

# 中国船东互保协会文件

中船保保字[2012]2号

## 关于欧盟理事会进一步制裁伊朗的决议的通函

各会员公司:

根据欧盟理事会 2012 年 1 月 23 日的 2012/35/CFSP 号决议,欧盟进一步扩展了现有的欧盟制裁计划。该决议只对成员国政府具有约束力;需要成员国政府制定相应法规,以约束各会员国的个人和公司实体。欧盟还于同一日通过了 54/2012 和 56/2012 号法规,以实施决议中关于资产冻结的进一步措施,欧盟理事会决议中的其它措施可能将在近期以法规的形式予以实施。

欧盟理事会 2012 年/35/CFSP 号决议修订了理事会 2010 年/413/CFSP 号决议,包含了一系列的措施。同航运有重大关联的措施是:

A. 对更多公司和个人资产的冻结,包括伊朗中央银行和 TEJARAT 银行,以及 Tidewater Middle East 公司(该公司经营 7 个伊朗港口,大约占伊朗 90% 的集装箱经营业务,已被欧盟 54/2012 号法规实施制裁);

B. 禁止进口、购买或运输伊朗原油、石油产品和石化产品(2010/413/CFSP 号决议第 3a 1 和 3a 2 条);

C. 禁止提供直接或间接的融资或财务援助,以及与进口、购买或运输伊朗原油、石油产品和石油化工产品有关的保险和再保险(第 3a 2 和 3b 2 条);



对协会保险的影响:

鉴于事态的发展,会员公司应当认真考虑其在涉及伊朗的能源和石化行业的现有和拟议中的新合同中的地位。即使某会员公司本身不受欧盟司法管辖,该会员公司如果从事伊朗原油、石油产品或石化产品的运输,也将受此决议影响,因为协会合作承保/再保人全部处于欧盟管辖范围内,而禁止提供保险的决议将适用于本协会合作承保/再保人。因此,协会不能为由于被禁止的交易或活动引起的责任提供保险,特别是当船舶被会员公司用于从事此类运输、贸易时,这些行为,不论怎样讲,都将给协会带来被制裁、被禁令或不利行为的风险。此外,协会保险条款规定了保险限制和/或停止保险的情形,会员公司应注意协会保险条款中关于制裁条款的规定,特别是第八条第(十七)款制裁风险、第八条第(四)款第7项-轻率贸易、第八条第(四)款第8项-损害防止义务、第十三条-再保险、第二十五条第(一)款和第(七)款-停止保险。

此外,该欧盟决议还包括以下内容:

1、禁止由成员国国民,或从成员国领域内,或在成员国管辖权内利用飞机或船舶(不论其是否源于成员国领域),向伊朗石化产业、或向处于伊朗之外的伊朗人或由伊朗人拥有的企业出售、供应或转让关键设备和核心技术(第4a条1);

2、禁止就与关键设备和核心技术相关的其它服务提供技术援助或培训;禁止任何或/和为出售、供应、转让或出口关键设备和核心技术给伊朗从事石化行业的企业,或在伊朗以外从事该行业的伊朗人或伊朗人拥有的企业提供融资或金融援助。(第4a条2)



3、禁止直接或间接地从伊朗政府、其公共机构、公司、代理机构和伊朗中央银行销售、购买、运输或经手黄金、贵金属和钻石；同时，也禁止为这些机构从事该等行为(第 4c 条)。

4、禁止为伊朗中央银行的利益而交付新印刷或新铸造或未发行的伊朗纸币及硬币 (第 4 条 d) ；

5、禁止为从事伊朗石化产业的企业或在伊朗境外的伊朗人拥有的从事该行业的企业给予金融贷款或信贷支持(第 6a 条 (a)) ；

6、禁止购买或增持从事伊朗化工行业的企业股份，不管这类企业是在伊朗本土，或者是伊朗以外的从事伊朗化工行业的伊朗人或伊朗人拥有的企业，包括全部购买这类企业或购买其股份以及采用购买证券的形式参与。(第 6a 条 (b)) ；

7、禁止同从事伊朗石化行业的企业、其子公司或其控制的附属公司建立合资企业。(6a 条 (c))。

对于 2012 年 1 月 23 日前签订的合同的若干豁免情形：

关于禁止进口、购买或运输伊朗原油和石油产品，根据 3 c 1 条豁免规定，在 2012 年 1 月 23 日前订立的合同（或执行此类合同所必要的附属合同）可以执行到 2012 年 7 月 1 日为止。

关于禁止运输伊朗石化产品，根据 3d 1 条豁免规定，在 2012 年 1 月 23 日前订立的合同（或执行此类合同所必要的附属合同）可以执行到 2012 年 5 月 1 日为止。

在这两个禁令（原油和石油产品根据第 3a 条，石化产品根据第 3b 条）



的情况下，豁免可延伸适用于 2012 年 1 月 23 日前订立的合同中规定的义务的履行，或在必要的附属合同中的义务的履行，前提是该伊朗原油、石油产品、石化产品的供应以及由其所得的利益，是于 2012 年 1 月 23 日前签订的合同中所明确规定的，用于对成员国领土内或其管辖权内的个人或公司订立的合同的已付金额的补偿。

尽管有上述规定，协会必须提醒各会员公司，从 2012 年 1 月 23 日（即欧盟理事会决议的日期）起，对于会员由于从事进口、购买或运输伊朗原油、石油产品或石化产品引起的责任协会将不提供保险。

会员如需要有关欧盟理事会 2012 年/35/CFSP 号决议等资料，请同协会经理机构索取。

附件：关于欧盟理事会进一步制裁伊朗的决议的通函（英文版）

特此通函。

中国船东互保协会

二〇一二年二月九日

关键词：中船保、伊朗、制裁、通函

抄送：大连分部、上海分部、中国保赔服务（香港）有限公司

中国船东互保协会

2012 年 2 月 9 日印发



To the Members

9<sup>th</sup> February, 2012

Dear Sirs,

**E.U. COUNCIL DECISION 2012/35/CFSP – 23 JANUARY 2012 – FURTHER  
SANCTIONS IN RESPECT OF IRAN**

By Council Decision 2012/35/CFSP of 23rd January 2012, the EU has taken steps to extend substantially the existing EU sanctions programme. This EU Decision is binding on the governments of Member States only and requires implementing legislation to bind individuals/entities within Member States. EU Regulations 54/2012 and 56/2012 dated 23 January 2012 implement the extended asset freeze measures set out in the Decision; the other measures in the EU Council Decision will be implemented by Regulation likely to follow in the near future.

EU Council Decision 2012/35/CFSP amends Council Decision 2010/413/CFSP and contains a range of measures, the most relevant to shipping being:

- an asset freeze on further entities and individuals, including the Central Bank of Iran and Bank Tejarat, as well as Tidewater Middle East Co (which operates 7 Iranian ports managing about 90pct of Iran's container operations) (implemented by EU Regulation 54/2012);
- a ban on the import, purchase, or transport of Iranian crude oil, petroleum products and petrochemical products (now Articles 3a 1 and 3a 2 of Decision 2010/413/CFSP);
- a ban on the provision directly or indirectly, of financing or financial assistance, as well as insurance and reinsurance, related to the import, purchase, or transport of Iranian crude oil, petroleum products and petrochemical products (Articles 3a 2 and 3b 2);

**IMPACT ON CLUB COVER**

**In the light of these developments, entities should consider very carefully their position in respect of existing and proposed new contracts involving Iran's energy and petrochemical industry. The ban on the provision of insurance in the Decision will apply to the Club's co-insurers/re-insurers, which are subject to EU jurisdiction, even if any Member engaged in the transport of Iranian crude oil, petroleum products or petrochemical products, is not subject to EU jurisdiction. The Club will therefore not be in a position to provide insurance for liabilities arising from any prohibited trade or activity, in particular where a ship is employed by the Member in a carriage, trade or on a voyage which will in any way howsoever expose the Club to the risk of being or becoming subject to any**



**sanction, prohibition or adverse action. Further, the Club Rules provide for the restriction and/or cessation of cover in such circumstances, see Rule 8 Q. Sanction Risk, Rule 8 D. vii. Imprudent Trading, Rule 8 H. Obligation to sue and labour, Rule 13 Reinsurance, Rule 25 A. G. Cesser of Insurance.).**

In addition the Decision also includes

- a ban on the sale, supply or transfer of key equipment and technology for the petrochemical industry in Iran, or to Iranian or Iranian-owned enterprises engaged in that industry outside Iran, by nationals of Member States, or from the territories of Member States, or using aircraft or vessels under the jurisdiction of Member States, whether or not originating in their territories (Article 4a 1);
- a ban on technical assistance or training and other services related to key equipment and technology, and financing or financial assistance for any sale, supply, transfer or export of key equipment and technology provided to enterprises in Iran engaged in the Iranian petrochemical industry, or to Iranian or Iranian-owned enterprises engaged in that industry outside Iran (Article 4a 2);
- a ban on the direct or indirect sale, purchase, transportation or brokering of gold, precious metals and diamonds to, from or for the Government of Iran, its public bodies, corporations and agencies and the Central Bank of Iran (Article 4c);
- a ban on the delivery of newly printed or minted or unissued Iranian denominated banknotes and coinage to or for the benefit of the Central Bank of Iran (Article 4d);
- a ban on granting financial loans or credit to enterprises engaged in the petrochemical industry in Iran or to Iranian-owned enterprises engaged in that industry outside Iran (Article 6a (a));
- a ban on the acquisition or extension of a participation in enterprises in Iran that are engaged in the Iranian petrochemical industry, or to Iranian or Iranian-owned enterprises engaged in that industry outside Iran, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature (Article 6a (b));
- a ban on the creation of joint ventures with enterprises engaged in the petrochemical industry in Iran or subsidiaries or affiliates under their control (Article 6a (c)).

There are a few exemptions in relation to pre-existing contracts:

With regard to the prohibition on import, purchase or transport of Iranian crude oil and petroleum products, Article 3c 1 sets out an exemption which applies to the performance until 1 July 2012 of contracts (or ancillary contracts necessary for the execution of such contracts) concluded before 23 January 2012.



With regard to the prohibition on transport of Iranian petrochemical products, Article 3d 1 sets out an exemption which applies to the performance until 1 May 2012 of contracts (or ancillary contracts necessary for the execution of such contracts) concluded before 23 January 2012.

In the case of both prohibitions (crude oil and petroleum products under Article 3a and petrochemical products under Article 3b), the exemptions extend to the execution of obligations provided for in contracts concluded before 23 January 2012 or in ancillary contracts necessary for the execution of such obligations where the supply of Iranian crude oil, petroleum products, or petrochemical products, or the proceeds derived from their supply, are for the reimbursement of outstanding amounts with respect to contracts concluded before 23 January 2012 to persons or entities within the territories of Member States or under their jurisdiction, where those contracts specifically provide for such reimbursements.

**Notwithstanding the above provisions, the Club must advise Members that with effect from the 23<sup>rd</sup> January 2012 (being the date of the Council Decision) there can be no assurance going forward that Club cover will respond for liabilities arising in the event that Members engage in the import, purchase or transport of Iranian crude oil, petroleum products, or petrochemical products.**

Copies of Council Decision 2012/35/CFSP and other information may be obtained from the Managers.

Yours faithfully,

China Shipowners Mutual Assurance Association.