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E-ALERT | International Trade Controls

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EU WIDENS THE SCOPE OF SANCTIONS AGAINST SYRIA AND IRAN

On December 1, 2011, the Council of the European Union ("EU Council") strengthened the EU sanctions against both Syria and Iran.

Syria: In light of deteriorating conditions in Syria, the EU Council adopted Decision 2011/782/CFSP and Regulation 1244/2011 imposing a range of additional sanctions. These new measures include restrictions targeted at Syria's oil and gas and financial services sectors and prohibitions on the supply of certain information and communications technology equipment.

Iran: The EU Council also adopted Regulation 1245/2011, adding 143 Iranian entities and 37 individuals to the list of blacklisted parties, in response to deepening concerns over Iran's refusal to cooperate fully with the International Atomic Energy Agency ("IAEA"). The Council also made clear that further sanctions may be on the horizon, aimed at the Iranian financial system, transport sector, and energy sector.

DEVELOPMENTS IN EU SANCTIONS AGAINST SYRIA

Together, Council Decision 2011/782/CFSP (the "Decision") and Regulation 1244/2011 strengthen existing EU sanctions against Syria in a number of ways, including by (i) adding new entities and individuals to the list of designated parties subject to an asset freeze, (ii) prohibiting the supply of key equipment and technology to the Syrian oil and gas sector, (iii) banning the supply to Syria of equipment and software intended for the monitoring and interception of Internet and telephone communications by the Syrian regime, and (iv) restricting EU assistance to certain infrastructure projects in Syria. The sanctions also include several prohibitions targeting Syria's financial sector. Each of these sanctions is discussed more fully below.

Significantly, while the Council has adopted a Regulation imposing the asset freeze on the newly designated parties, it has as yet only adopted the further measures via a Decision. While the Decision binds the EU Member States, it does not impose obligations on individuals and companies. (Natural and legal persons are only bound once the Decision is implemented in a Regulation.) The Council is expected to adopt the further implementing Regulation this week – but importantly, this Regulation will not change the core prohibitions outlined in the Decision.

Additional Asset Freeze

Regulation 1244/2011 blacklisted 11 new entities and 12 new individuals ("designated parties") under the Syria sanctions. The newly designated parties include:

- Business Lab,
- Industrial Solutions,
- Mechanical Construction Factory ("MCF"),
- Syronics – Syrian Arab Co. for Electronic Industries,
- Handasieh – Organization for Engineering Industries,

- Syria Trading Oil Company ("Sytrol"),
- General Petroleum Corporation ("GPC"), and
- Al Furat Petroleum Company.

All funds and economic resources that belong to or are owned, held or controlled by the designated parties are frozen. In parallel, Regulation 1245/2011 prohibits making available any funds or economic resources, directly or indirectly, to or for the benefit of the designated parties. Importantly, Member States interpret the "making available" prohibition as extending to entities owned or controlled by the designated parties. Thus, it is important to screen not only customers/partners in Syria, but also the entities that own or control them.

Ban on the Supply of Key Equipment and Technology for the Syrian Oil and Gas Sector

The 'Decision bans the sale, supply or transfer of certain equipment and technology for the "key sectors" of the oil and natural gas industry in Syria, or to Syrian or Syrian-owned enterprises engaged in these sectors outside of Syria. The prohibition extends to EU Member State nationals, as well as to any party acting from the EU territory or using vessels or aircraft under the jurisdiction of EU Member States. The key sectors of the Syrian oil and natural gas industry are defined to include the refining, liquefied natural gas, exploration and production sectors.

The Decision does not list the prohibited equipment – instead, this list will be included in an annex to the implementing Regulation. It is likely that this list will be similar to the list of key equipment and technology included in Annex VI to Regulation 961/2010, imposing EU sanctions against Iran.

The Decision also prohibits the provision to enterprises in Syria engaged in the key oil and gas sectors or to Syrian-state owned enterprises engaged in those sectors outside of Syria of:

- technical assistance and other services related to the above-mentioned key equipment and technology, and
- financing and financial assistance relating to any sale, supply, transfer or export of key equipment and technology or to the provision of related technical assistance or training.

Importantly, the above prohibitions are subject to two grandfathering clauses, permitting:

- the delivery of the key equipment and technology under an obligation included in a contract awarded or concluded before December 1, 2011; and
- the delivery of the key equipment and technology as well as the provision of technical assistance and other services, and financing and financial assistance related to the key equipment or technology (i) arising from contracts awarded or concluded before December 1, 2011 and (ii) relating to investments made in Syria before September 23, 2011.

Ban on Equipment and Software That Can Monitor Telecommunications and the Internet

The Decision prohibits the export of equipment and software intended for use in the monitoring or interception of internet and telephone communications by or on behalf of the Syrian government. In parallel, the Decision also prohibits the provision of assistance to install, operate or update such equipment or software. Again, the Decision is silent on the specific equipment and software items that will be subject to the new prohibition; the list of the relevant equipment and software will be included in an annex to the implementing Regulation.

Sanctions Targeting Infrastructure Projects in Syria

The Decision also prohibits participation in the construction of new power plants for the production of electricity in Syria, as well as the provision of technical assistance, financing or financial assistance for the construction of such power plants.

A grandfathering clause permits the execution of obligations arising from contracts or agreements concluded before December 1, 2011.

Sanctions Targeting the Syrian Financial Sector

The Decision further prohibits:

- the direct or indirect sale or purchase of, or brokering or assistance in, Syrian public or public-guaranteed bonds issued after December 1, 2011, where such transactions involve the Government of Syria, its public bodies, corporations and agencies and certain Syrian financial institutions,[1]
- the opening of new branches, subsidiaries, or representative offices in the EU by Syrian financial institutions,
- the establishment of joint ventures, the taking of an ownership interest, or the establishment of new correspondent banking relationships between EU financial institutions and Syrian financial institutions,
- the opening of representative offices, subsidiaries or banking accounts in Syria by EU financial institutions, and
- the provision of insurance and re-insurance to (i) the Government of Syria, its public bodies, corporations and agencies, (ii) any persons or entities acting on their behalf or at their direction, and (iii) entities owned or controlled by them (subject to narrow exceptions).

For the purpose of the Decision, 'EU financial institutions' include: (i) financial institutions established in EU Member States and (ii) other financial institutions when they are under the jurisdiction of an EU Member State i.e., with respect to any relevant business done in whole or in part within the EU. Thus, for financial institutions established in third countries but undertaking relevant activities through branches on EU territory, the prohibitions would apply only with respect to these EU activities.

Finally, the Decision calls on EU Member States to exercise restraint in entering into new short and medium-term commitments for public and private-provided financial support for trade with Syria; and instructs Member States not to enter into new commitments for grants, financial assistance or concessional loans to the Government of Syria except for humanitarian and developmental purposes.

DEVELOPMENTS IN EU SANCTIONS AGAINST IRAN

Additional Asset Freeze

Regulation 1245/2011 listed 143 entities and 37 individuals as designated parties subject to a freeze of assets and a prohibition on making available any funds or economic resources. These newly designated parties include (i) entities and individuals directly involved in Iran's nuclear activities, which are in violation of UN Security Council resolutions, (ii) entities and individuals

[1] The list of Syrian financial institutions includes (i) the Central Bank of Syria, (ii) banks domiciled in Syria, (iii) branches and subsidiaries within and outside the jurisdiction of Member States of banks domiciled in Syria, (iv) financial entities that are neither domiciled in Syria nor within the jurisdiction of the Member States, but are controlled by persons and entities domiciled in Syria, and (v) any persons and entities acting on behalf of or at the direction of any of the foregoing and entities owned or controlled by them.

owned, controlled or acting on behalf of the Islamic Republic of Iran Shipping Line ("IRISL"), and (iii) members of and entities controlled by the Islamic Revolutionary Guards Corps ("IRGC").

In addition, the EU Council agreed in principle to broaden the scope of the Iranian sanctions by targeting Iran's financial system, its transport and energy sectors, and the operation of the IRGC. The EU Council announced that these new measures will be adopted no later than the next meeting of the Foreign Affairs Council (currently scheduled for January 30, 2012).

Coming only a week after the UK and US took coordinated action to cut off Iran's financial sector (as described in Covington's e-alert of November 22, 2011), these measures reflect increasing international pressure to isolate Iran.

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Our EU and US offices are deeply involved in advising clients concerning the application of the EU and US sanctions and would be pleased to help clients understand the requirements affecting trade and investment in Syria and Iran.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our international trade controls practice group:

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