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EU Tightens Sanctions against Iran

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On October 15, 2012, the European Union (EU) adopted Council Decision 2012/635/CFSP (“Decision 2012/635”),[1] which further tightens the restrictions against Iran, in response to “Iran’s failure to engage seriously in negotiations in order to address international concerns about its nuclear programme.”

As described more fully below, Decision 2012/635 restrictions include:

- a ban on the import, purchase or transport of Iranian natural gas
- a ban on the sale or transfer to Iran of graphite, raw or semifinished metals, key naval equipment and technology for shipbuilding, and software for integrating industrial processes
- a ban on participation in the construction of new oil tankers for Iran
- a ban on financial transactions between the EU financial sector and Iranian banks
- an asset freeze of further individuals and entities.

The majority of the provisions described in Decision 2012/635 are not yet in force. The provisions are currently binding only on member states, and will not become binding on individuals until implementing legislation is issued. Such legislation is expected shortly.

The EU has, however, adopted Council Implementing Regulation (EU) No. 945/2012,[2] which is in force as of October 16, 2012. The regulation implements the asset freeze with respect to individuals and entities identified in Decision 2012/635.

Key Features

Prohibits Import, Purchase or Transport of Iranian Natural Gas

- The EU already bars the import, purchase or transport of Iranian crude oil and other petrochemical products, as well as related insurance and reinsurance, financial assistance and supply of key equipment and technology to the petrochemical industry.[3]

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[1] Council Decision 2012/635/CFSP of 15 October 2012, amending Decision 2010/413/CFSP concerning restrictive measures against Iran.
[2] Council Implementing Regulation No. 945/2012 of 15 October 2012, implementing Regulation (EU) No. 267/2012 concerning restrictive measures against Iran.

- Decision 2012/635 provides a similar prohibition on the import, purchase or transport of Iranian natural gas, as well as prohibiting the direct or indirect provision of financing or financial assistance for these activities.

- The EU prohibition will, however, not affect contracts for the delivery of natural gas of a state other than Iran to EU member states.

Bars Provision of Metals and Software for Nuclear or Missiles Programs

- Decision 2012/635 prohibits the sale, supply or transfer of graphite and metals such as aluminum and steel, as well as other metals determined to be relevant to industries controlled by the Iranian Revolutionary Guard Corps or to Iran's nuclear, military and ballistic missile programs.

- It also prohibits the sale, supply or transfer to Iran of software for integrating industrial processes relevant to industries controlled by the Iranian Revolutionary Guard Corps or to Iran's nuclear, military and ballistic missile programs.

- The decision further prohibits the provision of related technical assistance or training and financing or financial assistance for the sale, supply or transfer of these items.

Prohibits Supply of Shipbuilding Resources

- Focusing on restricting Iran's shipping capacity, the new restrictions bar the sale, supply or transfer of key naval equipment and technology for shipbuilding, maintenance or refitting. There will be an exemption for the supply of equipment and technology to a non-Iranian-owned or controlled vessel that has been forced into an Iranian port or territorial waters.

- Decision 2012/635 bans the construction, participation in construction, sale or provision of technical assistance or financing related to construction of new oil tankers for Iran or Iranian persons.

- Further, providing flagging and classification services to Iranian oil tankers and cargo vessels will be prohibited, as well as the supply of vessels designed for the transport or storage of oil and petrochemical products to Iranian persons and entities.

Restrictions Related to Iranian Financial Transactions

- Decision 2012/635 prohibits financial transactions between the EU financial sector and Iranian banks, including the Central Bank of Iran, branches and subsidiaries of Iranian banks wherever located, and banks controlled by persons or entities in Iran.

- Certain transactions continue to be permitted, but only with prior approval and if related to certain approved activities, including transactions relating to humanitarian activities, medicine, foodstuff or personal remittances (under €40,000).

- Similar sanctions have already been in force in the United Kingdom since November 21, 2011.[4]

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[3] *See* Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran.
[4] Implemented by the Financial Restrictions (Iran) Order 2011 made under Schedule 7 to the UK Counter-Terrorism Act 2008.

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Freezes Assets of Designated Entities and Provides General Bar on Financial Support

- Decision 2012/635 adds 34 entities and one individual to the asset freeze and travel ban list. The Council Regulation No. 945/2012 issued on October 15, 2012, ensures that the asset freeze and travel ban are implemented immediately.

- The National Iranian Oil Company (NIOC), the National Iranian Gas Company (NIGC) and the National Iranian Tanker Company (NITC) are among the entities added to the list.

- Additionally, EU member states are prohibited from entering into any new commitments to provide financial support for trade with Iran, including the granting of export credits, guarantees or insurance to persons or entities involved in Iranian trade.

Impact of Decision 2012/635

The new EU sanctions, once they are implemented through additional legislation, will be broader than the current Iran sanctions regime. They will expand the sanctions applicable to industries such as oil and gas, transportation and software (although certain exemptions, such as for performance of existing contracts for a short period, will apply). Therefore, companies that operate in, or are connected to, those industries should consider the new sanctions and implement appropriate compliance measures.

Despite the EU's tougher stance, EU and U.S. sanctions continue to differ substantially. The EU sanctions do not in principle apply to subsidiaries of EU companies that are incorporated outside the EU, whereas, the United States' most recent sanctions took steps to constrain the Iran-related activities of foreign subsidiaries of U.S. companies. Nonetheless, in response to existing and expected EU and U.S. sanctions, many EU companies have for some time been reducing or ending their business relationships with Iran. EU companies are likely to be even more cautious about taking steps which might be seen as circumventing EU sanctions.

CONTACT INFORMATION

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