

Bulletin



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TO ALL MEMBERS
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Iran – US/UK current and pending legislative action targeted at trading activities involving Iran

The International Group (the Group) has been monitoring current and pending legislation in the US and the UK which would impose sanctions in relation to dealings with Iran and/or Iranian entities. There have been a number of recent developments which impact or will potentially impact on Members and on Clubs; these are summarised below for Members' guidance.

1. US legislation

A number of Iranian shipping companies (including IRISL and a number of its subsidiary and affiliated companies) are already "specially designated" by the US Treasury's Office of Foreign Assets Control ("OFAC"). The effect of this designation is to prohibit dealings by US persons (which includes the provision of insurance services) with such companies. This prohibition is specifically targeted at the activities of identified Iranian companies and their vessels and does not extend to the wider shipowning community.

Of greater concern and potential impact however is proposed legislation to amend the Iran Sanctions Act of 1996 to enhance US diplomatic efforts by expanding economic sanctions against Iran.



Two similar pending bills currently in the U.S. Congress (H.R.2194 and S.2799, both confusingly titled the Iran Refined Petroleum Sanctions Act), if passed, would, by amending the Iran Sanctions Act of 1996, impose new trade sanctions focused specifically on the exportation of refined petroleum products to Iran. Both pieces of legislation have recently been passed in one of the two chambers of the US Congress; H.R. 2194 passed in the House of Representatives (the House) and S.2799 passed in the Senate. For a bill to be approved by the US Congress, it must pass both the Senate and the House in identical form. Where, as in this case, the bills are similar, but not identical, a process of reconciliation is initiated in which representatives from both the House and the Senate meet to negotiate a reconciled bill. That reconciliation is not confined to compromise between the two versions, but also can include new elements. Once an agreed wording is established, the bill must be approved by both the Senate and the House before being sent to the President for signature or, as happens on rare occasions, veto. Congress can override a presidential veto by a 2/3 vote of both the House and the Senate.

Under the House version of the Iran Refined Petroleum Sanctions Act, sanctions could be imposed against both domestic and foreign entities that:

- (i) provide ships, vehicles or other means of transportation to deliver refined petroleum products to Iran, or provide services relating to the shipping or other transportation of refined petroleum products to Iran,
- (ii) underwrite or otherwise provide insurance or reinsurance for an activity described in clause (i) above.

The Senate version provides for the imposition of sanctions against persons who with actual knowledge provide Iran with refined petroleum resources or engage in any activity that could contribute to the enhancement of Iran's ability to import refined petroleum resources, including;

- (a) providing ships or shipping services to deliver refined petroleum resources to Iran,
- (b) underwriting or otherwise providing insurance or reinsurance for such activities described in clause (a) above.

The wide scope of the wording in both draft bills could, in relation to shipping activity, include owners, charterers, managers, crew, and, in relation to insurance cover could include the Club in which an offending vessel is entered, as well as its reinsurers. As drafted, the sanctions would apply in relation to any vessel/s, regardless of country of flag/registry/beneficial ownership, trading refined products into Iran even where, as a matter of the law governing the relevant contracts of carriage, the adventure is lawful. Possible sanctions for transgression could include barring sanctioned persons/companies from access to US financial institutions, and the blocking of assets and dollar transactions of an offending insurer within, or routed through, the United States. The Group is continuing to monitor developments in relation to this pending legislation and the Association will advise Members of any material developments.



2. UK legislation

The UK Financial Restrictions (Iran) Order 2009 came into effect on 12 October 2009. The material provisions of the Order (as clarified in subsequent discussions between the Group and the UK Treasury) prohibit the provision of insurance cover to IRISL owned/controlled/operated vessels.

The Group has not been advised of any further intended action by the UK government in relation to insurance arrangements for other Iranian companies or in relation to trading to Iran, but this possibility cannot be ruled out. The Group is continuing to monitor the situation and the Association will inform Members of further developments.

3. Club cover

It is not yet certain that the proposed legislation in the US will in fact be enacted and, should it be enacted, it is not clear precisely how it will be implemented. What is clear however is that Clubs will not be able to insure vessels carrying refined petroleum products to Iran if the provision of such insurance will expose the Club and its reinsurers to sanctions by the US government. Against this background and the possibility of sanctions being introduced by other countries, whether directed against trade to Iran or activities elsewhere in the world, the Committee has proposed a change in the Rules, which Members will have seen in the notices dated 3 February 2010 of Separate General Meetings of the Members of Class 3 and Class 6, due to be held on 19 February. These Rule changes, if adopted, will provide the Committee with the power to make further changes to the Rules, during the course of a policy year, if the Committee believes that such changes are required to protect the Association and its Members.

4. Shipowners obligations arising under contracts of carriage

The Group will liaise with relevant shipowner organisations with a view to the development of appropriate protective clauses for incorporation into charter party and bill of lading contracts.