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New Economic Sanctions Targeting Iran Issued by the United Nations, European Union and United States Will Have Broad International Effects

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Recent measures adopted by the United Nations and the European Union against Iran mark a more robust multilateral phase in the long history of economic sanctions against Iran. In parallel, the United States continues to expand its already broad economic sanctions against Iran.

What is New

At the United Nations: On June 9, 2010, through Resolution 1929, the UN Security Council passed measures targeting Iran's nuclear and missile programs, with a particular focus on Iran's financial and transportation sectors.

In the European Union: The European Union announced new economic sanctions against Iran on June 17, implementing the UN Security Council measure, but also going beyond that resolution to target the Iranian energy sector.

In the United States: On June 16, the United States added many names to its list of Iranian entities engaged in the proliferation of weapons of mass destruction, and has also supplemented its list of entities that are owned by the Government of Iran. Legislation to amend and significantly expand the

Iran Sanctions Act is pending in Congress, with passage reportedly imminent.

The Context

Iran has faced longstanding criticism and economic sanctions from the United States as both a state sponsor of terrorism and for its alleged nuclear weapons program. Since 1995, the United States has maintained comprehensive sanctions against Iran which prohibit U.S. companies and persons from exporting, importing, or investing in Iran. Many Iranian entities are also targeted under U.S. economic sanctions against persons involved in the proliferation of weapons of mass destruction. In contrast to these broad measures, the United Nations has promulgated narrower economic sanctions primarily focused on Iran's nuclear program. Other jurisdictions, most notably the European Union, had also promulgated narrower sanctions, also primarily focused on Iran's nuclear program. The United States has consistently sought to convince the international community to strengthen these multilateral sanctions, and these efforts have recently born fruit.

The Implications

U.S. companies are already significantly restricted as to activities in Iran, and this status quo remains unchanged. The UN sanctions, the EU sanctions, and the pending ISA amendments, however, collectively have significant direct ramifications for non-U.S. companies. U.S.-based companies will also need to understand how these developments will affect their international operations and non-U.S. business partners.

Further Detail on New Developments

United Nations Economic Sanctions

Through Security Council Resolution 1929, the United Nations imposed a fourth round of sanctions on Iran on June 9, 2010, out of concerns that Iran had failed to comply with previous U.N. resolutions targeting Iran's nuclear and ballistic missile programs.

Security Council Resolution 1929 authorizes states to inspect and seize cargo to and from Iran if there are reasonable grounds to believe the cargo contains materials related to Iran's nuclear and ballistic missile programs. It also prohibits states from permitting Iran to acquire an interest in any commercial activity relating to uranium enrichment and other nuclear materials or technology outside of Iran.

Security Council Resolution 1929 targets specific individuals and entities that support Iran's nuclear and ballistic missile programs, including travel restrictions and the blocking of assets. Most notably, the Resolution calls for states to freeze the assets of the Islamic Revolutionary Guard Corps ("IRGC") and the Islamic Republic International Shipping Line ("IRISL," the Iranian national shipping line).

Security Council Resolution 1929 includes measures that tighten restrictions on financial firms and other enterprises that may further proliferation-sensitive nuclear activities. The financial restrictions include:

- Calling upon states to prohibit the provision of financial services (including insurance and reinsurance), that contribute to Iran's nuclear and ballistic missile programs.
- Calling upon states to take measures to prohibit the opening of new branches, subsidiaries, and representative offices of Iranian banks, including joint ventures with Iranian banks, on their territories, and conversely, prohibiting their financial institutions from opening offices or accounts in Iran, if they have reasonable grounds to believe it could contribute to Iran's nuclear and ballistic missile programs.

The extent of the UN Security Council Resolution's impact will be revealed in the manner and speed in which it is implemented by member states. The Resolution requires all states to report to the relevant Sanctions Committee, within 60 days, on the steps they had taken to implement the necessary measures.

EU Sanctions

The EU's European Council has announced the broad parameters of new sanctions against Iran on the heels of the UN action. The new measures are intended to implement Security Council Resolution 1929, but also go further by targeting the Iranian energy sector.

Consistent with Security Council Resolution 1929, the new sanctions will include restrictions on activities with Iranian banks, IRISL and the IRGC. The European Council has also announced that it intends to prohibit new investment, technical assistance and transfers of technology, equipment and services to the oil and gas sector, with a particular focus on technologies related to refining and liquefaction, and Liquid Natural Gas.

The EU is working on the details of these new measures, which will not go into effect for a number of weeks. The announcement marks a dramatic change in EU policy towards Iran, in that the EU has previously resisted the United States' urgings to target the Iranian energy sector.

U.S. Developments

The United States has also taken additional steps to implement Security Council Resolution 1929. These steps build upon the existing comprehensive sanctions regime against Iran and the Government of Iran as well as the more targeted sanctions against entities in Iran involved in the proliferation of WMD.

New Treasury Department Measures

The economic sanctions against Iran are principally implemented through two programs: the Iran Transactions Regulations and the Weapons of Mass Destruction Proliferators Sanctions Regulations. There are significant possible civil and criminal penalties for violations of either program. The Sanctions principally apply only to U.S. persons, although the United States has increasingly pursued non-U.S. persons in actions where it can establish a U.S. nexus, either through the use of U.S. financial institutions, or a non-U.S. company's branch in the United States.

Iranian Transactions Regulations

Since 1995, the United States has maintained comprehensive economic sanctions against Iran. These economic sanctions are implemented through the Iranian Transactions Regulations (the "ITRs," 31 CFR Part 560), and are enforced by the U.S. Treasury Department's Office of Foreign Assets Control. The ITRs prohibit virtually all direct or indirect commercial, financial or trade transactions of any nature with Iran or the Government of Iran, including entities owned or controlled by the Government of Iran.

What is New

On June 16, the Treasury Department supplemented its list of entities that are owned by the Government of Iran in order to better inform the regulated community concerning persons and entities subject to the ITRs. Many of the listed entities operate outside of Iran in the petroleum and petrochemical sector in Europe and elsewhere.

Weapons of Mass Destruction Proliferators Sanctions Regulations

Executive Order 13382 of 2005 froze the assets of proliferators of weapons of mass destruction ("WMD") and their supporters, with the goal of isolating such persons from the U.S. financial and commercial markets. Many Iranian entities are targeted under this sanctions program, including IRISL and the ICRG.

What is New

On June 16, Treasury added many names to its list of Iranian entities engaged in the proliferation of WMD, including companies affiliated with the ICRG and IRISL. These new designations are designed to thwart a perceived effort by Iran to circumvent the sanctions by establishing front companies for these blocked organizations.

U.S. Congress Developments

Independent of the efforts of the Obama Administration, the U.S. Congress is poised to enact legislation designed to further isolate Iran through an expansion of the Iran Sanctions Act ("ISA").

ISA applies to any person, including non-U.S. persons, but primarily targets non-U.S. persons because U.S. persons are already prohibited from investing or trading with Iran under the U.S. economic sanctions programs described above. The ISA provides for certain sanctions against a person that makes an "investment" of more than $20 million in any twelve-month period "that directly and significantly contributed to the enhancement of Iran's ability to develop petroleum resources of Iran."

Pending Changes

Proposed legislation in the Congress would expand the ISA. Two bills – H.R. 2194 and S. 2799 – each expand ISA by proposing additional categories of activities that could subject non-U.S. firms to sanctions. These are activities relating to petroleum production in Iran and the importation of refined petroleum. Of potential enormous consequence, the proposed legislation would also prohibit any person subject to U.S. jurisdiction from engaging in business with a non-U.S. entity that is sanctioned under the ISA.

A final bill is set to emerge for vote shortly. We will provide a more detailed analysis of the legislation once it is enacted.

O'Melveny & Myers has significant depth of experience in the areas of economic sanctions and export controls. Its lawyers are actively engaged in conducting internal investigations and transactional due diligence; responding to criminal and regulatory enforcement inquiries and proceedings; evaluating and implementing compliance programs, and providing prospective advice about economic sanctions and export control issues in international business transactions. Our clients include U.S. and international companies, among them Fortune 100 companies, the world's largest financial institutions, and diversified U.S. and offshore companies.