

Sanctions Alert

A bi-monthly summary of sanctions news and developments

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UK News

English High Court Rejects EU Sanctions Defence in Claim by Iranian Banks Against Iranian Shipowners

The English High Court has rejected a defence based on EU sanctions. In *Bank Melli and Persia International Bank v Shere Shipping and others* [2013] EWHC 2321 two Iranian banks (Bank Melli and Persia International Bank) and one German bank (DVB) sought to recover over €40 million in loan repayments from various Iranian shipowning companies. DVB also sought to recover from a number of Iranian guarantors, including the Islamic Republic of Iran Shipping Lines.

The Court rejected the defendants' arguments that the contracts were frustrated by intervening illegality and/or impossibility of performance due to EU sanctions.

The Court held that the provisions for derogations from the sanctions were clear and further, since monies could be paid subject to authorisation from the relevant authorities (as had happened with prior payments), such payment would not be impossible or illegal.

The full judgment can be downloaded at: <https://www.dropbox.com/s/nxnymrs7osazxwm/dvb-bank-judgment.doc>

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HM Treasury Updates Financial Sanctions FAQs

HM Treasury has updated its FAQ section on financial sanctions to help people understand the UN and EU mandated country sanctions regimes and domestic terrorist regimes that apply in the UK.

The FAQs can be viewed at: <https://www.gov.uk/government/publications/financial-sanctions-faqs>

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Important Changes to Reporting Requirements

The Secretary of State for Business has announced that the reporting requirements on the use of Open Licences under the Transparency Initiative will be scaled back. From 1 January 2014 users of Open General and Open Individual Licenses will only have to report on these licenses annually rather than quarterly and will only need to provide limited information. More detailed guidance will be provided on the SPIRE website in due course (<https://www.spire.bis.gov.uk>).

Notice to Exporters 2013/18 can be viewed at: <http://blogs.bis.gov.uk/exportcontrol/uncategorized/notice-to-exporters-201318-important-changes-to-the-strategic-export-control-transparency-initiative/>

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Changes to Open General Export Licence (Military Goods: Collaborative Project Typhoon)

Oman has been added to the list of permitted export customers for Open General Export Licence (Military Goods: Collaborative Project Typhoon). Belgium, Canada, France and Ireland have also been added to the destinations covered by the scope of this licence.

Project Typhoon is a collaborative programme between the Governments of Germany, Italy, Spain and the UK for the development, production and sale of a European fighter aircraft.

Notice to Exporters 2013/19 can be viewed at: <http://blogs.bis.gov.uk/exportcontrol/uncategorized/notice-to-exporters-201319-changes-to-open-general-export-licence-military-goods-collaborative-project-typhoon/>

The full Open General Export Licence can be viewed at: <https://www.gov.uk/government/publications/open-general-export-licence-military-goods-collaborative-project-typhoon>

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European News

EU Backs Fish Sanctions on Faroe Islands

The EU Advisory Committee for Fisheries and Aquaculture has supported the European Commission's suggestion that restrictive measures be imposed on the Faroe Islands, a self-governing territory of Denmark, due to concerns about levels of herring fishing.

The Commission will make a final decision during August.

The press release can be viewed at: http://ec.europa.eu/information_society/newsroom/cf/mare/itemdetail.cfm?item_id=11625

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SADC: Zimbabwe Elections "Free"

In its preliminary statement on the integrity of the Zimbabwe Elections, the Southern African Development Community (SADC) has concluded that "political parties and candidates were able to freely undertake their political activities unhindered" with the atmosphere being one of "peace and political tolerance".

Prior to the election, the EU's ambassador to South Africa, Roeland van de Geer, declared that sanctions in Zimbabwe would be lifted if the SADC declared the elections to be free and fair. The EU has not issued any formal statement as to whether it recognises the results or not, but it has stated that it

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“is concerned about alleged irregularities and reports of incomplete participation, as well as the identified weaknesses in the electoral process and a lack of transparency”. There is considerable uncertainty as to whether the international community will recognise the election results.

SADC’s Preliminary Statement can be viewed at: http://www.sadc.int/files/4313/7545/6616/FINAL_Preliminary_Statement_of_the_SADC_Election_Observer_Mission_to_the_July_31_2013_Zimbabwe_Harmonised_Elections_as_at1148_on_August_02_2013.pdf

The EU Statement can be viewed at: http://www.eu-un.europa.eu/articles/en/article_13841_en.htm

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EU Re-lists Three Tunisians

The EU has re-listed three individuals, Mohamed Ben Moncef Ben Mohamed Trabelsi, Fahd Mohamed Sakher Ben Moncef Ben Mohamed Hfaiez Materi, and Mohamed Slim Ben Mohamed Hassen Ben Salah Chiboub on the Tunisian sanctions list. Although all three men have previously successfully petitioned to have their names removed from the list, the EU has taken the decision to re-list them. All three men are under investigation in Tunisia for offences relating to misuse of office by, or wrongful influence over, a public office-holder.

Notice 2013/C 219/02 can be viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:219:0002:0002:EN:PDF>

Decision 2013/409/CFSP can be viewed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:204:0052:0053:EN:PDF>

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US News

Office of Foreign Assets Control Issues Finding of Violation to VISA International for Late Reporting

The U.S. Department of the Treasury’s Office of Foreign Assets Control (‘OFAC’) has issued a finding of violation to VISA International Service Association for failing to promptly file blocked property reports with OFAC. The required reports concerned accounts in which Bank Melli, a blocked Iranian bank, and Real Estate Bank, a blocked Syrian bank, had an interest. A finding of violation is a determination that the

regulations have been violated but without imposition of a civil monetary penalty.

The announcement can be viewed at: http://www.treasury.gov/resource-center/sanctions/CivPen/Documents/20130809_visa.pdf

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OFAC Adds to List of Medical Items Authorised for Export to Iran

For humanitarian reasons, OFAC has adopted new measures designed to reduce obstacles to exports of medical items to Iran. Specifically, OFAC has expanded the list of basic medical supplies that can be exported to Iran under a general license ('GL'). OFAC also published new frequently asked questions ('FAQs') regarding the scope of the GL and a guidance document on the sale of food, agricultural commodities, medicine, and medical devices on sales by non-U.S. persons to Iran.

The press release, with links to the medical supplies list and the OFAC guidance, can be viewed at:

<http://www.treasury.gov/press-center/press-releases/Pages/jl2123.aspx>

The FAQs can be viewed at: http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx#iran_med

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Executive Order Repeals Ban on Imports from Burma Except Rubies and Jadeite

The President of the United States issued a new executive order ('EO') revoking the general U.S. ban on imports of Burmese goods other than rubies and jadeite. The EO implements the expiration of the statutory requirement that such imports be banned. Such imports, however, had already been authorized by a general license; the new EO formalizes and makes permanent the lifting of the ban. The EO, however, restates existing prohibitions on the importation of

rubies and jadeite mined or extracted from Burma due to continuing concerns with respect to labour and human rights.

The announcement of the EO, with a link to the EO itself, can be viewed at: <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20130807.aspx>

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OFAC Updates its Specially Designated Nationals List

OFAC has made a number of changes to its Specially Designated Nationals ('SDN') list. In two separate actions, OFAC has added eight individuals and four businesses, all located in Mexico, to its Specially Designated Narcotics Trafficking Kingpin ('SDNTK') list. According to OFAC, the designees are involved with money laundering or other activities connected with the Sinaloa and Los Zetas drug cartels.

At the same time, OFAC has removed 30 vessels from its Cuba SDN list and removed 18 individuals and 17 entities, located in Colombia, Panama, Peru, Mexico, Spain and the United States, from its Specially Designated Narcotics Traffickers ('SDNT') and SDNTK lists. OFAC also has made changes to the SDNT and SDNTK lists to update addresses, aliases and the like. Separately, OFAC has added one individual, located in

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Afghanistan and Pakistan, to its Specially Designated Global Terrorist list.

A press release regarding the Sinaloa designations can be viewed at: <http://www.treasury.gov/press-center/press-releases/Pages/jl2133.aspx>

A press release regarding the Los Zetas designations can be viewed at: <http://www.treasury.gov/press-center/press-releases/Pages/jl2137.aspx>

A current version of the complete Specially Designated Nationals list and an online tool for searching the list are always available at:

<http://treasury.gov/sdn>

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US Lawmakers Vote for Tougher Sanctions Against Iran

The House of Representatives voted 400-20 to implement further, tough sanctions on Iran with a bill that effectively blocks Iran from selling any oil abroad. Senator Ed Royce, co-sponsor of the bill, stated that the bill is a critical step in preventing a nuclear Iran and dire security consequences. The proposed legislation now goes to the U.S. Senate for consideration.

An article regarding the bill can be viewed at:

<http://www.bloomberg.com/news/2013-07-31/house-passes-bill-to-strengthen-u-s-sanctions-against-iran.html>

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