

SANCTIONS UPDATE: IRAN

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Following our Iran Sanctions updates in September and October 2010, this update considers two issues. First, we highlight the prohibition on insurance which is contained in EU Regulation 961/2010 (the “[EU Regulation](#)”), in light of imminent P&I renewals. Secondly, we report on two recent pieces of UK secondary legislation, the first of which will be of interest to, amongst others, owners and charterers of UK-flagged vessels, as well as other vessels calling at UK ports, and the second of which will be of interest to UK nationals and UK companies.

Recent developments

The various sanctions against Iran remain front page news, with US Secretary of State, Hillary Clinton, and the departing head of Israel’s intelligence service, Meir Dagan, both recently suggesting that the sanctions against Iran (amongst other factors) had been effective to set back Iran’s weapon’s programme to the point that Iran would not be able to develop nuclear weapons until 2015 at the earliest.

There have also been recent high profile investigations and penalties imposed, with a UK businessman jailed for eight months and ordered to pay £30,000 costs for supplying radiation detection equipment to Iran after an investigation by HM Revenue & Customs, and members of the Royal Bank of Scotland Group fined £5.6m in August 2010 for failing to have adequate systems and controls in place to prevent breaches of UK financial sanctions.

US sanctions against Iran - meeting with US State Department

We recently hosted a round table discussion with high level representatives of the US State Department at which we explored with them the ramifications of the US Comprehensive Iran Sanctions, Accountability and Divestment Act (CISADA) on the shipping, banking, insurance and transport industries.

Our separate briefing entitled “Iran Sanctions - A Consultative Discussion with US State Department” reports on that meeting.



EU sanctions against Iran - prohibition on insurance in the EU Regulation

P&I Clubs will be well aware, in the context of February renewals, of Article 26 of EU Regulation 961/2010, which prohibits the provision of insurance and reinsurance to, inter alia, Iranian entities. In particular, Article 26(4) specifically prohibits the extension or renewal of insurance and reinsurance agreements concluded before the EU Regulation entered into force.

The EU Regulation also contains (in Article 21) rules regarding transfers of funds to or from an Iranian person, entity or body.

UN sanctions against Iran - UK legislation conferring investigative powers

Owners and charterers of UK - flagged vessels, as well as other vessels calling at UK ports and/or passing through UK waters should take note of the Iran (United Nations Sanctions) (Amendment) Order 2010 (the "Order") which came into force on 17 December 2010. The Order gives extensive investigation and enforcement powers to authorised persons in support of the various UN sanctions against Iran.

These powers are available where there are reasonable grounds to suspect that the ship's cargo may include military goods or weapons of mass destruction from Iran, or for delivery to Iran. Authorised persons include the police, customs officers, and other persons authorised by the Secretary of State.

The powers include the following:

1. To stop and board the ship, divert it into UK waters and detain it there.
2. To search the ship, and anyone and anything on it (including its cargo) – this specifically includes opening any containers, making tests, taking samples, requiring the production of documents and making photographs or copies.
3. To arrest without warrant anyone believed to be guilty of the carriage of military goods or weapons of mass destruction from or to Iran.
4. To seize, detain and/or dispose of any prohibited cargoes.

In support of the above powers, an authorised officer is permitted to take assistants, and any equipment or materials which he considers necessary and he is also permitted to use reasonable force if he is being obstructed in the performance of his functions, or if it is necessary to ensure the safety of any person on board the ship.

While there is a proviso that any information or documentation provided pursuant to the above powers will not be disclosed without consent, the Secretary of State may authorise disclosure to any organ of the United Nations, or the Government of any other state, for the purpose of assisting the United Nations, or that Government, in securing compliance with or detecting evasion of the UN sanctions against Iran.

The powers apply to:

1. Any ship in the territory of the UK.
2. Any UK ship in international waters.
3. Any UK ship in another state's territorial waters, provided that the Secretary of State has authorised those powers.

In addition, the Secretary of State may also authorise a state, other than the UK, to investigate a UK ship.

EU sanctions against Iran - UK legislation on enforcement

EU Regulation 961/2010 contains a number of prohibitions which are, broadly speaking, financial in nature.

For example, the Regulation contains provisions relating to the freezing of assets, transfers to or from an Iranian entity, relationships with Iranian banks, the sale of bonds to or from an Iranian entity, and the prohibition on insurance and reinsurance discussed above.

The Iran (European Union Financial Sanctions) Regulations 2010 (the "UK Regulations"), which came into force on 11 December 2010, contain detailed rules about the offences which will be committed under English law where there is a breach of those financial prohibitions, as well as the penalties for committing those offences.



The following points should be noted:

1. The UK Regulations apply to UK nationals and bodies incorporated under the law of any part of the UK.
2. The UK Regulations extend to conduct (including acts or omissions) which is wholly or partly outside the UK.
3. Where an offence is committed by a company or a partnership, the relevant individual (director, manager or other officer) will themselves be guilty of an offence where it is committed with their consent or connivance, or the offence is attributable to their neglect.
4. The penalties for committing the offences are imprisonment (for up to two years on conviction on indictment, or up to three months on summary conviction) and/or a fine (unlimited on conviction on indictment and up to £5,000 on summary conviction).

The UK Regulations also:

1. Set out the position in respect of a number of practical issues (licences, notifications and authorisations, etc) which arise in connection with the financial prohibitions in EU Regulation 961/2010.
2. Confer wide-ranging information-gathering powers on the Treasury, including an obligation on banks and others to inform the Treasury if they know or have reasonable

cause to suspect that there has been a breach of the financial prohibitions, or a person is the subject of an asset freeze.

3. Entitle the Treasury to request information and/or documents from any person in or resident in the UK so that the Treasury may, amongst other things, monitor compliance with, or detect evasion of, the UK Regulations.

Failure to provide the appropriate information to the Treasury (without reasonable excuse) is an offence, and the penalties for such an offence are imprisonment for up to three months and/or a fine of up to £5,000.

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