



## STEAMSHIP MUTUAL

To the Members

February 2010

Dear Sirs

### Iran – U.S./U.K. current and pending legislative action targeted at trading activities involving Iran

The International Group of P&I Clubs (the Group) has been monitoring current and pending legislation in the U.S. and the U.K. 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. United States legislation**

Pursuant to the Iranian Transactions Regulations (ITR 31CFR Part 560) Iran and the Government of Iran are subject to a near complete trade embargo by the US. In general, unless licensed by the Office of Foreign Asset Control (OFAC), goods, technology or services may not be exported, re-exported, sold or supplied directly or indirectly from the US or by a US person wherever located to Iran or its Government.

Pursuant to US Executive Order EO13382 with effect from 10 September 2008, a number of Iranian shipping companies, including the Islamic Republic of Iran Shipping Lines ("IRISL") and a number of its subsidiary and affiliated companies, became a Specially Designated National (SDN). US persons and companies, and persons and companies located in the US are prohibited from dealing with SDNs, which would include the provision of insurance services to them. All property of the SDN in the US is blocked. The prohibition in Order EO13382 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.

Iran Refined Petroleum Sanctions Act ("IRPSA") (House Bill H.R.2194 and Senate Bill S. 908) and Comprehensive Iran Sanctions, Accountability and Divestment Act of 2009 (Senate Bill S.2799)

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Pending bills with similar content currently in the U.S. Congress (House and Senate Bills H.R.2194 and S.908 entitled the Iran Refined Petroleum Sanctions Act, and a related Senate Bill S.2799 entitled Comprehensive Iran Sanctions, Accountability and Divestment Act of 2009), seek to amend the Iran Sanctions Act of 1996, and would, if enacted, impose new trade sanctions focused specifically on the exportation of refined petroleum products to Iran. These Bills have been passed by the House of Representatives and the Senate respectively, but the wording of the Bills must be reconciled before they can become law. This will be increasingly likely if the diplomatic negotiations with Iran over the alleged development of its nuclear programme break down.

Under each of these Bills, sanctions could be imposed against both domestic and foreign entities (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; or
- (b) providing goods, services, technology, information or support relating to the shipping or other transportation of refined petroleum products to Iran; or
- (c) underwriting or otherwise providing insurance or reinsurance for such activities described in clauses (a) and (b) above.

The wide scope of the wording in the 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 penalties 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 and other 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)

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prohibit the provision of insurance cover to IRISL owned/controlled/operated vessels. IRISL's entry with the Steamship Mutual Underwriting Association (Bermuda) Limited ceased in October 2009 as a consequence of the UK Order. Similar legislation in Bermuda, the Anti-Terrorism (Financial Restrictions Iran) Order 2010 came into effect on 15<sup>th</sup> January 2010.

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 "IRPSA" legislation in the US will in fact be enacted, nor if it is, 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 also the risk that other governments, including the UK, could take steps to implement further sanctions, whether directed against trade to Iran or activities elsewhere in the world, the Managers of the Association recommended to the Club Board that changes to the Club's Rules should be considered, in an attempt to protect the Club itself from becoming a designated sanctions target as a result of action taken by States or other international organisations because of the activities of any of the Club's Members, or the trades in which Members' vessels are employed.

At the Steamship Mutual Club Board Meeting held in January 2010, the Directors agreed to introduce changes to the Rules conferring upon the Directors discretion to terminate an entry upon notice to the Member, if continued insurance of that Member would expose the Club or any of its Members to the risk of sanctions or other adverse action. A rule is also proposed which would have the effect that, unless the Directors otherwise determine, cover shall cease (without notice) if a Member's trade or employment of a ship in fact exposes the Club to the risk of sanctions. In addition, it is proposed that when the risk of any such sanction ceases, insurance may in the Managers' discretion be reinstated. The text of the proposed rules changes accompanied the Notice to Members dated 29<sup>th</sup> January 2010 of a Special General Meeting to be held on 17th February 2010 and will be considered at that meeting. If the changes are adopted, the amended rules will take effect from noon on 20th February 2010.

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#### **4. Shipowners' obligations arising under contracts of carriage**

The Group is liaising with relevant shipowner organisations with a view to the development of appropriate protective clauses for incorporation into charter party and bill of lading contracts. Further information will be provided to the Members in due course.

Yours faithfully

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