



Circular

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OUTLINE

- A significant suspension of EU and US sanctions against Iran, albeit on a temporary trial basis, will commence on 20 January 2014
- The suspension of sanctions is for a defined period of six months from 20 January through to 20 July 2014
- The suspension does not include the continuing prohibition of dealings with designated persons or entities
- There is no suspension of the prohibition on EU purchase or import of Iranian oil and petroleum products
- The Club will be able to provide cover to EU and non-EU owned & registered ships transporting oil & petroleum products consistent with this latest form of sanctions
- Annex 1 of this Circular sets out the European Commission “Joint Plan of Action” dated 24 November 2013
- Annex 2 of this Circular contains the Joint Proposal for a Council Regulation amending Regulation (EU) No 267/2012 concerning restrictive measures against Iran

TO THE MEMBERS

Dear Sirs

IRAN SANCTIONS UPDATE

This Circular addresses the anticipated changes in EU and US sanctions measures relating principally to transportation and insurance of oil, petroleum and petrochemical cargoes from Iran. The anticipated measures will have effect from Monday 20 January once the International Atomic Energy Agency (IAEA) has confirmed that Iran complies with the nuclear measures in the Joint Plan of Action (JPoA) set out in Annex 1 to this Circular.

On 24 November 2013, China, France, Germany, the Russian Federation, the United Kingdom and the United States reached an agreement with Iran on its nuclear programme. Part of the JPoA relies on the implementation of measures to be taken by both sides for a duration of six months and includes partial relief from EU and U.S. Iran sanctions in exchange for IAEA access to Iran’s nuclear installations and enrichment plants.

The sanctions relief measures, which take the form of temporary suspension of certain current sanctions, are limited in scope and duration requiring the implementation of legislative amendments in both the European Union Member States and U.S. It should be noted that sanctions will reinstate if the commitments and undertakings in the JPoA are not fulfilled. The effects of the anticipated measures are set out below. They are based on the information contained in the JPoA and on clarifications obtained by the International Group during its recent engagement with EU and U.S. regulators.

1. EU Measures

1.1 Timing

The European Commission has advised that an implementing Regulation and an EU Council Decision giving effect to the political objectives set out in the Joint Plan of Action will be issued simultaneously on 20 January. The Regulation will word for word mirror the Commission Proposal (Annex 2 to this circular). The International Group has been advised that a harmonised and aligned

approach will result in both the EU and US implementing their respective sanctions relief programmes on 20th January, subject to diplomatic and political approval.

1.2 General issues to note

In reviewing the implications of the proposed sanctions suspension measures discussed further below, two important points in relation to these measures should be borne in mind by shipowners and clubs;

(i) Period of suspension of current measures

It is important to note that the proposed suspension of sanctions measures is for a defined period of six months which will run from 20 January 2014. Continuation of the suspensions, or further suspension measures, will depend upon developments in the interim. To the extent that shipowners wish to take advantage of the suspensions and enter into transportation contracts which will be permissible following the relaxation of the current measures on 20 January 2014, Owners are advised to ensure that any contract/s will be fully executed by 20 July 2014 at the latest. Regulators have not been able to confirm whether in the event that the suspension of sanctions measures is not extended after six months, there would be any grace period/s for run-off similar to the grace period/s contained in the initiating Council Regulation (267/2012 EC).

(ii) Transactions with Designated Entities

The proposed suspension of sanctions will not provide relief from the current prohibitions concerning designated persons or entities. So by way of example, the suspension of Regulation 267/2012 article 37b does not permit the chartering of vessels to NITC or other Iranian designated persons or entities. The European Commission has advised that if International Group Clubs are obliged to have dealings with designated entities or persons (e.g. port agents or operators) they should consult their Competent Authorities before entering into transactions. The practical and legal difficulties that Owners and Clubs may encounter was noted by the Commission officials who advised that it may be permissible to make payments to frozen accounts belonging to designated entities. This may, however, depend on the willingness of banks to facilitate the necessary transactions.

1.3 What will EU implementation of the Joint Plan of Action mean for Owners and Clubs?

(a) Oil and Petroleum products

(i) import and purchase

The measures to be adopted do not include any suspension of the current prohibition on purchase by EU regulated entities and/or import into the EU of oil and petroleum products. However, those non-EU states which currently benefit from US National Defence Authorisation Act (NDAA) waivers (China, India, Japan, Republic of Korea, Taiwan and Turkey) will continue to be able to purchase and import oil and petroleum products consistent with the terms of their waivers and not exceeding current permitted purchase and import levels.

(ii) Transportation

On 20 January, by virtue of the suspension of Council Regulation 267/2012 article 11.1(c), EU owned or registered vessels will be permitted to transport oil and petroleum cargoes from Iran, or that originate in Iran, always consistent with the import and purchase restrictions identified above. As is currently the case, non-EU owned or registered vessels will continue to be able to lift such cargoes.

(iii) Insurance

On 20 January, by virtue of the suspension of Council Regulation 267/2012 article 11.1(d), clubs will be able to provide cover to both EU and non-EU owned or registered vessels undertaking transportation of oil and petroleum products, consistent with the import and purchase and transportation restrictions identified above.

The suspension of article 11.1(c) and (d) does not reinstate, or make permissible, the transport and related insurance activities of oil and petroleum cargoes that are not destined for the NDAA waiver countries. A shipowner transporting and an insurer providing insurance cover for an oil or petroleum cargo e.g. from Iran to a non NDAA waiver country will be in breach of both EU and US sanctions.

(b) Petrochemical products

The prohibitions in Council Regulation 267/2012 article 13 will be suspended in full, resulting in relief from the current prohibition on import, purchase, transport and insurance of petrochemical products. Petrochemical products means the products listed in Annex V of Regulation 276/2012.

Consequently, EU (and non-EU) vessels will be able to transport petrochemical products from Iran for delivery within/outside the EU and clubs will be able to provide cover for such transport, subject always to any other applicable non-EU non-US sanctions or prohibitions.

The suspension of Council Regulation 267/2012 article 13 does not apply to the existing prohibitions on purchase, import and transport of natural gas which originates in Iran or has been exported from Iran and related insurance and reinsurance activities. Similarly the prohibitions remain in place for products such as graphite and raw or semi-finished metals.

(c) Financial Transactions

The current financial thresholds in Council Regulation 276/2012 article 30(3)(a)(b) and (c) will be increased tenfold, meaning that parties may make payments to Iran of up to euro 400,000 without having to seek prior authorisation from their competent authority. Financial transactions involving entities or persons designated by the EU will however remain subject to sanctions.

(d) Vessels designed for the storage or transport of oil and petrochemicals

The prohibition in Council Regulation 267/2012 amended by Regulation 1263/2012 (article 37b) on making available vessels “designed for the transport or storage of oil and petrochemical products” will be suspended, save for charters to or contracts with designated entities e.g. NITC, or entities owned or controlled by the IRGC.

2. United States sanctions suspensions or waivers

The International Group has discussed the more complex US sanctions landscape with U.S. regulators who have confirmed that the political intention of the US administration is to mirror the suspension of sanctions measures that will be adopted by the European Union Member States in accordance with the objectives and provisions of the JPoA. OFAC has identified the key relevant Presidential Executive Orders and provisions of *IFCA, the Iran Threat Reduction and Syria Human Rights and the Iran Sanctions Act* that are likely to be waived/amended in order to give effect to the JPoA.

The relevant US Government Departments e.g. State and Treasury/OFAC cannot amend or repeal acts of Congress, unless the legislation specifically grants that authority, but the President can alter his own Executive Orders. Consequently, for those U.S. sanctions contained in statutes, the President can only modify or waive those sanctions only to the extent of the authority granted in the statute. While full details and the extent of the U.S measures will not be known until Monday 20 January, it is envisaged that they will be aligned with the measures that have been published by the European Commission.

In summary it is anticipated that the US will:

- suspend the implementation of sanctions on Iran’s petrochemical exports and Iran’s imports of goods and services for its automotive manufacturing sector;
- begin to process expeditiously license applications for the supply of spare parts and services, including inspection services, for the safety of flight of Iran’s civil aviation sector;
- pause efforts to reduce Iran’s exports of crude oil to the six countries still purchasing from Iran;
- facilitate the establishment of a financial channel to support humanitarian trade to Iran and to facilitate payments of UN obligations and tuition payments for Iranian students studying abroad
- modify the EU thresholds for authorization of permitted financial transactions.

Details of the changes in the current legislation will not be known until Monday 20 January. The International Group will issue a further circular once the scope and extent of the US measures are known and clarified.

All Clubs in the International Group of P&I Clubs have issued similar circulars.

Yours faithfully

THE MANAGERS

CONTACT

- Detailed explanation and other advices on this initiative are published in the International Sanctions section of the UK Club website. Members requiring further advice should contact Nigel Carden (Tel: +44 20 7204 2147; Email nigel.carden@thomasmiller.com)