

24 JANUARY 2014: EASING OF EU SANCTIONS AND THE IMPACT ON IRANIAN TRADE

SUMMARY

In this update we examine the EU sanctions which have been eased concerning Iran and consider whether trade has become any easier. The reality is that the easing of EU sanctions announced this week offers little real benefit today to most of our clients. For those clients for whom trade is legitimate today - and much trade remains legitimate - they will continue to face the commercial challenges of actually getting paid. However, there is a real possibility that further talks between the P5+1 and Iran over the coming months will result in tangible changes, including a softening in attitudes by EU banks and possibly, a swift opening up of the Iranian market for EU exporters before the end of 2014. Nothing is guaranteed in the world of diplomacy and we remain cautiously optimistic. However, to the extent marketing efforts are permitted, we suggest our clients "get their skates on" and ensure that they will be the first in line if and when markets reopen.

WHAT EU SANCTIONS ARE BEING EASED?

EU Regulation (2014/42/ EU) was announced on 20th January 2014 and provides limited relief from EU sanctions until 20th July 2014 as follows:

Crude oil and Petroleum products

There is a limited suspension of the prohibition against:

- Transporting listed crude oil or petroleum products of Iranian origin or that are exported from Iran;
- Providing insurance and reinsurance in respect of the import, purchase or transport of certain crude oil or petroleum products of Iranian origin or that are exported from Iran.

However, the listed products are limited to "petroleum oils and bituminous minerals, crude" and do not extend to the full list of prohibited crude oil and petroleum products. Further, it remains prohibited to import crude oil into the EU. EU traders may not buy and sell Iranian crude oil and EU lenders may not finance crude oil deals. EU owned or registered vessels will be allowed to carry Iranian crude oil but not into the EU. Complications are foreseen where companies are forced to interact with designated entities, such as port operators and agents. Difficulty will almost certainly be faced in finding a bank willing to process transactions. Whilst London insurers

are once again permitted to insure Iranian crude oil cargoes bound for China, India, Japan, Korea, Taiwan and Turkey, given the limited 6 month relaxation and the challenges outlined above, our view is that it will take a brave ship-owner to enter into such contracts.

Petrochemical products

There is a wide suspension of the prohibition against:

- Importing petrochemical products into the Union if they (i) originate in Iran; or (ii) have been exported from Iran;
- Purchasing petrochemical products which are located in or which originated in Iran;
- Transporting petrochemical products if they originate in Iran, or are being exported from Iran to any other country; and
- Providing, directly or indirectly, financing or financial assistance, including financial derivatives, as well as insurance and re-insurance related to the import, purchase or transport of petrochemical products of Iranian origin or that have been imported from Iran.

Gold and precious metals

There is a wide Suspension of the prohibitions against:

- Selling, supplying, transferring or exporting, directly or indirectly, listed gold and precious metals whether or not originating in the Union, to the Government of Iran, its public bodies, corporations and agencies, any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them;
- Purchasing, importing or transporting, directly or indirectly, listed gold and precious metals, whether the item concerned originates in Iran or not, from the Government of Iran, its public bodies, corporations and agencies and any person, entity or body acting on their behalf or at their direction, or any entity or body owned or controlled by them; and
- Providing, directly or indirectly, technical assistance or brokering services, financing or financial assistance, related to listed gold and precious metals, to the Government of Iran, its public bodies, corporations and agencies and any person, entity or body acting on their

This newswire is for guidance only and is not a substitute for taking legal advice. This newswire does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. W Legal Limited and the author will not be liable for any reliance made on the contents. If you would like further information or specific advice please contact us.

W Legal Limited. Registered in England and Wales. Registered Office 2nd Floor, The LUC, 3 Minster Court, Mincing Lane, London, EC3R 7DD. Registered Company Number 06649868. A list of directors is open to inspection at the Registered Office. Regulated by the Solicitors Regulation Authority. VAT Number 135 5493 06.

behalf or at their direction, or any entity or body owned or controlled by them.

The listed products exclude diamonds which continue to be subject to the prohibitions.

Vessels designed for the storage of oil/ petrochemical products

There is a suspension of the prohibition against:

- Making vessels designed for the transport or storage of oil and petrochemical products available to an Iranian person, entity or body or any other person, entity or body unless the provider of the vessel has taken appropriate action to prevent the vessel from being used to carry or store Iranian origin or Iranian exported petrochemical products or oil.

This removes hitherto onerous requirement on ship-owners and others.

Freezing of funds and economic resources

- Funds and economic resources may be released to the Ministry of Petroleum if it is determined that those funds are necessary for the performance of contracts for the import, purchase or transport of petrochemical products.

The asset freeze provisions otherwise remain in place and this may make any renewed business with Iran challenging.

Restrictions on transfers of funds

It is being reported that there has been a tenfold increase in the thresholds for notification and authorisation of transfers of funds. This is incorrect. In fact, the threshold for notification for many transfers remains at €10,000 or its equivalent. The thresholds for the requirement to seek authorisation has increased ten-fold to €400,000 in the case of personal remittances and to €1,000,000 in the case of payments relating to foodstuffs, healthcare, medical equipment, or for agricultural or humanitarian purposes. The change is of minor relevance since a notification must still be submitted. The information required on a notification is identical to that required in an authorisation request. Payments related to “humanitarian” matters is not defined in the regulations but is generally treated broadly.

CONCLUSION

The vast majority of prohibitions contained in Regulation 267/2012 (as amended by Regulation 1263/2012) remain, in particular, prohibitions against the provision of insurance to certain Iranian persons, entities or bodies, the supply of key equipment and technology in the oil, gas and petrochemical sectors and prohibitions on dealings in aluminium, graphite, certain semi-finished metals and natural gas.

Iranian banks are no closer to dealing directly with EU banks and the asset freeze remains. The bottom line is that much legitimate trade may take place today and has been able to take place for many years, in particular in relation to medical goods, pharmaceuticals, humanitarian matters, food and agriculture. However, the EU banks are permitted to be involved in those transactions but choose not to. Until there is a change of heart by the EU banks to agree to do something they are in fact permitted to do, any relaxation in EU sanctions will have little real impact on the ground. It is suspected that the EU banks are afraid to incur the wrath of the US.

Now that the US has released its “Guidance Relating to the Provision of Certain Temporary Sanctions Relief in Order to Implement the Joint Plan of Action”, it is not unrealistic to expect that if negotiations continue in a positive manner that the US stance will soften later this year and that the EU banks will consequently feel more comfortable to open themselves up to legitimate Iranian business.

AUTHOR

Nigel Kushner

✉ nigel.kushner@wlegal.co.uk

☎ +44 (0) 207 220 9132 or +44 (0) 787 708 40

This newswire is for guidance only and is not a substitute for taking legal advice. This newswire does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. W Legal Limited and the author will not be liable for any reliance made on the contents. If you would like further information or specific advice please contact us.

www.wlegal.co.uk

W Legal Limited. Registered in England and Wales. Registered Office 2nd Floor, The LUC, 3 Minster Court, Mincing Lane, London, EC3R 7DD. Registered Company Number 06649868. A list of directors is open to inspection at the Registered Office. Regulated by the Solicitors Regulation Authority. VAT Number 135 5493 06.

W Legal Limited © 2014