

## **Iran Sanctions Update Circular**

**17 January 2014**

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 2014 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 20<sup>th</sup> 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 U.S. 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 U.S. 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 U.S 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 U.S 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 Club 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.

## ***Joint Plan of Action***

### ***Preamble***

The goal for these negotiations is to reach a mutually-agreed long-term comprehensive solution that would ensure Iran's nuclear programme will be exclusively peaceful. Iran reaffirms that under no circumstances will Iran ever seek or develop any nuclear weapons. This comprehensive solution would build on these initial measures and result in a final step for a period to be agreed upon and the resolution of concerns. This comprehensive solution would enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the NPT in conformity with its obligations therein. This comprehensive solution would involve a mutually defined enrichment programme with practical limits and transparency measures to ensure the peaceful nature of the programme. This comprehensive solution would constitute an integrated whole where nothing is agreed until everything is agreed. This comprehensive solution would involve a reciprocal, step-by-step process, and would produce the comprehensive lifting of all UN Security Council sanctions, as well as multilateral and national sanctions related to Iran's nuclear programme.

There would be additional steps in between the initial measures and the final step, including, among other things, addressing the UN Security Council resolutions, with a view toward bringing to a satisfactory conclusion the UN Security Council's consideration of this matter. The E3+3 and Iran will be responsible for conclusion and implementation of mutual near-term measures and the comprehensive solution in good faith. A Joint Commission of E3/EU+3 and Iran will be established to monitor the implementation of the near-term measures and address issues that may arise, with the IAEA responsible for verification of nuclear-related measures. The Joint Commission will work with the IAEA to facilitate resolution of past and present issues of concern.

### ***Elements of a first step***

The first step would be time-bound, with a duration of 6 months, and renewable by mutual consent, during which all parties will work to maintain a constructive atmosphere for negotiations in good faith.

### ***Iran would undertake the following voluntary measures:***

From the existing uranium enriched to 20%, retain half as working stock of 20% oxide for fabrication of fuel for the TRR. Dilute the remaining 20% UF<sub>6</sub> to no more than 5%. No reconversion line.

Iran announces that it will not enrich uranium over 5% for the duration of the 6 months.

Iran announces that it will not make any further advances of its activities at the Natanz Fuel Enrichment Plant<sup>1</sup>, Fordow<sup>2</sup>, or the Arak reactor<sup>3</sup>, designated by the IAEA as IR-40.

Beginning when the line for conversion of UF6 enriched up to 5% to UO2 is ready, Iran has decided to convert to oxide UF6 newly enriched up to 5% during the 6 month period, as provided in the operational schedule of the conversion plant declared to the IAEA.

No new locations for the enrichment.

Iran will continue its safeguarded R&D practices, including its current enrichment R&D practices, which are not designed for accumulation of the enriched uranium.

No processing or construction of a facility capable of reprocessing. Enhanced monitoring:

- Provision of specified information to the IAEA, including information on Iran's plans for nuclear facilities, a description of each building on each nuclear site, a description of the scale of operations for each location engaged in specified nuclear activities, information on uranium mines and mills, and information on source material. This information would be provided within three months of the adoption of these measures.
- Submission of an updated DIQ for the reactor at Arak, designated by the IAEA as the IR-40, to the IAEA.
- Steps to agree with the IAEA on conclusion of the Safeguards Approach for the reactor at Arak, designated by the IAEA as the IR-40.
- Daily IAEA inspector access when inspectors are not present for the purpose of Design Information Verification, Interim Inventory Verification, Physical Inventory Verification, and unannounced inspections, for the purpose of access to offline surveillance records, at Fordow and Natanz.
- IAEA inspector managed access to:
  - ① centrifuge assembly workshops<sup>4</sup>;
  - ① centrifuge rotor production workshops and storage facilities; and,
  - ① uranium mines and mills.

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<sup>1</sup> Namely, during the 6 months, Iran will not feed UF6 into the centrifuges installed but not enriching uranium. Not install additional centrifuges. Iran announces that during the first 6 months, it will replace existing centrifuges with centrifuges of the same type.

<sup>2</sup> At Fordow, no further enrichment over 5% at 4 cascades now enriching uranium, and not increase enrichment capacity. Not feed UF6 into the other 12 cascades, which would remain in a non-operative state. No interconnections between cascades. Iran announces that during the first 6 months, it will replace existing centrifuges with centrifuges of the same type.

<sup>3</sup> Iran announces on concerns related to the construction of the reactor at Arak that for 6 months it will not commission the reactor or transfer fuel or heavy water to the reactor site and will not test additional fuel or produce more fuel for the reactor or install remaining components.

<sup>4</sup> Consistent with its plans, Iran's centrifuge production during the 6 months will be dedicated to replace damaged machines.

***In return, the E3/EU+3 would undertake the following voluntary measures:***

Pause efforts to further reduce Iran's crude oil sales, enabling Iran's current customers to purchase their current average amounts of crude oil. Enable the repatriation of an agreed amount of revenue held abroad. For such oil sales, suspend the EU and U.S. sanctions on associated insurance and transportation services.

Suspend U.S. and EU sanctions on:

- Iran's petrochemical exports, as well as sanctions on associated services.<sup>5</sup>
- Gold and precious metals, as well as sanctions on associated services.

Suspend U.S. sanctions on Iran's auto industry, as well as sanctions on associated services. License

the supply and installation in Iran of spare parts for safety of flight for Iranian civil aviation and associated services. License safety related inspections and repairs in Iran as well as associated services.<sup>6</sup>

No new nuclear-related UN Security Council sanctions. No new

EU nuclear-related sanctions.

The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions.

Establish a financial channel to facilitate humanitarian trade for Iran's domestic needs using Iranian oil revenues held abroad. Humanitarian trade would be defined as transactions involving food and agricultural products, medicine, medical devices, and medical expenses incurred abroad. This channel would involve specified foreign banks and non-designated Iranian banks to be defined when establishing the channel.

○ This channel could also enable:

- ① transactions required to pay Iran's UN obligations; and,
- ① direct tuition payments to universities and colleges for Iranian students studying abroad, up to an agreed amount for the six month period.

Increase the EU authorisation thresholds for transactions for non-sanctioned trade to an agreed amount.

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<sup>5</sup> "Sanctions on associated services" means any service, such as insurance, transportation, or financial, subject to the underlying U.S. or EU sanctions applicable, insofar as each service is related to the underlying sanction and required to facilitate the desired transactions. These services could involve any non-designated Iranian entities.

<sup>6</sup> Sanctions relief could involve any non-designated Iranian airlines as well as Iran Air.



*Elements of the final step of a comprehensive solution\**

*The final step of a comprehensive solution, which the parties aim to conclude negotiating and commence implementing no more than one year after the adoption of this document, would:*

Have a specified long-term duration to be agreed upon.

Reflect the rights and obligations of parties to the NPT and IAEA Safeguards Agreements.

Comprehensively lift UN Security Council, multilateral and national nuclear-related sanctions, including steps on access in areas of trade, technology, finance, and energy, on a schedule to be agreed upon.

Involve a mutually defined enrichment programme with mutually agreed parameters consistent with practical needs, with agreed limits on scope and level of enrichment activities, capacity, where it is carried out, and stocks of enriched uranium, for a period to be agreed upon.

Fully resolve concerns related to the reactor at Arak, designated by the IAEA as the IR-40. No reprocessing or construction of a facility capable of reprocessing.

Fully implement the agreed transparency measures and enhanced monitoring. Ratify and implement the Additional Protocol, consistent with the respective roles of the President and the Majlis (Iranian parliament).

Include international civil nuclear cooperation, including among others, on acquiring modern light water power and research reactors and associated equipment, and the supply of modern nuclear fuel as well as agreed R&D practices.

Following successful implementation of the final step of the comprehensive solution for its full duration, the Iranian nuclear programme will be treated in the same manner as that of any non-nuclear weapon state party to the NPT.

\* With respect to the final step and any steps in between, the standard principle that "nothing is agreed until everything is agreed" applies.