

# Implications of the European Union Sanctions on Maritime Shipping and Commerce in the Iranian Waters of the Persian Gulf and the Oman Sea

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## Abstract

The European Union (EU) along with the Security Council (SC) has imposed sanctions on Iran over the controversies around Iranian nuclear program. A review of the literature on the implementation of international sanctions against I.R. Iran shows that with passing time and disagreement between negotiating parties, the toughening and broadening of scope and focus of sanction has taken place and general economic sanctions have given way to more targeted and comprehensive sanctions with broader coalitions and integrated cooperation amongst sanctioning parties. In this paper, implications of international sanctions, particularly those of EU on transportation and shipping related to the Iranian government in the Persian Gulf and the Oman Sea are discussed and potential impacts are identified. Chronological review of available and published documents on sanctions related to Iran's right to explore its nuclear rights identified six characteristics which are discussed in detail. It is concluded, that impacts of sanctions, if not immediately, are manifested over time. Although, many aspects of sanctions affect shipping sector of Iran, whether designated sanction objectives are achieved, is questionable and results in case of shipping and transportation sectors of Iran is yet to be fully recognized and documented.

Keywords: *Targeted international sanctions, UN Security Council Resolutions, EU sanctions, Shipping, Commerce, Transportation.*

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## 1. Introduction

The interconnected commercial world has become so internationally webbed together that is influenced with small events or issues, irrespective of economical, social, cultural and political background. It is in the context of this fact that

international and regional relationships take shape, develop, evolve and sustain or fail. Truly so, again the same context serves as a basis for many economically viable governments insert their dominance and wills over economically less viable or smaller nations as a result of policy or invoking and implementing of international legal means and facilities within the framework of respecting international law, such as that mandated by the UN

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Charter on international human rights (Charter of the United Nations , Article 1), and or article 55 (Charter of the United Nations, Article 55) of UN charter which requires all governments and nations respect human rights regardless of race, religion, sex, or language. Although, article 56 (Charter of the United Nations, Article 56) of UN Charter encourages member states to implement article 55 at the individual and society level, there are additional legal safeguards to guarantee consistent and sustainable human rights in time and space and to accommodate right to proper and fair commerce among other rights. However, the later is hampered with under various actions such as excuses, accusations and allegations, disputes and disagreements and so on.

### 1.1 European Union Sanctions

The European Union (EU) along with the United Nations Security Council and the United States of America have imposed sanctions against Iran over the controversies around Iranian nuclear program (U.S. Department of State, 2010; Katzman , 2011; Holman, 2011; Skuld, C., 2011). A review of the literature on the implementation of European Union against I.R. Iran shows that with passing time and disagreement between negotiating parties, the toughening, scope and focus of sanctions has taken place and general economic sanctions have given way to more targeted and comprehensive sanctions with broader coalitions and integrated cooperation amongst sanctioning parties (Eren Lawyers, 2010a and b; Clyde & Co., 2010; Eren Lawyers, 2011; Baghaie Barzabadi, 2013). Baghaie Barzabadi (2013) described in detail and analyzed the scope and legal effects of International Sanctions, both that of the UN Security Council and the European Union (EU) on the procurement of Iranian oil industries supplies, services and technology. Groups of sanctions designed to impact various areas or activities of the Iranian government in

general, and oil industry in particular, were as follows:

1. Financial sanctions- preventing of granting or providing loans by banking sector or investment institutes, SWIFT, closing of Iranian government bank accounts and restricting financial banking activities of individuals and firms as identified in pertinent documents (Taylor Wessing, 2010; Security Council Resolution S/RES/1737, 2006) ;

2. Trade and commercial sanctions - restricting accessibility to international commerce institutes and agencies as well as limiting scope and extent of imports and exports (Ince & Co, 2010);

3. Energy sector sanctions- restricting investment opportunities in oil and gas as well as petrochemical industries and import and export activities (Martin, 2010);

4. Transportation sanctions- limiting access of Iranian cargo airplanes to foreign airports or routes as well as docking, loading and unloading of Iranian ships or ships carrying Iranian flags in ports of other countries (Factsheet of The European Union, 9 January, 2013; Boroun, 2010; U.S Department of State, 2010; Eren Lawyers, 2010b; Dupin, 2010 ).

## 2. Statement of the Problem

I. R. Iran Shipping line is comprised of over 100 (U.S Department of State, 2010 ) ocean-going ships sailing in the Persian Gulf, the Oman Sea, the Caspian Sea and international waters with the total capacity of approximately 3.3 million metric tons deadweight (Islamic Republic of Iran Shipping Lines, website:<http://www.irisil.net/documents/documents/0/11589/portal.aspx>).

This industry is a vital and key institute to Iranian exports and imports business and economic prosperity of Iran and as such, potentially vulnerable to effects of sanctions. In this paper, implications of European Union sanctions, particularly those in relation to transportation and

shipping related to the Iranian government in the Persian Gulf and the Oman Sea are discussed and potential impacts are identified. Although, it is assumed sanctions insert economic hardship to the target authorities or facilities, but quite commonly impacts have been observed beyond the boundaries of the intended targets. Therefore, good or bad aspects of sanctions (United States Government Accountability Office, 2008) needs to be monitored regularly and appropriate adjustments to pinpoint the impacts are to be considered.

### 2.1. Shipping and Sanctions Legal Ramification

In reviewing sanctions documents, one must distinguish between items of sanctions that must be respected or followed by respective implementing participants in sanctioning process from those activities that are not listed in sanctions. For example, cargo flights or ships that do contain food and medicine and no items of dual use in industry and nuclear activities are not sanctioned. If it were so simple, implementing sanction directives would have been simple as well; however, shipping, both air and maritime, is complicated and involves various services, such as packing, security and safety protocols, inspection, loading and unloading, local and inland transportation, banking, insurance, customs, fuel purchasing, taxes, and so on. Legal ramification of sanctions deserves to be explored more accurately. To do this, documents of unilateral sanctions of EU particular to transportation and shipping is further considered methodically (Boroun, 2010; U.S Department of State, 2010; Eren Lawyers, 2010 b; Dupin, 2010). Furthermore, several relevant governmental reports, research reports, statements, briefing and press releases as well as materials from electronic resources from well-known and established websites were reviewed.

The focus of EU sanctions was mainly on limiting cooperation with Iran in foreign trade,

financial services, energy sectors and technologies, and insurance. On 26 July 2010, the Council of EU approved Decision 2010/413/CFSP (Council Decision, 2010). This Decision confirmed the restrictions taken by EU against Iran since 2007, which were set forth in the Regulation No.423/2007 (Acts Adopted under the EC Treaty/ Erratum Treaty, 19 April 2007). The restrictions contained in the July 2010 Decision mainly focused on the oil and gas, transportation and financial and insurance sectors.

### 2.2. EU Mandate

EU council, following its mandate as indicated in Article 5 (Council Common Position 2007/140/CFSP, 27 February 2007) of EU Treaty, declared its adoption of UN Resolution 1737 (Security Council Resolution S/RES/1737, 2006) dated 23 December 2006 in 22 January 2007 and urged member states to exert more restrictive measures against government of Iran. According to section 1 of Article 1 of the decision, direct or indirect sales or delivery of goods, materials, equipments and technology by citizens of EU or through EU member states as well as providing shipping services and cargo airline companies under their flags to the Iranian destination are prohibited. It was also required in cases where an item had dual use and if the usage was intended for purposes other than use in nuclear activities related to the Iranian Atomic Energy Organization (IAEO), special permits were to be obtained from relevant state or EU agencies (Council Common Position 2007/140/CFSP, 27 February 2007).

According to Article 3c EU document, dated 7 August 2008, ascertaining proper inspection of all vessels destined to Iran is emphasized. Contingent to the reasonable finding, and following all rules and regulations of international commerce and based on agreements between contracting parties, inspection of all vessels, both importing and

exporting vessels, whether owned or rented by the Iranian government, was permitted. A thorough and complete report including time, date and place as well as content of cargo were to be submitted to proper authorities. It was further required that all vessels declared their arrival or departure in advance to the airport or Shipping dock (Council Common Position 2008/652/CFSP, 7 August 2008).

EU council on its 3029th Foreign Affairs Meeting dated 26 July 2010 (Council Conclusions on Iran's Nuclear Program, 26 July 2010; EU Meeting Reports, 2010) on Iran's nuclear program concluded to take a strong restrictive stand against the Iranian shipping industry and as such, decided to toughen the sanctions on I.R. Iran Shipping Company and affiliated companies associated with transportation sector as follows:

Fajr Aviation Composite Industries, Iran Aircraft Industries, Industrial Development and Renovation Organization, Iran Aircraft Industries, Iran Aircraft Manufacturing Company, Islamic Republic of Iran Shipping lines and the Bahrain Future Bank (BSC) (EU Meeting Report No. 668, 2010; Council Implementing Regulation, EU No 668/2010, 26 July 2010, also pp:L195/70-L195/73).

EU council has always followed the UN resolutions closely and even has gone farther to broaden the decisions of resolutions. For example, when Resolution 1929 (Security Council Resolution, S/RES/1929, 2010) was adopted in 9 June 2010 against Iran to limit commerce between EU states and Iran, EU council affirmed previous stance and while asking member states to cooperate, added restrictions on providing insurance services to shipping companies registered or cooperating with Iran. Restrictions went so far as, among other things, prohibiting any contractual deal or cooperation with any cargo vessel (ships and cargo planes) that is originated from or destined to Iran with the exception on vessels that transport passengers and their personal loads as well as the requiring inspection of cargo ships in open waters

after obtaining the permission of the flagship country.

Under EU law, most of the measures contained in the July 2010 Decision required further implementation. In order to have uniform implementation as well as a uniform application of adopted measures in all EU Member States, the EU always modified its regulations and replaced them with new more targeted and specific regulations. For example, Regulation No.961/2010 (Council Regulation, EU No 961/2010, 25 October, 2010) was such a replacement regulation which mainly affected companies in the oil and gas, transportation as well as the financial and insurance sectors. Also, on 2 December 2011, the scope of Regulation 961/2010 was greatly expanded by Regulation 1245/2011 (Council Implementing Regulation, EU, No 1245/2011, 1 December 2011), which added a total of 180 entities to Annex VIII 116 of which were connected to I. R. Iran shipping lines. Undoubtedly, because of inter-connectivity of international trade, other companies would also be affected as well.

The sanctions mainly targeted Iran's shipping industry and associated support service industries, such as insurance, banking and energy sectors. New restrictive measures against Iranian shipping industry directly affected the shipping lines in Iranian waters at the Persian Gulf, the Oman Sea and the Caspian Sea as well as in International waters. For example, more companies associated with Iran's Shipping Organization were enlisted on the sanctions list following EU council decision 2011/299 CFSP dated 23 May 2011. Iran Marine Industrial Company (SADRA) the latest company to be sanctioned (Council Decision 2011/299/CFSP, 23 May, 2011). Sanctions against the shipping industry of Iran caused global ship insurance provider companies to limit their policy and decline insurance to Iranian ships. This caused Iranian shipping lines to confront sanctions and take neutralizing actions as appropriate per case,

removing restrictions of shipping sanctions, but adding to operation costs and causing added hardship.

In 9 December 2011, EU council further stressed maintaining of pressure on previous sanctions, and added shipment of petroleum and petroleum products, petrochemicals and precious metals and diamonds from and to Iran. Legal decisions were culminated to a comprehensive document, 2012/267CFSP (Council Regulation, EU, No 267/2012, 23 March, 2012), adopted in 23 March 2012. A pre-emptive decision to deny Iran's legal right to transfer ownership or license rights of blocked or confiscated ships, properties, goods, etc, to other parties, was adopted in document, 2012/267CFSP. However, in 1 July 2012, EU council modified its earlier decision in removing ships that carry goods of non-military or dual use with nuclear usage, from the black list and allowed providing all services to such ships. Also, some exceptions were made on petroleum contracts signed before 1 January 2012, given an advance notice of 20 days is provided to the custom authorities of the respective port (EU Sanctions Against Iran, 25 June, 2012).

In 15 October 2012, extent of sanctions was expanded to cover issue of natural gas. Emphasizing previous decisions prohibited purchase, transport and import of natural gas and getting into joint ventures for building gas tankers, oil tankers, and also flagging, categorizing, issuing permits and licenses of such ships and floating storage tankers for oil gas and petrochemical products, particularly by EU states. In further sanctions, Navy and ship building was added to the list. This item was extended to include ships that were not owned by Iran but, were somehow reached or docked in Iranian ports (Council Decision 2012/635/CFSP, 15 October 2012).

In a similar action, Canadian Department of Foreign Affairs in (New Development in Iran Sanctions, December 11, 2012) 11 December of

2011 and in line with EU and the UN resolutions passed the "Special Economic Actions Law", in response to so-called, lack of cooperation of Iran with EU and 5+1 member states. Canada, as such, re-affirmed all decisions made by EU council, particularly regarding those sanctions of transportation and shipping sector.

### **3. Results and Discussion**

Sanctions have become an effective international diplomatic tool for forcing a nation to accommodate, respect, implement or abide certain laws, regulations and mandates towards a common conclusion, usually a political gain. Sanctions could be unilateral or international. In the former, usually one state uses its means to force the other state to accept terms put forward, but in the latter, a consensus is reached by two or more states, usually through international bodies, such as UN or EU and then, applied against the target state. Sanctions can be designed with different scopes of impacts and applied at different levels. But, a more favored with most expanded outcomes is international economic sanctions, such as the one adopted and applied against I. R. Iran and then, commercial sanctions that are usually used in conjunction with economic sanctions. In the economic sanctions, the sanctioning body is looking forward to gaining political benefits and the objective in commercial sanctions is simply gaining commercial superiority.

It is quite clear that sanctioning body or bodies and implementing States claim their decision was intended for governments and not the people of a sanctioned nation, however, it is quite evident that such claims are not true, hurt people and bring them hardship more than they change the behavior of the target government. Such scenarios have been enforced on countries such as Iraq, Myanmar, North Korea and, recently in I. R. Iran.

Chronological review of available and published documents on sanctions related to Iran's right to

explore its nuclear rights, identified following characteristics:

1. Although, initial sanctions were implemented following UN Resolution 1929, USA and EU member states adopted separate unilateral stance and designed their own sanctions protocols and mandates;

2. Although, sanctions were economic at the beginning, they developed in scope to include commercial entities and commerce, both at the individual (private) and firms (public and private) as well as government levels;

3. Although, sanctions were general in nature at the beginning, they became more targeted and specialized directed towards specific sectors, such as banking, investing, insurance, technology, procurement of goods and services, transportation and shipping and so on;

4. In case of transportation and shipping, sanctions have developed to include land, air and marine shipping. At the beginning, it included goods and supplies or technology used in nuclear sector, but then, it was modified to include dual use equipments, hardware and software, potentially applicable in nuclear and military sectors and recently, petroleum, gas and petrochemical products have been added to the list.

5. Sanctions in shipping sector has gone so far as to include ships, tankers and floating storage tankers and subsequent legal services, such as import and export services, contractual services, counseling services, repair and maintenance, insurance, customs, and banking and investment.

6. Sanctions, to further insert effects, were extended to include individuals of Iranian, regional and EU origin that did not respect the terms of references of sanctions in their deals with the Iranian government.

#### **4. Conclusions**

As experience has shown, impacts of sanctions

are felt more by the people of the target country than its government. However, impacts of sanctions, if not immediately, are exhibited over time. Whether designated goals, objectives and outcomes are achieved as expected is questionable and results in case of shipping and transportation sectors of Iran is yet to be recognized and fully documented. Although, it is believed Iranian shipping industry, in response to new European Union, has taken evasive neutralizing actions, such as switching flags, changing a vessel's registered name or owner, setting up shell companies, sailing under flags of convenience, counterfeiting shipping documents, to circumvent regulations, it seems shipping activity of Iran has not been diminished and the industry has adapted to shipping new types of cargo regionally. Therefore, conclusive data needs to be collected and outcomes to be seen, as it is often necessary to plan for effective enforcement of sanction rules (Christoff, 2010) or to avoid them.

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