



Penge & Paragraffer

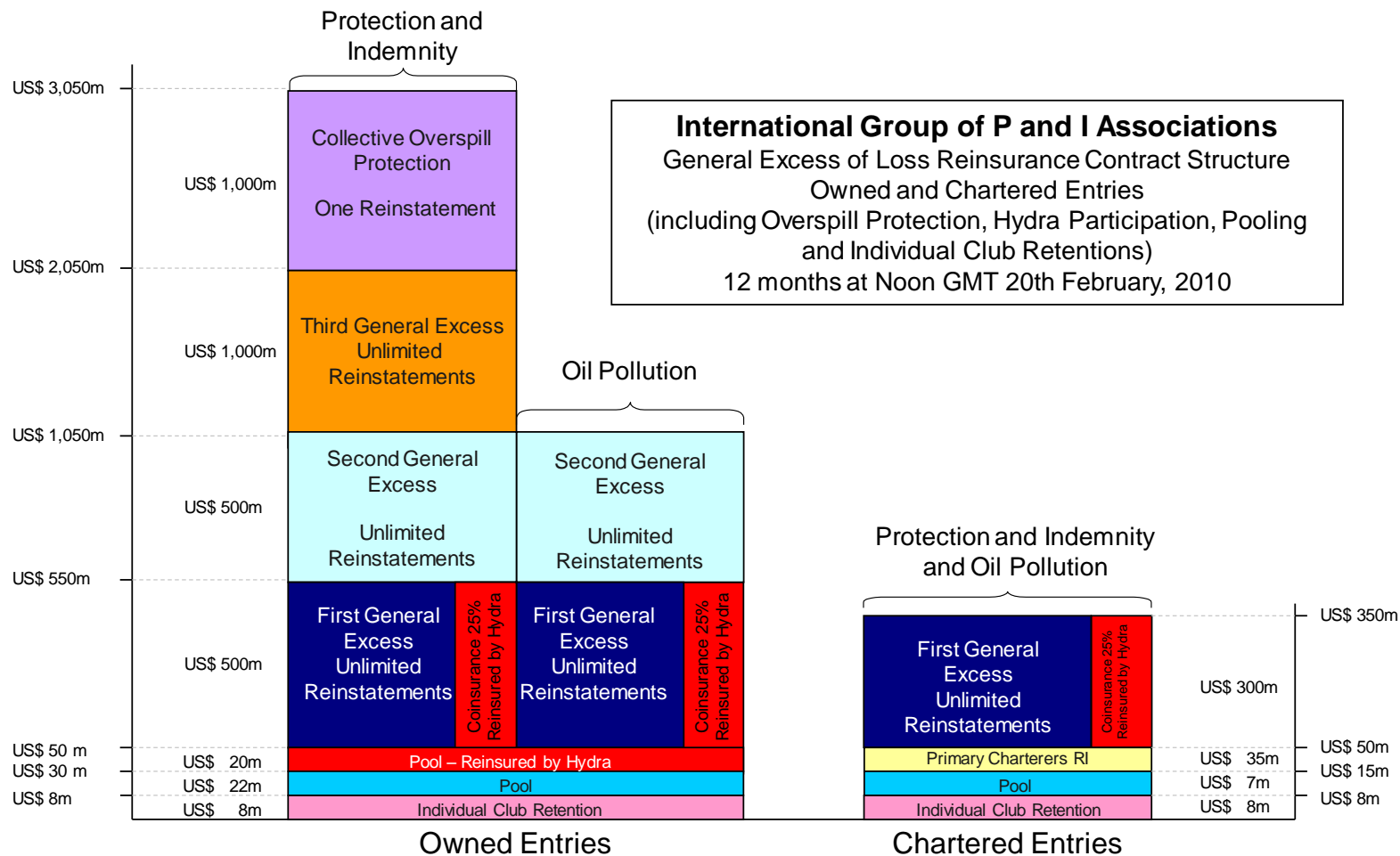
**Advokat / Underwriter
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28. Oktober 2010



 IGP&I

International Group of P&I Clubs



Pooling And Reinsurance

Pooling Agreement covers 95% of world's shipowners

Largest marine insurance/reinsurance programme in the world

3 Special Features:

- Highest level / **limit** of cover (\$1bn oil poll / \$2bn passengers / \$5.5bn non oil (approx.))
- Most comprehensive **extent** of cover
- Cover “**at cost**” (mutuality = no profit)

- BUT - IG and the EU Commission – Future of the pooling agreement ?

Iran Sanctions



THE AMERICAN PEOPLE



INTERNATIONAL ATOMIC ENERGY AGENCY



Sent by MidEastTruth.com

"TELL THE IRANIAN DELEGATION THEY HAVE LEFT US WITH NO CHOICE BUT TO PASS A RESOLUTION TO CONSIDER A RESOLUTION PROMOTING A RESOLUTION TO REFER THEM TO THE SECURITY COUNCIL...."








- US – IRAN SANCTIONS ACT 1996
- EU BLOCKING REGULATION 1996
- UN Security Council Resolutions (Four – latest 9 June 2010)
- CISADA – 1 July 2010
- EU Council Decision - 26 July 2010 and 27 October 2010
- Domestic legislation in a number of countries

Office of Foreign Asset Control (OFAC)

Iran Transactions Regulations

31 CFR Part 560

(USA)

-  Prohibit import of Iranian goods or services, either directly or through third countries
-  Prohibit export, sale or supply of goods, technology or services to Iran from the US or by a US person, wherever located
-  Prohibit US persons from engaging in any transactions related to goods or services of Iranian origin
-  Prohibit investment, loans, or credit transactions in Iran or in Iranian property by US persons
-  Prohibit US banks from servicing accounts of the Iranian government or Iranian persons
-  Prohibit US persons from trading in Iranian oil or refined petroleum products or financing such trading or supplying goods or technology that would benefit the Iranian oil industry
-  Impose criminal penalties of up to \$1 million and imprisonment for up to 20 years and civil penalties not to exceed the greater of \$250,000 or twice the amount of the transaction

OFAC Specially Designated Nationals (SDN) List

- ❖ As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by targeted countries
- ❖ These individuals and companies are called “Specially Designated Nationals” or “SDNs”
- ❖ Their assets are blocked and US persons are generally prohibited from dealing with them
- ❖ The SDN List may be accessed from OFAC’s website, <http://www.ustreas.gov/offices/enforcement/ofac/sdn/>
- ❖ Vessels on SDN List (by name and IMO number) may stay on the List even after sale



ISNA

ISNA/PHOTO: ABOLFATH DAVARI

The Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 (CISADA) (1 July 2010)


- ❖ **Expands sanctions under the Iran Sanctions Act of 1996 by imposing sanctions on anyone who:**
 - ❖ Makes an investment of \$20 million or more that contributes to the enhancement of Iran's ability to develop petroleum resources
 - ❖ Provides goods or services in excess of \$1 million that could facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products
 - ❖ Provides goods or services in excess of \$1 million that could contribute to the enhancement of Iran's ability to import refined petroleum products
- ❖ **Includes insurance contracts, financing or brokerage activities, and providing ships or shipping services**
- ❖ **Exempts underwriters (Clubs) who exercise due diligence**
- ❖ **Increases range of potential sanctions for:**
 - ❖ transactions in foreign exchange
 - ❖ transfers of credit through financial institutions
 - ❖ acquiring, transferring, transporting, importing or exporting property subject to US jurisdiction
- ❖ **Reduces level of knowledge required for violations**
- ❖ **Applies to US and non-US persons including foreign companies, corporate parents, subsidiaries and affiliates**
- ❖ **Sanctions include:**
 - ❖ Prohibiting foreign exchange transactions
 - ❖ Prohibiting transfers of credit or payments between financial institutions
 - ❖ Prohibiting the acquisition, use or transfer of property
 - ❖ Termination and debarment from federal contracts




Office of Foreign Assets Control

Iranian Financial Sanctions Regulations

16 August 2010 – 31 CFR 561

-  Impose “strict conditions” on foreign financial institutions which knowingly:
 - Facilitate Iran’s efforts to acquire or develop weapons of mass destruction
 - Provide support for foreign terrorist organizations
 - Facilitate activities of persons subject to UN financial sanctions
 - Engage in money laundering
 - Facilitate significant transactions or provide significant financial services for Iran’s Islamic Revolutionary Guard or its agents or affiliates or for a financial institution whose property has been blocked

-  “Strict conditions” include:
 - Prohibiting trade finance through correspondent accounts or “payable-through” accounts
 - Placing monetary limits on accounts
 - Requiring pre-approval from US financial institutions for any transactions

UN Security Council Resolution 1929 (9 June 2010)

- ❖ Prohibits member states from permitting Iran from acquiring an interest in commercial activities involving uranium mining or production of nuclear materials and technology
- ❖ Requires member states to prevent the sale or transfer of arms and related materiel
- ❖ Calls upon states to inspect vessels and cargo suspected to contain prohibited items
- ❖ Requires states to prohibit provision of bunkering services to Iranian owned or chartered vessels suspected of carrying prohibited items
- ❖ Requests states to report activity by IRISL to evade the sanctions, such as renaming or re-flagging vessels
- ❖ Calls upon states to prevent the provision of insurance or re-insurance or other financial services that could contribute to nuclear activities or nuclear weapons development, including freezing financial or other assets





EU Sanctions

Foreign Affairs Council Decision (26 July 2010)

- EU sanctions are broader and stricter than UN sanctions
- Focus on energy, financial services and transport sectors
- The sanctions prohibit:
 - provision of insurance to the Government of Iran or Iranian entities
 - participation in activities intended to circumvent sanctions
 - sale, transfer or supply of goods or technology which could facilitate development of nuclear weapons
 - sale, transfer or supply of equipment and technology for exploration, refining and production of oil and gas, including financing for the oil sector
 - financial assistance to the Government of Iran
 - opening of branch offices of Iranian banks in EU
- Sanctions also include:
 - reporting requirements for funds transfers
 - pre-arrival and departure information for cargo
 - inspection of cargo to and from Iran
 - prohibition on bunkering and ship supply services to Iranian owned or chartered vessels
 - asset freezes of designated persons, including IRISL

EU implementation (27th October 2010)

- ❖ The implementation regulation of the Council's decision of 26 July 2010 was published yesterday (27th October 2010).
- ❖ Will probably allow compulsory or 3rd party insurance cover to Iranian entities based in the EU. Is intended to cover vessels under Iranian beneficial ownership but owned by companies based in EU member states (NITC).
- ❖ Unlikely to extend to IRISL as they are already subject to special prohibition.
- ❖ EU Regulation entered into force yesterday and is binding and directly applicable in all member states with immediate effect and without the need for domestic implementing legislation.

Issues for P&I Clubs

- ⚓ The laws are vague and complicated
- ⚓ CISADA does not make the relevant voyages unlawful, but sanctionable.
- ⚓ Voyages are unlikely to be illegal under the contracts of carriage or the laws of the flag state
- ⚓ Measures taken to avoid sanctions under CISADA could lead to exposure under EU or domestic legislation
- ⚓ Is P&I cover included in CISADA's insurance provisions?
- ⚓ How should services provided by shipowners/P&I Clubs be valued for purposes of CISADA's minimum thresholds?
- ⚓ Club rules has now been changed to exclude right of recovery or termination of cover.
- ⚓ How will CISADA's knowledge requirement be applied?
- ⚓ What constitutes "due diligence" on the part of the Clubs?
- ⚓ What is the time frame for compliance? Will there be a grace period?
- ⚓ What about liability of Clubs under "Blue Cards" or other guarantees/undertakings?

P&I Clubs' reaction to the Iran sanctions

- (a) Provide for automatic termination of cover if a vessel performs a voyage which may expose the Club to sanctions coupled with a right to reinstate cover at the Club's discretion.

- (b) A right to terminate cover where not to do so will expose the club to sanctions.

- (c) Exclusion of cover for claims arising during a voyage which would give rise to a risk of sanctions. (Option taken by SKULD in Rule 30.4)

IRAN SANCTIONS – Guidelines

- **Step One** – Search for **US** targets & ships
 - SDN List <http://www.ustreas.gov/offices/enforcement/ofac/sdn/>
 - Applicable to US persons but followed by major banks so internationally "in effect".

- **Step Two** – Search for **EU/UN** Targets
 - UK keep consolidated list <http://www.hm-treasury.gov.uk/d/iran.htm>

- **Step Three** - Consider the trade, cargo and type of business – **US**

- **Step Four** - Consider the trade, cargo and type of business – **EU**

- **Step Five** - **Do not assume that sanctions do not apply to your trade or business**



COAL CARGOES FROM INDONESIA



New article has been added to our Carriage of Bulk Cargo library

PIRACY



Frequently asked questions and materials on the hot topic of piracy

IRAN SANCTIONS



General comments, relevant materials and news

FOCUS ON CLAUSES



used in shipping documents with short commentaries

SKULD NEWS

- 20.09.10 / Solid first half year result 20
- 20.09.10 / Coal Cargoes from Indonesia
- 17.09.10 / Circular: International Group - Revised Himalaya Clause for Bills of L and other Contracts
- 13.09.10 / Vacancy: Executive HR / HR Consultant
- 08.09.10 / Circular: International Group - Electronic (Paperless) Trading System
- 03.09.10 / Circular: Skuld Annual Gen Meeting

NEWS

- 14.09.10 / Algeria: Arrest - Amendment Algerian Maritime Code
- 07.09.10 / Increased Penalties for Environmental Offences in Queensland, Australia
- 01.09.10 / Port of Santos, Brazil - Conc Inspection Campaign (CIC)
- 21.07.10 / Thousands of food containers in Venezuela in damaged condition

External information

WWW.SKULD.COM



ANNUAL REVIEW 2009 INTRODUCTION

- ANNUAL REPORTS
- BEACON
- BLOG
- BUNKERS BULLETIN
- CAPTAINS LEGAL
- CARRIAGE OF BULK CARGO
- CARRIAGE OF STEEL

Iran sanctions
Members will be aware of the important developments in relation to sanctions affecting trade with Iran. These new measures can have serious consequences for shipowners, charterers and insurers, not least so for members' P&I cover.

Recent regulation has come at international, regional and national level and the overall picture is extremely complex. The position is fluid as further measures are likely to be introduced, perhaps with little advance warning. There is considerable uncertainty about the scope and effect of some of the legislation and it is unclear what approach the relevant authorities will take to enforcement.

How individual members will be affected will depend on a wide variety of factors and it is not possible for this website to provide comprehensive or conclusive advice. The intention is to provide some general comments, convenient access to relevant materials and news of latest developments. Members should not act in reliance solely on the information provided here. They must make their own enquiries and take legal advice which can take account of their circumstances.

- CLAUSES
- FATIGUE
- HATCH COVERS
- /IRAN SANCTIONS
- Introduction
- UN
- EU
- UK
- US
- Charterparties
- Rules and Cover
- Links and Materials

THE NEW GENERATION P&I CLUB

