely@ThompsonHine.com</a>

If you do not wish to receive future communications by email, please send an email with “Unsubscribe: Trade Update” as the subject line to [Stacy.Weiner@ThompsonHine.com](mailto:Stacy.Weiner@ThompsonHine.com).

This advisory may be reproduced, in whole or in part, with the prior permission of Thompson Hine LLP and acknowledgement of its source and copyright. This publication is intended to inform clients about legal matters of current interest. It is not intended as legal advice. Readers should not act upon the information contained in it without professional counsel.

This document may be considered attorney advertising in some jurisdictions. Some of the design images and photographs in this document may be of actors depicting fictional scenes.

---

<sup>1</sup> EU sanction regulations, Article 39.

<sup>2</sup> *Id.*, Article 1(m)(iv).

<sup>3</sup> *Id.*, Articles 8 and 9.

<sup>4</sup> *Id.*, Article 8(2).

<sup>5</sup> *Id.*, Article 10.

<sup>6</sup> *Id.*, Articles 2(1) and 5(1).

<sup>7</sup> *Id.*, Articles 2 and 3.

<sup>8</sup> *Id.*, Article (7)(1)(a) through (1)(d).

<sup>9</sup> *Id.*, Article 3(1) and (5).

<sup>10</sup> *Id.*, Article 11(1).

<sup>11</sup> *Id.*, Article 11(2). (Items listed in Annexes I-III, military items found on the Common Military List of the European Union and certain oil and gas sector goods and technology.)

<sup>12</sup> *Id.*, Article 11(3).

<sup>13</sup> *Id.*, Article 11(5).



---

<sup>14</sup> *Id.*, Article 12.

<sup>15</sup> *Id.*, Article 14.

<sup>16</sup> *Id.*, Articles 16-20.

<sup>17</sup> *Id.*, Article 21(1) and (3).

<sup>18</sup> *Id.*, Article 21(4).

<sup>19</sup> *Id.*, Article 24 and Article 23(2).

<sup>20</sup> *Id.*, Article 24. (Note that sale of bonds is also prohibited (Article 25).)

<sup>21</sup> *Id.*, Article 23.

<sup>22</sup> *Id.*, Article 26.

<sup>23</sup> *Id.*, Article 26(4).

<sup>24</sup> *Id.*, Article 27.

<sup>25</sup> *Id.*, Article 28.