

# Europe's 'Crude' sanctions against Iran



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The Council of the European Union issued further sanctions against Iran on 24 March 2012. Council Regulation (EU) No. 267/2012 has far-reaching implications for the maritime community and, in particular, in relation to the carriage of crude oil, petrochemical and petroleum products.

## Key provisions

The latest Regulation supplements existing EU sanctions. It includes a ban on the purchase, import or transport from Iran of crude oil, petrochemical and petroleum products; a ban on the sale, purchase, transportation or brokering of gold, precious metals and diamonds to, from or for the Government of Iran; as well as further freezing of assets of designated individuals.

## Prohibition on the importation of crude oil or petroleum products

Articles 11 and 13 contain a prohibition on the import of crude oil, petroleum products or petrochemical products into the European Union if they originate in Iran or have been exported from Iran. It is also prohibited to purchase or transport such products that have originated from Iran or are being exported from Iran. Similarly, it is prohibited to provide any kind of financial assistance that includes insurance and reinsurance related to the import, purchase or transport of such products whether directly or indirectly.

This creates difficult problems for operators involved in the carriage of oil, petrochemical and petroleum products. It will require due diligence for such cargoes being imported into the EU to ensure that they do not originate from Iran.



## Exclusions

Under article 14, the prohibition relating to the import of petrochemical products does not apply to contracts executed before 1 May 2012, provided those contracts were concluded before 23 January 2012. Similarly, the prohibition relating to the import of crude oil or petroleum products does not apply to contracts that were concluded before 23 January 2012 and that are executed before 1 July 2012.

## Prohibition on key equipment and technology

The Regulation also prohibits the sale, supply, transfer or export of listed key equipment or technology that is directly or indirectly provided to any Iranian person, entity or body for use in Iran. This equipment and technology relates to the oil and gas industry, particularly to the exploration and production of crude oil, and the refining and liquefaction of natural gas. Annex VI contains a useful explanation as well as details of the equipment and technology that are captured by the Regulation. Limited exceptions can apply.

These provisions elaborate upon the provisions contained in Regulation 961/2010 of 25 October 2010, and also present issues for owners and charterers discharging containerised cargo in Iran. It places the onus on operators carrying cargo to Iran to ensure that they are not discharging cargo that could fall within the definitions of key equipment or technology contained within the Annex.

## Restrictions on transfer of funds and financial services

Any financial transactions with Iranian entities by an EU person may require prior authorisation by the competent authority within a member state; in the UK, this is HM Treasury. The requirements remain as below:

The Regulation also contains numerous other provisions relating to the provision of financial loans or credit, and restrictions upon the acquisition, extension or creation of any joint venture with any Iranian person engaged in the:

- exploration or production of crude oil and natural gas
- refining of fuels
- liquefaction of natural gas or
- petrochemical industry.

There are also prohibitions relating to the provision of other goods and services such as those listed on the common military list and the transfer or export of gold, precious metals and diamonds.

€10,000 or less	No requirements to notify or obtain prior approval from the competent authority unless there is a series of transactions that may appear to be linked.
More than €10,000 but less than €40,000	Notice of such payments must be given to the competent authority for any transactions within this level.
€40,000 or above	Such payments must be notified to the competent authority in advance of payment and authority obtained, unless they relate to food stuffs, healthcare, medical equipment or humanitarian purposes.

# Lifting Iranian Bunkers from outside the EU

## Iranian person

Article 1 of the Regulation defines an Iranian person, entity or body as:

- the state of Iran or any public authority thereof
- any natural person in, or resident in, Iran
- any legal person, entity or body having its registered office in Iran
- any legal person, entity or body, inside or outside Iran, owned or controlled directly or indirectly by one or more of the above-mentioned persons or bodies.

Care should be taken to identify the beneficial ownership of contractual partners, particularly in light of press reports of obfuscation by Iranian shipping entities.

## Application

The Regulation applies to any person, entity or body:

- within the territory of the EU, including its airspace
- on board any aircraft or ship under the jurisdiction of a member state
- to any person inside or outside the territory of the EU who is a national of a member state
- to any legal person, entity or body, inside or outside the territory of the EU, 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.

## Commentary

Whilst the EU maintains that the Regulation is not a trade ban, it is clear that it has wide-reaching consequences for anyone wishing to trade with Iran. Whilst its application is only directly relevant within the EU and for European persons, the nature of the Regulation could affect entities domiciled outside of the EU. This is due in a large part to the prohibition on provision of insurance services by an EU entity to any entity, wherever located, in the export of oil, petroleum products and petrochemical products from Iran.

The Regulation demonstrates the EU's steadfast approach to using sanctions as a political tool to exert pressure on foreign governments. Whilst sanctions can be amended or abrogated, it is clear that sanctions against Iran and other countries such as Syria are here to stay and present challenges to the wider maritime community. The US and UN continue to impose sanctions on Iran and Syria, amongst other states, which have impacted the entire maritime and insurance industries. Timely and coherent advice should be sought to ensure compliance with the plethora of sanctions and prevent reputational damage.



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Each month, about 3.5 million metric tons of bunker fuel are sold in Singapore, a key bunker hub between markets in East Asia and those in the Middle East and Europe. Whilst exact figures as to how much of the bunkers sold originate from Iran are not readily available, traders estimate that in May 2012, Iran supplied at least 8% of the fuel entering Asia for use in power stations, industry and shipping.

## Regulation 267/2012 and Iranian bunkers

Regulation 267/2012 of the European Union Foreign Affairs Council came into effect on 24 March 2012 (the Regulation). It prohibits the trade and transportation of crude oil, petroleum products and petrochemical products from Iran by all EU-owned or flagged ships (EU ships) worldwide and by any ship trading within EU waters. The prohibition extends to any related financing, insurance and technical assistance involved in these operations. Interim exceptions temporarily suspended the application of the Regulation.

Although the Regulation makes no specific reference to bunkers, it is likely that these will fall within the generic description of crude oil or petroleum products; if bunkers originate from Iran or are blended with Iranian products (hereafter 'Iranian bunkers'), the prohibitions in the Regulation are likely to apply. Whilst the wording of the Regulation is not entirely clear, it is believed that Iranian bunkers should have been consumed before the expiry of the grace period to avoid any possibility of a breach of the Regulation. It is not clear how EU authorities will treat residual bunker stems on board a ship that had contained Iranian bunkers, given the natural tendency for heavy oils to 'cling'. It is hoped that previous stemming of these bunkers will not necessitate segregation and that they will not be treated as having cross-contaminated other stems on board or the ship's pipes, lines, pumps and tanks (thus requiring cleaning or further certification).

