



EU Council introduces new economic sanctions against Iran

On 26 July 2010, the Council of the EU issued a decision imposing further economic sanctions on Iran. For the first time, these sanctions include measures specifically targeted at restricting trade and investment in Iran's natural energy resources industry. The sanctions will impose new burdens on European businesses in the sector, because their scope includes not only Iran-based energy companies, but also any that are owned by Iranian interests. This briefing summarises the measures and highlights areas of uncertainty. Affected companies should tread carefully but need to act now to ensure that they comply with the new rules. We explain how.

Introduction

On 26 July 2010, the Council of the EU adopted a decision implementing measures intended to help resolve concerns over Iran's development of sensitive technologies in relation to nuclear and missile programmes. These measures are purportedly to comply with UN Security Council Resolution 1929 but the decision's measures introduce far more restrictive measures against Iran, especially in respect to the energy sector. The EU decision formally binds only member states. It requires further implementing measures by the member states or the EU. The Commission is likely to adopt an implementing regulation in early September. The US has also enacted new economic sanctions against Iran. For further information, please refer to our briefing [New US extraterritorial sanctions against Iran](#).

The Council's decision goes beyond the provisions of Resolution 1929, which dealt mainly with restrictions on nuclear materials, financing and visas. Whereas the Security Council merely noted the potential connection between Iran's revenues derived from its energy sector and its nuclear-proliferation activities, the Council's decision introduces measures prohibiting future investment in or trade with any Iranian or Iranian-owned enterprises, even outside Iran, in the oil and natural gas sector.

These sanctions are likely to have a wide impact on a number of industries throughout Europe. Oil and energy products accounted for 90 per cent of the EU's imports from Iran in 2008; and machinery and transport

equipment made up more than half of the EU's €14.1bn exports to Iran in that same year.

Iran is the second-largest oil producer in the Middle East, but imports over 40 per cent of its petrol due to a lack of domestic refining capacity. However, importing refined energy products does not appear to fall under the decision's prohibited practices.

The decision's scope

The sale, supply or transfer of 'key equipment and technology' to such Iranian enterprises for the refining, liquefying, exploration or production of natural energy resources is now prohibited. This provision encompasses not only nationals of member states of the EU, but also businesses operating in their territories or simply transporting goods through a member state – using vessels or aircraft under the jurisdiction of member states is prohibited. The specific items of equipment and technology have not yet been determined.

The decision also prohibits the provision of training or other services related to this equipment and the provision of financial assistance for any sale, supply, transfer or export of such materials. Finally, it is also prohibited to participate knowingly or intentionally in any activities intended to circumvent the above-mentioned restrictions.

Article 6 of the decision prohibits the acquisition or extension of any participation in an Iranian or Iranian-owned enterprise that is involved in the oil and natural

gas industries. This includes the acquisition of shares or securities in such enterprises and the creation of joint ventures with such companies.

However, article 7 provides that the prohibitions on trade and investment are without prejudice to the execution of contracts already in existence when the decision was adopted (26 July 2010). Although this provides some protection for the large number of companies that will have invested heavily in supplying or maintaining Iranian infrastructure or supply chains to the country, it is notable that the decision also specifically provides that no compensation or claims of any kind will be available to companies that suffer losses as a result of this decision.

Advice for potentially affected companies

Companies in the energy sector or that supply materials to energy providers, and are based in or have operations in the EU, need to tread carefully. Although the range of prohibited equipment and technology has not yet been finalised, it is likely to target key elements in Iran's extensive import portfolio for refining natural resources. Companies need to analyse closely their export portfolios to ensure that no further equipment is imported into Iran, except as already agreed under contract. Companies also need to investigate their other customers outside Iran itself to ensure that these customers are not owned or partly owned by Iranian interests. This will inevitably lead to an increased burden in due diligence in future transactions, including mergers, acquisitions and setting up new joint ventures.

Although the decision explicitly excludes contracts for trade and acquisitions that are subjected to existing contracts, companies need to ensure that their trade with Iranian and Iranian-owned enterprises does not exceed the strict boundaries of those contracts and that, where appropriate, such contracts are not renewed. It is uncertain whether automatically renewable or rolling contracts will be prohibited, but caution should be urged in all cases.

Although conclusive action cannot be finalised until the final list of prohibited items and technologies is published, companies in the sector should review their internal compliance procedures, including codes of conduct, policies and procedures for conducting

business and refresher training for sales managers where appropriate. Similarly, due diligence procedures for new acquisitions and mergers should be reviewed and updated as appropriate.

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