

E-ALERT | International Trade Controls

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DEVELOPMENTS IN U.S. SANCTIONS AGAINST SYRIA

EXECUTIVE ORDER BLOCKS PROPERTY OF THE GOVERNMENT OF SYRIA AND OTHER DESIGNATED PARTIES AND PROHIBITS U.S. PERSONS FROM ENGAGING IN ADDITIONAL TRANSACTIONS WITH SYRIA

President Obama has issued a new [Executive Order](#), effective August 18, 2011, imposing significant additional economic sanctions against Syria and its government. The Executive Order reinforces and extends prior actions by the Administration and the European Union to isolate the current Syrian regime and support a peaceful transition to democracy in Syria.

Supplementing prior asset-blocking actions directed at certain members of the Syrian regime, the new Executive Order blocks *all* assets of the Government of Syria that are or hereafter come into the United States or the possession or control of U.S. persons, prohibits new investment in Syria on the part of U.S. persons, and bars U.S. persons from engaging in a broad range of other dealings with or involving the Government of Syria. The Executive Order also specifically targets Syria's petroleum industry by prohibiting U.S. imports of, and other transactions or dealings in, Syrian-origin petroleum or petroleum products.

On August 18, 2011, as detailed below, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") issued six General Licenses in connection with the new Executive Order and prior sanctions. Notably, one of these General Licenses permits a broad range of transactions in relation to items licensed or otherwise authorized by the Commerce Department for export or reexport to Syria, including food, medicine, and medical devices. In addition, OFAC added to the List of Specially Designated Nationals and Blocked Persons ("SDN List") five entities of the Syrian government that are subject to sanctions under the new Executive Order.

There is no grace period in the Executive Order that allows transactions already underway to be completed. Rather, the Executive Order states that the prohibitions apply "notwithstanding any contract entered into or any license or permit granted prior to the effective date." As discussed below, however, Commerce Department authorizations for the export and reexport of items subject to the Export Administration Regulations ("EAR"), primarily medical devices and medicines, remain in effect.

BACKGROUND ON SYRIA SANCTIONS

Syria has been the target of U.S. economic sanctions since it was originally designated a State Sponsor of Terrorism in 1979. The sanctions were broadened in 2004, when President George W. Bush issued Executive Order 13338 to implement the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003. That Executive Order broadly prohibits exports and reexports to Syria of most items, other than food and medicine, that are of U.S.-origin or that incorporate more than *de minimis* U.S.-origin content (10 percent by value).

Since 2004, the Administration has imposed financial sanctions on a range of Syrian individuals and entities through a number of other Executive Orders. Perhaps most significantly, as detailed in our prior [E-Alert](#), President Obama issued two Executive Orders this Spring to impose sanctions against Syrian President Bashar al-Assad, certain of his relatives, a number of senior Syrian leaders, and certain Syrian government entities. And earlier in August, the President took action under an anti-proliferation Executive Order to block the assets of two leading Syrian banks (the Commercial Bank of Syria and Syrian Lebanese Commercial Bank).

The Obama Administration issued the latest Executive Order in response to the continuing escalation of violence against the people of Syria, noting that it was imposing “unprecedented sanctions” to isolate the Assad regime and disrupt its ability to finance its campaign of violence. This Executive Order will likely be followed by additional measures against Syria on the part of the European authorities and other allied governments, as well as the Obama Administration.

SCOPE OF THE NEW EXECUTIVE ORDER

The new Executive Order imposes sanctions that severely restrict the Syrian Government’s access to the U.S. financial system and prohibit U.S. persons from engaging in a broad range of transactions or dealings with Syria as a whole. As in prior Executive Orders, the term “U.S. person” is defined to include entities organized under U.S. law (including their foreign branches), individual U.S. citizens and permanent residents (wherever located), and anyone present in the United States.

Section 1 of the Executive Order blocks all property and interests in property, within U.S. jurisdiction, in which the Government of Syria (including its agencies, instrumentalities, and controlled entities) or other designated parties have an interest. As a result, any property in which the Government of Syria has any interest, broadly defined, that is or comes within the possession or control of a U.S. person is blocked, and may not be transferred, paid, exported, withdrawn, or “otherwise dealt in.”

The Executive Order specifies that transactions prohibited under this provision include, but are not limited to: (1) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any blocked party, and (2) the receipt of any contribution or provision of funds, goods, or services from any such person.

Under Section 2 of the Executive Order, U.S. persons, wherever located, are prohibited from:

- Engaging in new investment in Syria;
- Exporting, reexporting, selling, or supplying, directly or indirectly, any services to Syria;
- Importing into the United States Syrian-origin petroleum or petroleum products;
- Engaging in any transaction or dealing related to Syrian-origin petroleum or petroleum products; and
- Approving, financing, facilitating, or guaranteeing a transaction by a foreign person that would be prohibited under the Executive Order if performed by a U.S. person or within the United States.

Further, the Executive Order specifically prohibits humanitarian donations of food, clothing, and medicine to or for the benefit of the Syrian Government or any other blocked party. The Executive Order also explicitly invalidates any contract, license, or permit obtained prior to its effective date for any transaction which is now prohibited.

BLOCKED PARTIES

In addition to the Government of Syria and its agencies, instrumentalities, and controlled entities, the Executive Order authorizes the Treasury Department, in consultation with the State Department, to block all property and interests in property held by any person determined to have materially assisted, sponsored, or provided financial or other support to any blocked person, or who is owned or controlled by, or who acts on behalf of, a blocked person.

In accordance with this provision, OFAC took action on August 18, 2011 to add the following five Syrian state-owned petroleum companies to the SDN List: **General Petroleum Corporation** (a.k.a. “GPC”), **Syrian Petroleum Company** (a.k.a. Syrian Crude Oil Transportation Company, “SCOT,” or “SCOTRACO”), **Syrian Company for Oil Transport**, **Syrian Gas Company** (a.k.a. “SPC”), and **Sytrol**. General Petroleum Corporation supervises Syrian Petroleum Company, Syrian Company for Oil Transport, and Syrian Gas Company, which are affiliate state-owned companies.

GENERAL LICENSES

OFAC has already issued six General Licenses pursuant to the new Executive Order to clarify licensing obligations with respect to the export and reexport of goods and services to Syria or Syrian nationals and entities.

General License Nos. 1, 2, 3, 5, and 6 authorize:

- The provision of certain goods or services to Syrian Diplomatic Missions in the United States (General License 1);
- The provision of certain legal services with respect to Syria (General License 2);
- The debit of any blocked account by a U.S. financial institution for normal service charges owed by the account owner (General License 3);
- The exportation of services incident to the exchange of personal communications over the Internet (e.g., instant messaging, blogging, and social networking services), that are publicly available at no cost to the user (General License 5); and
- The processing of personal remittances by U.S. financial institutions, brokers, or dealers in securities (General License 6).

General License No. 4 authorizes the export or reexport to the Government of Syria (or other blocked Syrian entities) of *items* “licensed or otherwise authorized by the Department of Commerce” as well as “all transactions ordinarily incident thereto.” Additionally, General License No. 4 authorizes the export or reexport to Syria of *services* that are ordinarily incident to the supply of items licensed by the Commerce Department, including services to install, repair, or replace such items.

General License No. 4 appears therefore to authorize exports and reexports (for sale or donation) to the Government of Syria, including its Ministry of Health and public hospitals, of *medical devices* that are covered by export licenses or other authorizations previously issued (or to be issued) by the Commerce Department. General License No. 4 also appears to authorize continued exports and reexports by or involving U.S. persons of food and medicines that are classified EAR99, since those exports and reexports were previously authorized by Commerce Department action in 2004.

Significantly, since General License No. 4 applies by its terms only to items that are “subject to the [EAR],” it apparently does not authorize U.S. persons to export or reexport *foreign-made* items that have less than *de minimis* U.S.-origin content, because those items are not “subject to the [EAR].” It

may be that OFAC will take further action to expand or clarify its General License to eliminate this anomaly, but that is not certain.

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There will likely be a number of interpretive issues arising from the intersection of this Executive Order and prior statutes, such as the Trade Sanctions Reform and Export Enhancement Act of 2000 (“TSRA”). We are well-positioned to advise clients regarding the application of these new sanctions and availability of TSRA licenses for exports of reexports of qualified products in light of these recent developments.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our international trade controls practice group:

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