

Syria – Expansion of Sanctions by EU and US

There is a general consensus amongst many governments around the world that further economic and political pressure needs to be brought to bear on Syria's leaders in order to bring about political change and a peaceful end to the civil unrest in that country. At United Nations level, enhanced sanctions remain under debate. In the meantime, the EU and US have adopted their own measures against Syria.

EU Sanctions

With effect from 3 September 2011, and pursuant to [EU Regulation 878/2011](#) the scope of EU trade sanctions against Syria has been greatly extended.

Under Article 3a - the following activities are now prohibited:

(a) importation of crude oil or petroleum products into the European Union if they:

- (i) originate in Syria; or
- (ii) have been exported from Syria;

(b) purchase of crude oil or petroleum products which are located in or which originated in Syria;

(c) transportation of crude oil or petroleum products if they originate in Syria, or are being exported from Syria to any other country;

(d) provision, directly or indirectly, of financing or financial assistance, including financial derivatives, as well as insurance and re-insurance, related to the prohibitions set

out in points (a), (b) and (c); and

(e) participation, knowingly and intentionally, in activities whose object or effect is, directly or indirectly, to circumvent the prohibitions in points (a), (b), (c) or (d).

Members should note that EU Regulation 878/2011 has implications for P and I Clubs providing cover to Syrian entities or others operating to/from Syria and Article 3 a (d) applies directly to prohibit the provision of P&I cover to carriers engaged in shipments of oil or petroleum products from, or originating from, Syria, whether or not these products are destined for the EU. Members are reminded of the provisions of the Club's sanctions Rules, in particular Rule 17 ii – Recovery, Rule 24 i b – Imprudent

Trading, Rule 27 – Prudent Uninsured, Rule 32 iv – Reinsurance and Rule 35 vi and vii Cessation of Membership, which are in place to protect the membership and the Club in relation to sanctions-offending voyages. These Rules provisions operate to exclude recovery and/or to terminate cover in circumstances where, amongst other things, the activities of a particular Member expose the Club or any of its Members to the risk of sanctions imposed by any State or International Organisation. Accordingly there may be no P&I cover for liabilities arising from the transportation or carriage of crude oil or petroleum products originating from Syria in breach of this EU Regulation.

Although the EU ban on the above activities has immediate effect, there is dispensation under Article 3 b (subject to 7 days advance notice



given to a competent authority of an EU Member State) for the execution, by no later than 15 November 2011, of contractual obligations involving prohibited activities, where such obligations had been entered into before 2 September 2011. It is also permitted, up to 15 November 2011, to purchase crude oil or petroleum products which had been exported from Syria prior to 2 September 2011.

The EU restrictions on the import/export and transportation of Syrian oil and petroleum products are likely to hit the Syrian economy hard, because the EU is the importer of around 90% of Syria's crude oil, whereas conversely, Syrian crude oil accounts for only 1.5% of total EU imports of crude oil.

Under Article 5(1) the criteria for designation of entities and individuals subject to the EU sanctions against Syria has also been expanded to include "persons and entities benefiting from or supporting the regime, or persons and entities associated with them."

Article 10 a introduces a new provision to protect EU persons and entities from claims made by the Government of Syria in relation to contracts or transactions the performance of which is affected, directly or indirectly, by the sanctions measures.

In addition to changes to the sanctions measures themselves, the new Regulation adds an additional 4 individuals and 3 entities to the list of designated persons and entities.

The Regulation applies to the following persons/places:

- The territory of the EU;

- On board any vessel under the jurisdiction/flag of an EU Member State;
- Any person who is a national of an EU Member State, irrespective of their whereabouts;
- Any person entity or body which is incorporated or constituted under the law of an EU Member State.
- Any person, entity, or body in respect of any business done in whole or in part within the EU.

US Sanctions

The EU measures follow closely on the heels of measures adopted by the US to exert economic pressure on Syria. With effect from 18 August 2011, United States persons, wherever located, are:

- a. required to block or freeze the property and all interests in property of the Government of Syria and certain designated Syrian entities and individuals that appear on OFAC's SDN List (SDNs). This means that all commercial transactions with the foregoing are prohibited. This prohibition bars all dealings by United States persons with the Syrian state and government, and with SDNs.

Additionally, the new U.S. sanctions against Syria prohibit:

- b. new investment in Syria by United States persons;
- c. the exportation, re-exportation, sale, or supply from the United States or elsewhere by United States persons of any services to Syria (services include the provision of insurance or reinsurance to persons in Syria, including performance under insurance contracts as a result of incidents in Syria);
- d. the importation into the United States of petroleum or petroleum products of Syrian origin;
- e. any transaction or dealing by a United States person related to petroleum or petroleum products of Syrian origin;
- f. any approval, financing, support, or facilitation of a transaction by a United States person of a transaction by a non-United States person if the transaction by the non-United States person would be prohibited if performed by a United States person or in the United States.

The US sanctions against Syria also prohibit the exportation or re-exportation to Syria of all products of the United States, with the exception of food and medicine. All other US exports and re-exports to Syria require a licence from the US Department of Commerce. These prohibitions have been in effect since 11 May 2004.

United States persons are defined as meaning "any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States"

It is important to keep in mind that



the foregoing prohibitions bar United States persons from assisting (facilitating) a non-United States person from doing anything that a United States person would be prohibited from doing. From an insurance perspective, among other things, the foregoing prohibitions also mean that absent an OFAC licence, US insurers or reinsurers may not pay claims or engage in other contract performance involving incidents arising in Syria.

The following examples serve to illustrate the practical effect of the US sanctions with regard to the insurance of activities connected with Syria. The sanctions prohibit US insurance companies from:

- providing coverage to a carrier that is a Syrian sanctions target (e.g., a Syrian entity), or for a vessel that is chartered out to or chartered in from a Syrian sanctions target;
- exporting insurance services to an assured while the assured or a covered vessel is in Syria;
- providing insurance cover to an assured (that is not a Syrian sanctions target) transporting petroleum or petroleum products from Syria;
- Making payments under applicable insurance cover if made (directly or indirectly) to a Syrian sanctions target that is a claimant under an insurance policy, or with respect to an incident arising in Syria.

Non-US insurers may technically be able to carry out any of the four activities set out above, provided that

no United States persons or trade with the United States are involved, for instance, where the assured is not a US person, and no US citizens or persons in the United States are working or otherwise acting for or on behalf of the non-US insurer. However, payments by or to a non-US insurer through the US banking system could be blocked or rejected if the claim or transaction relates to Syria or a Syrian entity. Further, a non-US person can commit a violation of US law if they cause a US person (e.g. a financial institution) to violate the sanctions. Accordingly, coverage for liabilities occurring in Syria or involving Syrian entities, trade or products, may not be available from non-US insurers, including P&I Clubs, because of the risks posed for the insurer.

The US measures also include the addition of several major oil companies to OFAC's SDN List, including

GENERAL PETROLEUM CORPORATION

SYRIAN COMPANY FOR OIL TRANSPORT (a.k.a. SYRIAN CRUDE OIL TRANSPORTATION COMPANY; a.k.a. "SCOT"; a.k.a. "SCOTRACO")

SYRIAN GAS COMPANY

SYRIAN PETROLEUM COMPANY (a.k.a. "SPC")

SYTROL

The US regulations are drafted such that any person or entity that is controlled by, or acting for or on

behalf of a designated Syrian sanctions target, is itself a sanctions target, even though not individually listed. What constitutes "control" depends on the facts of each case, but a high degree of due diligence is required on the part of Club Members trading with Syrian entities, not least because of the reluctance of US banks to process payments involving Syrian entities.

Developments on sanctions issues continue to be monitored and notified to Members through updates on the dedicated sanctions area of the Club's website. In the case of any doubt regarding the impact of sanctions regulations and legislation on their shipping activities, Members are asked to consult with the Managers.

We are grateful to Hal Eren of The Eren Law Firm in Washington, DC for his contribution towards the preparation of the US Sanctions section of this Risk Alert.

For further information on this or other Loss Prevention topics please contact your usual Syndicate contact of the Head of Loss Prevention, Steamship Insurance Management Services Ltd.

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