

# International Sanctions Ramifications of Recent Legal Developments

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- Role played by the United Nations
- EU Sanctions
  - Applicability
  - Enforcement
  - Current sanctions programmes
  - New developments: Iran
- US Sanctions
  - Office of Foreign Assets Control and applicability
  - New developments: Iran
- Future Developments

- Financial and economic sanctions
  - Asset freeze, prohibition on financial transactions, restrictions on export credits or investment, bans on the provision of specific services
  - Generally against: individuals and entities
- Trade sanctions
  - General or specific sanctions
    - Dual use items
    - Arms embargoes
    - Other items considered 'sensitive' by a particular government/State
- Restrictions on admission
  - Travel or visa bans

- Under Article 41 of the UN Charter, the Security Council may adopt measures which are binding on all UN member states
- Sanctions may include:
  - Complete or partial interruption of economic relations
  - Complete or partial interruption of rail, sea, air, postal, telegraphic, radio or other means of communication
  - Severance of diplomatic relations
- Sanctions are implemented by each member state

# EU Sanctions

- EU Sanctions apply:
  - within the territory of the EU
  - to EU Nationals, wherever located
  - on board of any aircraft or vessel under the jurisdiction of a Member State
  - to any legal person, entity or body which is incorporated or constituted under the law of a Member State
  - to any legal person, entity or body in respect of any business done in whole or in part within the EU

- Enforcement of sanctions and penalties is left to the discretion of each Member State
- Member States may impose additional sanctions to those imposed by the EU

# Summary of EU sanctions programmes in force

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- Belarus
- Bosnia & Herzegovina
- Burma/Myanmar
- China
- Congo
- Ivory Coast
- Croatia
- Eritrea
- Republic of Guinea
- Haiti
- Iran
- Iraq
- North Korea
- Lebanon
- Liberia
- Moldova
- Sierra Leone
- Somalia
- Sudan
- Syria
- USA
- Former Yugoslavia
- Zimbabwe

## Legislation

- Council Regulation 423/2007 concerning restrictive measures against Iran
- Council Decision of 26 July 2010 concerning restrictive measures against Iran (“EU Decision”) and repealing Common Position 2007/140/CFSP
  - Decision implements sanctions imposed by UN Resolution 1929 as well as other additional sanctions
- Council implementing Regulation 668/2010

- The provision of insurance and re-insurance to the Government of Iran, or to entities incorporated in Iran or subject to Iran's jurisdiction, or to any individuals or entities acting on their behalf or at their direction, or to entities owned or controlled by them, including through illicit means, shall be **prohibited**.
- Does not apply to the provision of health and travel insurances to individuals
- Includes an anti-avoidance clause

- Restrictions in relation to key equipment and technology in key sectors for oil and gas industry.
  - Prohibition on the provision of technical assistance or training and *other services* related to key equipment and technology
- Restrictions in relation to the transport sector
  - Additional inspections
  - Seizure and disposal

- The EU Decision has included additional individuals and entities to the list of persons subject to financial sanctions, which includes:
  - Islamic Republic of Iran Shipping Lines (IRISL)
  - all entities owned, controlled or acting on behalf of IRISL
- Restrictions:
  - obligation to freeze assets owned or controlled by persons subject to financial sanctions
  - prohibition on making funds or economic resources available to persons subject to financial sanctions

# US Sanctions

- US trade and economic sanctions/embargoes are administered and enforced by the Office of Foreign Assets Control (OFAC)
- US sanctions apply to 'US Persons' meaning generally:
  - US citizens and permanent resident aliens, wherever they are located and for whomever they are employed;
  - Anyone physically in the United States and US branches of foreign companies; and
  - US organised entities, including their foreign branches

- Criminal penalties can include fines of up to \$1 million and imprisonment of 20 years
- Civil penalties range from the greater of \$250,000 or twice the amount of each underlying transaction to \$1,075,000 for each violation

- Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) was enacted on 1 July 2010
- New sanctions against non-U.S. persons who engage in specified types of activity relating to Iran's supply of refined petroleum products or who effect certain types of investment in the Iranian petroleum sector

# Future Developments

- New Regulations that implement certain restrictive measures stated in the EU Decision
- Increased enforcement in the EU, not just Iran!
- No apparent harmonisation of sanctions laws