

CLIENT ALERT

Recent Developments In EU Export Controls And Sanctions

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The reform of EU export controls continues with the introduction of new EU General Export Authorizations for dual-use exports, and EU sanctions regimes regarding Iran and Syria are expanding quickly.

New EU General Export Authorizations for Dual-use Items

Exporters of dual-use items established in the EU now have expanded possibilities for simplified compliance under new EU General Export Authorizations ("GEAs"). [Regulation 1232/2011](#) entered into force on 7 January 2012 and amended [Regulation 428/2009](#), adding five new GEAs. The new GEAs liberalise

- the export of certain dual-use items (also controlled by the Wassenaar Arrangement) to Argentina, Croatia, Iceland, South Africa, South Korea and Turkey (EU002),
- exports after repair/replacement of certain items to a broad range of countries (i.e. for goods re-imported in the EU for repair or replacement after an initial export under a valid license) (EU003);
- temporary exports of almost all dual-use items specified in Annex I for the purposes of exhibition or fair to a broad range of countries (EU004);
- exports of telecommunications items and technology to Argentina, China (including Hong Kong and Macao), Croatia, India, Russia, South Africa, South Korea, Turkey and Ukraine (EU005); and
- exports of chemicals to Argentina, Croatia, Iceland, South Korea, Turkey and Ukraine (EU006).

Each of the EU GEAs is limited to the list of items and the destinations covered and exporters must be aware of the end-use destination and the intended application of the items for export. Further, in most cases, the exporter must notify the competent national authorities of the Member State where they are established of the first use of the GEA. In addition, the competent national authorities may require exporters to register prior to the first use of the GEA.

If there is reasonable suspicion about the ability of the exporters to comply with a GEA or with a provision of the export control legislation, national authorities may prohibit exporters from using a GEA.

There are several general and specific conditions of use of the GEAs, which must be adhered to and proven when exporting under the relevant GEA. A general condition is that exporters must specify the EU reference number X002 and identify the relevant GEA, e.g. EU001, in Box 44 of the Single Administrative Document. Specific conditions of use vary for each GEA. For example, in the case of chemicals, if the intended use is at all linked to the development of nuclear weapons or if the chemical is intended for a military end-use in a country subject to an arms embargo by the EU (e.g. Iran, Syria), use of the GEA is prohibited.

Stricter Sanctions on Iran and Syria

Regarding restrictive measures imposed on third countries, the EU has expanded and tightened sanctions against Syria and Iran, adding more persons and entities to the lists of Annexes and putting in place further restrictions on activities and investments.

On 23 January 2012 the Council of the European Union adopted [Decision 2012/35/CFSP](#) amending [Decision 2010/413/CFSP](#) concerning restrictive measures against **Iran** and issued [Council Implementing Regulation 54/2012](#) and [Council Implementing Regulation 56/2012](#) amending [Regulation 961/2010](#). These measures added to the list of targeted persons and entities, in relation to which specific derogations were provided concerning the financing of trade, and removed two entities. Among the entities added is Iran's Central Bank and Bank Tejarat. Furthermore, Decision 2012/35/CFSP bans imports of petrochemical products, as well as sales and transfers of key equipment and technology for the petrochemical industry in Iran, and of gold, other precious metals and diamonds. The import ban takes immediate effect but with a grace period until 1 July 2012 for pre-existing contracts, understood to allow a time of adjustment to those EU Member States (Italy, Greece and Spain) that have oil contracts with Iran.

Also on 23 January 2012 EU foreign ministers adopted further sanctions against **Syria**. [Council Implementing Regulation 55/2012](#) and [Council Implementing Decision 2012/37/CFSP](#) added 22 individuals and eight companies to the existing list of targeted persons and entities. The EU is also enforcing an arms embargo and a ban on Syrian crude oil imports. On 18 January 2012, because of the various measures and amendments already adopted in relation to Syria, the Council consolidated all existing measures against Syria in [Regulation 36/2012](#) which repealed and replaced [Regulation 442/2011](#). The new legislation came into force on 19 January 2012 and includes: a) a prohibition on the transfer of telecommunications and internet monitoring equipment, technology and software, without prior authorization, and b) a prohibition on the transfer of oil and gas equipment and equipment used in the construction of electricity generating power plants. With respect to the latter equipment, exporters can claim a contractual exemption for certain exports.

Potential New U.S. Sanctions on Iran on the Horizon

On January 30, 2012, the U.S. Senate Banking Committee announced that it will consider and vote on significant new Iran sanctions legislation this Thursday, February 2. While still in draft form, the bill contains a number of new provisions targeting non-U.S. persons including, *inter alia*: (a) removing the exemption for foreign subsidiaries of U.S. companies and imposing liability on U.S. parent companies for the actions of their subsidiaries; (b) requiring all companies listed on U.S. stock exchanges to disclose business in Iran; (c) extending sanctions on foreign companies to include their corporate officers and controlling shareholders; (d) further isolating the Iran Revolutionary Guard Corps ("IRGC") and requiring U.S. government contractors to certify that they have not transacted with the IRGC; and (f) expanding sanctions to cover joint ventures with the government of Iran outside Iran. The bill must still be approved by the Banking Committee and both houses of Congress, but has already drawn bipartisan support and may be difficult for politicians to publicly oppose in an election year. Stay tuned for further developments.

Crowell & Moring Welcomes Cari Stinebower

We are pleased to announce that Cari Stinebower joins our international group, bringing expertise in OFAC, financial sanctions, AML, FCPA, and trade compliance.

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