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Export controls and the new Iranian sanctions Oil and gas

Managing risk in your supply chain.

What are export controls?

Export controls are regulations that support national security policies and prevent the proliferation of weapons of mass destruction (WMD) and related terrorist activities. Export controls have been around for many years, but due to recent terrorist activities and developments in technology, governments and industry have sharpened their focus. Today, export controls are a high-profile topic and we have seen a recent surge in enforcement, particularly around dual-use goods (for example, items that are designed for a commercial application, but that also have a potential military end-use).

Companies must ensure compliance with national export control regulations, as well as, US regulations which can impact any company dealing with US origin product/software/technology, US persons, or US-owned companies, wherever located.

How do export controls impact the oil and gas industry?

The tightened export regulations impacting the oil and gas industry stem from the Iraqi Super-Gun incident when drill piping was exported to Iraq. As such, export control regulations are a key focus of the oil and gas industry, and effective export compliance procedures are essential in this sector.

For example, the following dual-use items which are often used in the oil and gas industry may require a licence for export or movement offshore:

- Robotic equipment.
- Surveillance equipment, such as gyros and guidance systems.
- Pumps and valves.
- Lubricants and chemicals.
- Vibration test equipment.
- Down-hole drilling equipment, such as EBW detonators, bearings, piping, drill bits.

How do the new Iranian sanctions impact the oil and gas industry?

Iran's continued non-compliance with International Atomic Energy Agency (IAEA) safeguards and efforts to build its nuclear weapons programme, have driven major powers around the world, including the US, EU, Canada, Australia and Japan to implement new sanctions against Iran in 2010. The significantly tightened restrictions focus on trade and other dealings with Iran, with a more direct spotlight on Iran's petroleum and petrochemical sector. The new sanctions have the ability to affect not only the oil and gas industry's more straight-forward operations, but may severely limit, and, in some cases, eliminate entirely certain types of activities and transactions that companies can conduct, and with whom companies can do business with.

The EU sanctions contain lists of newly sanctioned persons and entities, including financial institutions and shipping lines. Companies will be prohibited to sell, supply, transfer, export, provide technical or financial assistance, directly or indirectly, in relation to certain designated goods and technologies to any Iranian person, entity or for use in Iran, including key equipment and technology in relation to the oil and gas industry (i.e., exploration and production of crude oil and natural gas, production of crude oil and natural gas, refining and liquefaction of natural gas). All goods being brought into or leaving the EU from or to Iran will be subject to pre-arrival and pre-departure information submissions to customs authorities.

The US sanctions were written in such a way as to make companies choose between doing business with the US or with Iran. The US sanctions can prohibit companies that deal with the US from having dealings with any affiliate/entity that has ties to the Iranian petroleum industry, investments in the development of Iran's petroleum industry and sales or provision of refined petroleum products to Iran.

The regulations also prohibit the provision of goods, services, technology, information or support that could directly and significantly facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products and the export of US goods, services or technology from the US to Iran or by a "US person" wherever located.

What is the impact of breaching the Iranian sanctions?

Both the US and EU sanctions are extra-territorial in nature and can have a severe impact on companies' global operations. For example, penalties for violations of the US sanctions can include: fines up to $1,000,000 and prison sentences of no more than 20 years, or both; denial of export licences for exports to the violating company; a ban on all or some imports of the violating company; and prohibition on access to the US banking system. In the EU, penalties are determined by each Member State. A violation under either the US or EU sanctions regulations could result in a company being blacklisted.

However, a major cost to business is often reputational damage that results from supply chain delays and late licensing decisions, which impact a company's ability to serve its internal and external customers and to compete in the marketplace.

How could my business be impacted?

Your business could be impacted by export controls in one of four ways:

- **Product controls** – your products, services, technology (for example, technical data, formulas, chemical analysis specification sheets) and software may require a licence to be exported.

- **End-use controls** – the final end-use of items can trigger a licence requirement. For example, could one of your products be used to develop a potential WMD or military application?

- **End-user controls** – exports to specific entities or persons can be prohibited or may require a licence, and companies must screen entities in the supply chain against applicable denied party lists. For example, do you conduct business with government or military owned companies?

- **Destination controls** – embargoes and sanctions against specific countries, entities or individuals can restrict exports of products, technology or activities. For example, are you supplying any of your products to Iran?

How can Deloitte help?

Deloitte's multidisciplinary Customs and Global Trade team is market leading in this field, with specialists in European and US export control regulations, covering both dual-use and military controls. Our team consists of lawyers, ex-government officials, industry experts and consultants, providing years of export control experience. The team has unrivalled experience in reviewing, developing and implementing comprehensive, customised, user-friendly export compliance programmes, from basic must-have procedures through to leading practice methodologies.

Our service offerings include:

- Developing or enhancing of leading practice compliance programmes.
- Automation/systems support and guidance on organisational structure.
- Licence management programmes.
- Training.
- Due diligence services.
- Risk reviews and audits.
- Supply chain optimisation.

As well as improving risk management, our methodologies can drive improved operational performance throughout the supply chain by eliminating ineffective processes, improving lead times and minimising supply chain disruption. Ask our experts about how we can help to improve your global trade practices from both a risk management and cost reduction perspective.

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