Sanctions Alert

A bi-monthly summary of sanctions news and developments

In this Issue:

Iran Sanctions News

EU and US Start Implementing Partial Suspension of Iran Sanctions

The EU and US have started the partial suspension of economic sanctions targeting Iran in line with the Joint Plan of Action ("JPOA") agreed in Geneva last November.

On 20 January 2014, Iran began a six-month process of reducing its stockpile of 20% enriched uranium while also halting any further progress in its nuclear programme. The EU and US will in return suspend certain economic sanctions until 20 July 2014. The suspension may be prolonged by mutual consent.

EU Measures

The EU has issued Council Decision 2014/21/CFSP and Council Regulation (EU) No 42/2014 which suspend the measures previously prohibiting:

- The transport of Iranian crude oil and petroleum products. N.B. The prohibition on the import or purchase of Iranian crude oil and petroleum products remains in place.
- The provision of insurance and re-insurance relating to the import, purchase, or transport of Iranian crude oil.
- The import, purchase or transport of Iranian petrochemical products and related services.
- The provision of vessels enabling the transport of Iranian crude oil.
- The trade in gold, precious metals and diamonds with the Iranian government, its public bodies and the Central Bank.

Contracts taking advantage of the above suspensions "would have to be executed" during the period of 20 January to 20 July 2014. The measures envisage the release of frozen funds to the Iranian Ministry of Petroleum to the extent necessary for the execution of contracts for the import or purchase of Iranian petrochemical products.

The measures also include a tenfold increase in the authorisation thresholds for financial transfers to and from Iran. The threshold is now EUR 1,000,000 for transactions regarding foodstuffs, healthcare, medical equipment, or for agricultural or humanitarian purposes; EUR 400,000 for transfers regarding personal remittances; and EUR 100,000 for all other transfers. The requirement to notify a competent authority of any transfer above EUR 10,000 remains in place.

US Measures

The US has announced limited, targeted and reversible sanctions relief for the same six-month period. To qualify, the transactions must both be initiated and completed within the six-month period of the JPOA, beginning 20 January 2014.

The relief is limited to so-called "secondary sanctions" imposed on non-US persons that do Iran-related business, including restrictions on US correspondent accounts, blocking of US assets, or "menu-based" sanctions such as restrictions on US bank loans, US government contracts or other US-related business. The relief does not rescind

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any part of the "primary sanctions" applicable to US persons and their subsidiaries, though in some instances the Treasury Department will more liberally grant specific licences. The partial relaxation of secondary sanctions is effected by waivers, where authorised by statute, and by a stated policy of non-enforcement when waivers are not legally available.

As outlined in guidance jointly issued by the US State and Treasury Departments, the sanctions relief includes:

- Pausing US efforts to reduce Iranian crude oil exports by allowing the six countries currently on the "substantial reduction" list (China, India, Japan, South Korea, Taiwan and Turkey) to continue purchasing Iranian oil at current levels for the remainder of the JPOA period, without the imposition of secondary sanctions on non-US companies involved in such trade.
- Establishing financial channels to allow Iran to make payments for humanitarian transactions and medical expenses, university tuition payments for Iranian students studying abroad and the payment of Iran's UN obligations.
- Suspending secondary sanctions on non-US companies for transactions related to Iran's petrochemical exports, trade in gold and precious metals, and the provision of goods and services to Iran's automotive sector.
- Licensing US companies and their subsidiaries to engage in transactions for spare parts, inspections and associated services necessary for the safe operation of Iranian commercial passenger aircraft.

The sanctions relief extends to any insurance, transportation or financial service ordinarily incident to the underlying activity covered by the JPOA, provided that the provision of such services does not involve any persons or entities identified on the US Treasury Department's Office of Foreign Asset Control's ("OFAC") List of Specially Designated Nationals and Blocked Persons.

Links relating to EU measures

Statement by EU High Representative Catherine Ashton (PDF)

Council press release (PDF)

EU Council Decision 2014/21/CFSP amending Council Decision 2010/413/CFSP concerning restrictive measures against Iran (PDF)

EU Council Regulation (EU) No 42/2014 amending Council Regulation (EU) No 267/2012 concerning restrictive measures against Iran (PDF)

EU Council Decision 2010/413/CFSP (PDF)

EU Council Regulation (EU) No 267/2012 (PDF)

Joint Plan of Action (PDF)

Links relating to US measures

Treasury and State Department joint press release

Treasury and State Department JPOA guidance

State Department JPOA Fact Sheet

Treasury Department JPOA FAQs

OFAC Statement on Licensing Policy for Iran's Civil Aviation Industry

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European News

Faroe Islands Bring WTO Proceedings in Response to Restrictive Measures Imposed by the European Commission

Denmark has asked the World Trade Organization's ("WTO") Dispute Settlement Body to establish a panel to examine the EU's restrictive measures against the Faroe Islands, a self-governing territory of Denmark, which came into effect on 28 August 2013.

The restrictive measures were adopted as a response to the islands' implementation of unilateral herring quotas, which more than tripled the numbers of herring and mackerel that could be caught by those fishing in Faroese waters. The measures include the prohibition on imports into the EU of fish or fishery products of Atlanto-Scandian herring or mackerel caught in the waters under the control of the Faroe Islands, and severely restrict the use of EU ports by vessels fishing for or transporting herring and mackerel from Faroese waters.

The request for a WTO panel came after consultations between Denmark, representing the Faroe Islands, and the European Union failed to reach a mutually satisfactory solution on 12 December 2013. It was the first case in which an individual EU Member State, rather than the EU on a Member State's behalf, requested consultations under the WTO's Dispute Settlement Understanding with another WTO member.

Commission Implementing Regulation (EU) No 793/2013 establishing the restrictive measures (PDF)

WTO documents relating to this dispute

WTO announcement

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EU Adopts Arms Embargo on Central African Republic

The EU has adopted Council Decision 2013/798/CFSP which prohibits "the sale, supply, transfer or export of arms and related materiel of all types…to the Central African Republic ('CAR') by nationals of Member States or from territories of Member States or using their flag vessels or aircraft".

The embargo also prohibits the provision of technical, brokering and support services, including the provision of armed mercenary personnel, related to military activities in the CAR. The embargo is subject to a number of exemptions in respect of the peace-keeping forces in the region.

The UN imposed an arms embargo on the CAR in Resolution 2127 (2013) on 5 December 2013.

EU Council Decision 2013/798/CFSP imposing the arms embargo on the CAR (PDF)

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EU Amends "Non-liability" and "No claim" Clauses in respect of Libya Sanctions

The EU has adopted Council Regulation (EU) No 45/2014 which amends Council Regulation (EU) No 204/2011 concerning restrictive measures against Libya. Pursuant to the amendments: (i) the freezing of funds or the refusal to make funds or economic resources available, if carried out in good faith and in accordance with the Regulation, shall not give rise to any liability unless the funds were frozen or the economic resources withheld "as a result of negligence"; (ii) actions by natural or legal persons who did not know, and had no reasonable cause to suspect, that their actions would infringe the Regulation shall not give rise to liability of any kind; and (iii) no claims in connection with any contract or transaction the performance of which has been affected by the measures imposed under Council Regulation (EU) No 204/2011 and brought by persons listed in Annex II or III of that Regulation, or any other Libyan person or those acting on their behalf shall be satisfied.

EU Council Regulation (EU) No 45/2014 amending Council Regulation (EU) No 204/2011 (PDF)

EU Council Regulation (EU) No 204/2011 (PDF)

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US News

Proposed New Iran Sanctions Law Gains Support in Congress

On 19 December 2013, the Nuclear Weapon Free Iran Act of 2013 (S. 1881) was introduced into the US Senate by Democrat Robert Menendez of New Jersey and Republican Mark Kirk of Illinois. If enacted, the bill would impose various additional sanctions on Iran, although it allows the President of the United States to suspend the additional sanctions (first for 180 days and then for add-on periods) if the President makes certain certifications to Congress.

To become a law, the bill must pass both houses of Congress (the Senate and the House of Representatives) and be signed by the President. If the President refuses to sign the bill, Congress may override this veto by passing the bill again by a two-thirds majority in each house.

The White House has stated that the President will veto the bill if it passes in Congress. President Obama has urged Congress not to pass the bill, stating that additional sanctions threaten the JPOA reached on 24 November 2013. Iran has pledged to withdraw from the agreement if the US passes additional sanctions. However, the bill currently has 59 co-sponsors in the Senate, nearly enough support to hold a veto-proof two-thirds majority in the 100-member Senate. Senate Majority Leader Harry Reid of Nevada has stated that he has no immediate plan to allow a vote on the bill.

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Proponents of the new sanctions bill argue that it is consistent with the JPOA agreed between Iran and the P5+1 nations, as it allows the President to suspend new sanctions if he makes certain certifications to Congress. However, critics of the bill point out that several of the required certifications are problematic. For example, the President would be required to certify that Iran "has not directly, or through proxy, supported, financed, planned or otherwise carried out an act of terrorism" in the US or anywhere in the world. On its face, this certification would seem to require the President to so certify to Iran's past conduct as well as the conduct of third parties, such as Hezbollah, that Iran supports but does not immediately control, before the President could suspend the new sanctions.

The proposed Nuclear Weapon Free Iran Act of 2013 (S. 1881)

A Reuters article regarding this issue

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US Expands Sanctions Targeting Mexican Drug Cartel

On 8 and 16 January 2014, the Treasury Department announced two additional designations targeting Mexico's Sinaloa drug cartel under the Foreign Narcotics Kingpin Designation Act. According to the US government, Jose Rodrigo Arechiga Gamboa, designated on 8 January, is a Mexico-based senior lieutenant of the Sinaloa Cartel who controls Los Antrax, an extremely violent arm of the Ismael "Mayo" Zambada Garcia organisation that provides personal security to Mr. Zambada Garcia and his family and conducts assassinations of Mr. Zambada Garcia's rivals. Additionally, Mr. Arechiga Gamboa is said to handle transportation and logistical issues for Joaquin "Chapo" Guzman Loera, the leader of the Sinaloa Cartel. Jose Guadalupe Tapia Quintero, designated on 16 January, is also a senior lieutenant of the Sinaloa Cartel and oversees the transportation of cocaine, marijuana and methamphetamine from Sinaloa into the US, particularly Arizona and California, according to the US government.

Treasury press release – Arechiga Gamboa

Treasury press release – Tapia Quintero

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US Adds Ansar Al Shari'a Entities to Global Terrorism Sanctions List

On 10 January 2014, the State Department announced, after consultations with Departments of Justice and Treasury, designations of Ansar al-Shari'a in Benghazi (Libya), Ansar al-Shari'a in Darnah (Libya) and Ansar al-Shari'a in Tunisia as Foreign Terrorist Organisations under section 219 of the Immigration and Nationality Act and as Specially Designated Global Terrorist entities under Executive Order 13224. The three senior leaders of each organisation were also designated as Specially Designated Global Terrorists under Executive Order 13224.

According to the State Department, the two designated organisations in Libya were involved in

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the 11 September 2012 attack on the US Special Mission and Annex in Benghazi, Libya, as well as frequent terrorist acts against civilians and numerous assassinations of security officials and political actors in eastern Libya. The designated organisation in Tunisia is said to have been involved in 14 September 2012 attack against the US embassy and American school in Tunis, as well as attacks against Tunisian security forces, assassinations of Tunisian political figures and attempted suicide bombings of locations that tourists frequent.

Department of State press release

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Clearstream Banking Pays Nearly $152 Million to Settle Alleged Iran Sanctions Violations

OFAC announced today that it settled with Clearstream Banking S.A. ("Clearstream"), of Luxembourg, for $151,902,000 for apparent violations of the Iranian Transactions and Sanctions Regulations. According to OFAC, Clearstream maintained an omnibus custodial account for its clients in a US bank, and one of those clients was the Central Bank of Iran ("CBI"). Clearstream had told OFAC in 2008 that it was terminating its business with Iranian clients; but instead of terminating its relationship with CBI, Clearstream just changed the record ownership of the account on its own books from the CBI to a European bank, while CBI's beneficial ownership remained unchanged. As OFAC describes it, CBI's interest was merely "buried one level deeper in the custodial chain". OFAC found this to be an egregious case involving reckless conduct, and one where there had been no voluntary self-disclosure.

Treasury press release

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UN News

Security Council Amends Al-Qaida Sanctions List

The UN Security Council Committee removed Atilla Selek, Nabil Ben Mohamed Ben Ali Ben Attia and the branch offices of the International Islamic Relief Organization in the Philippines and Indonesia from its Al-Qaida Sanctions List after considering a delisting request from the Office of the Ombudsperson. Accordingly, the UN assets freeze, travel ban and arms embargo no longer apply to these individuals and entities.

The UN Security Council Committee re-added Jaber Abdallah Jaber Ahmad Al-Jalahmah to its Al-Qaida Sanctions List after he had previously been removed

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pursuant to a delisting request from the Office of the Ombudsperson. Accordingly, the UN assets freeze, travel ban and arms embargo once again apply to this individual.

Security Council announcement 11238

Security Council announcement 11243

Security Council announcement 11241

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Other News

Debevoise & Plimpton LLP Co-hosts Chatham House Sanctions Symposium

On 13 February 2014, the International Law Programme of Chatham House, Debevoise & Plimpton LLP, and the Foreign & Commonwealth Office will be hosting a symposium at Chatham House, home of the Royal Institute of International Affairs. The discussion will focus on the current state of economic sanctions, looking at their implementation and impact from both the commercial and public policy perspectives. Speakers at this event will include:

Isaykin told *Kommersant*: “This is the legitimate right of the Iranian side to bring a suit in international arbitration for the failure to perform a contract…But I am sure we will reach a compromise solution.”

- **Richard Wood**, Deputy Head, International Organisations Department, Foreign and Commonwealth Office
- **Debra A. Valentine**, Group Executive Legal, External & Regulatory Affairs, Rio Tinto
- **Chris Chew**, Head of Policy, Export Control Organisation, Department for Business, Innovation & Skills
- **Chair: Elizabeth Wilmshurst**, CMG, Associate Fellow, International Law Programme, Chatham House
- **Keith Davis**, HM Treasury
- **Satish M. Kini**, Partner, Debevoise & Plimpton LLP, Washington, DC
- **Jessica Gladstone**, International Counsel, Debevoise & Plimpton LLP, London
- A representative from the US Department of State

To register for this event, please RSVP to londonevents@debevoise.com by Friday, 7 February 2014.

Details of the event on Chatham House’s website

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Sanctions Alert is a publication of
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