



INTERNATIONAL
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INFORMATION PAPER ON THE IMPACT OF EUROPEAN COUNCIL REGULATION 267/2012 CONCERNING RESTRICTIVE MEASURES AGAINST THE ISLAMIC REPUBLIC OF IRAN

Submitted by the International Group of P&I Associations

Summary:	<p>In light of the recent Iran sanctions Regulation introduced by the European Council relating to the purchase, import and transport of crude oil, petroleum and petrochemical products originating in Iran and the insurance and reinsurance thereof, the International Group of P&I Associations (International Group) have issued this document which summarises:</p> <ul style="list-style-type: none">• the effect of European Council Regulation 276/2012 on the purchase, import and transport of crude oil, petroleum and petrochemical products either loaded in Iran or originating in Iran;• the potential financial impact on the operation of the 1992 Fund and Supplementary Fund; and• the impact on STOPIA 2006 and TOPIA 2006.
Action to be taken:	<p><u>1992 Fund Assembly</u></p> <p>Information to be noted.</p>

1 Introduction

1.1 On 23 January 2012 European Council adopted restrictive measures against the Islamic Republic of Iran that would prohibit the execution of contracts relating to the purchase, import and transport of crude oil, petroleum and petrochemical products originating in Iran and the insurance and reinsurance thereof. On 23 March 2012 the European Council adopted into EU law Regulation 276/2012 introducing amongst other measures new prohibitions on entities incorporated, domiciled or regulated in the European Union in respect of these and other activities. The measures were adopted in European law on 23 March 2012 and became binding from the date of their publication in the Official Journal of the European Union on 24 March 2012. The Regulation will apply:

- (a) within the territory of the Union;
- (b) on board any aircraft or any vessel under the jurisdiction of a Member State;
- (c) to any person inside or outside the territory of the Union who is a national of a Member State;
- (d) to any legal person, entity or body, inside or outside the territory of the Union, which is incorporated or constituted under the law of a Member State;

(e) to any legal person, entity or body in respect of any business done in whole or in part within the Union.

1.2 European Union Member States will be responsible for enforcing the Regulation. The European Commission will enforce the Regulation on the Member States.

1.3 In addition to prohibiting the transport of crude oil, petroleum and petrochemical products, the Regulation will directly affect the provision of insurance or reinsurance, including property and third party liability cover such as P&I in respect of any vessel that carries bunker fuel or crude or other petroleum products originating in Iran or transports such products, whether loaded in or outside Iran, destined for delivery within or outside the European Union after 1 July 2012. The same prohibition applies in respect of a vessel that carries petrochemical products after 1 May 2012.

2 Effect of EU Measures on the Civil Liability Convention and the IOPC Funds

2.1 Impact on shipowners

The prohibition on transport will prevent EU incorporated, domiciled or regulated shipowners from loading and transporting cargoes prohibited under the Regulation from any port of departure to any port of discharge whether within or outside the EU. Non-EU incorporated, domiciled or regulated shipowners will be prohibited from transporting such cargoes to EU destinations but will not be prohibited from transporting cargoes to non-EU destinations. It is likely that the great majority of such non EU shipowners currently obtain their P&I cover from one of the International Group member Associations.

2.2 Impact on insurers

The prohibitions relating to insurance will prevent EU incorporated, domiciled or regulated insurers and reinsurers from providing insurance and reinsurance cover from the respective cut-off dates to any vessel that carries Iranian bunker fuel or Iranian oil, petroleum, or petrochemical cargoes regardless of whether these are destined for delivery within or outside the EU. The prohibitions on insurance will not however prevent non-EU regulated insurers and reinsurers from providing cover for non-EU incorporated, domiciled or regulated shipowners transporting cargoes to non-EU destinations. The cover which such alternative insurers may be able to provide however may not replicate the high limits and breadth/scope of the cover currently provided by the International Group. Furthermore the cover provided by such alternative insurers will not extend to include the voluntary additional compensation provided by shipowners who are members of the International Group pursuant to the Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006 and Tanker Oil Pollution Indemnification Agreement (TOPIA) 2006 arrangements (see document 92FUND/A.ES.10/13).

2.3 1992 Civil Liability Convention Blue Cards

Article VII of the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 CLC) makes insurance compulsory for ships carrying more than 2 000 tonnes of oil in bulk as cargo. Such ships must carry a certificate issued by a State as proof of compliance with this requirement. The ship's insurer or provider of financial guarantee will, in the case of an International Group P&I Association, issue a Blue Card which is then used to obtain a certificate from the Flag State of the ship or other 1992 CLC State Party if the ship is not registered in a State Party. The Blue Card also provides that the insurer remains liable for damage three months after cover is terminated. A consequence of the EU sanctions legislation is that an International Group P&I Association that has issued a 1992 CLC Blue Card will be prohibited from providing cover for pollution damage that results from a voyage deemed to be in breach of the sanctions legislation. In such an event the IOPC Funds' governing bodies will need to take whatever action it deems appropriate in order to recover the amount payable by the owner according to the 1992 CLC limit. In other words, the sanctions legislation will have a direct impact on the operation of the 1992 CLC Article VII.5 and the direct action provision at Article VII.8.

2.4 Impact on the 1992 CLC and IOPC Funds regime

2.4.1 Potentially, there is a significant financial impact on the 1992 Fund and the Supplementary Fund Member States as a result of the latest EU sanctions. To assess the potential impact of the latest EU sanctions measures targeted at insurance cover in the context of the operation of the 1992 CLC and IOPC Funds regime, States are invited to consider and take note of the following illustrative examples which are premised on a vessel carrying Iranian bunkers and or carrying Iranian oil or petroleum cargoes after 1 July 2012. Such carriage will automatically prohibit an International Group EU regulated insurer from providing insurance cover. The same prohibition will apply to EU regulated reinsurers. In these circumstances;

- (i) where pollution damage occurs in a State Party to the 1992 Fund Convention and a non-International Group P&I insurance provider cannot (for example due to financial sanctions prohibiting payment as in the case of Iranian insurers) respond to the first tier of compensation payable (from the ground up to a figure of around US\$140 million for the largest tankers) under the 1992 CLC, the 1992 Fund will have to compensate victims from the ground up without any financial contribution from the owner/insurer through the 1992 CLC. The entire financial burden arising from the pollution damage will fall directly on the (EU and non-EU) States Parties to the 1992 Fund Convention and or their contributing national industries;
- (ii) where damage occurs in a Supplementary Fund Member State and a non-International Group P&I insurance provider cannot respond to the first tier of compensation payable (from the ground up to a figure of around US\$140 million under the 1992 CLC for the largest tankers) and in the event of claims reaching the Supplementary Fund limit, the Supplementary Fund will compensate victims. Oil receivers would be required to meet the full exposure of approximately US\$1.1 billion without any contribution from the owner through the 1992 CLC, STOPIA 2006 or TOPIA 2006.

2.4.2 In addition to (i) and (ii) above, the extensive claims handling expertise, experience and claims processing and settlement arrangements that have developed within the International Group club system and which are engaged in the frontline of handling major pollution incidents will not be available in the event of an incident.

3 Conclusion

3.1 For the reasons noted in this document, the International Group has sought to persuade the European Council that an exemption from the general insurance and reinsurance prohibitions in respect of third party liability insurance and reinsurance would ensure the continued and uninterrupted operation of the international 1992 CLC and IOPC Funds regime. Important beneficiaries of the compensation which the system delivers are innocent third-party victims of maritime incidents rather than the intended sanctions targets.

3.2 To the extent that their interests are compromised by the EU sanctions measures they will either go uncompensated or partly compensated or States and States' contributors will have to provide the compensation or top up compensation which would otherwise have been delivered through the current P&I insurance cover arrangements.

4 Action to be taken

1992 Fund Assembly

The 1992 Fund Assembly is invited to

- (a) take note of the information contained in this document;
 - (b) to instruct the Director to take action as it deems appropriate.
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