The Swedish Club

U.S. is targeting Iranian industrial sectors

February 25, 2020

Twice over the past six months, the Trump Administration has expanded secondary sanctions on Iran to target various industrial sectors and the raw materials.

Pursuant to Congressional Legislation

The Trump Administration first targeted Iran's construction sector under authorities granted by the Iran Freedom and Counter-Proliferation Act of 2012 ("IFCA"). The IFCA directs the U.S. President to impose five or more of the "menu-based" sanctions described in 6(a) of the Iran Sanctions Act of 1996 (e.g. procurement restrictions, foreign exchange and banking restrictions, exclusion of or sanctions on corporate officers, bans on new debt or equity) on any non-U.S. person determined to knowingly sell, supply or transfer, directly or indirectly, to or from Iran certain materials including

(1) Precious metals;
(2) Graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes;
(3) Materials described in (2) above that are used in connection with a sector of the Iranian economy determined to be controlled, directly or indirectly, by the Islamic Revolutionary Guard Corps ("IRGC"); and
(4) Materials described in (2) above that determined to be used in connection with Iran's nuclear, military or ballistic missile programs.

On 31 October 2019, the Secretary of State determined that the construction sector of Iran is controlled by the IRGC and that four "strategic metals" (stainless steel 304L tubes; MN40 manganese brazing foil; MN70 manganese brazing foil; and stainless steel CrNi60WTi ESR + VAR (chromium, nickel, 60 percent tungsten, titanium, electro-slag remelting, vacuum arc remelting)) are being used in connection with Iran's nuclear, military or ballistic missile programs. As a result of these determinations, the sale, supply or transfer, directly or indirectly, of: (1) metals used by construction sector or (2) any of the four strategic metals to Iran is sanctionable under the IFCA.

Pursuant to Executive Order

On 10 January 2020, President Trump signed Executive Order 13902 ("Imposing Sanctions With Respect to Additional Sectors of Iran"), an additional step by the Trump Administration to cut off the financial resources of the Iranian regime.

The Executive Order authorizes blocking sanctions on any non-U.S. person

(1) operating in the construction, mining, manufacturing or textiles sectors of the Iranian economy (or other sector that the Secretary of the Treasury shall determine in the future);
(2) that, on or after the date of the Executive Order, knowingly engaged in a "significant transaction" for the sale, supply or transfer to or from Iran of "significant" goods or services used in connection with such a sector of the Iranian economy;
(3) that materially assisted, sponsored or provided financial, material or technological support for, or goods or services to or in support of, a person blocked under to this Executive Order; or

(4) is owned or controlled by, or acted or purported to act for or on behalf of, directly or indirectly, a person blocked under this Executive Order.

The U.S. government makes determinations as to the "significance" of transactions on a case-by-case basis. Factors considered include the size, number, frequency, complexity and nature of transactions at issue, as well as whether they were performed or authorized by management or only by clerical personnel. Additionally, indications that the parties involved took efforts to conceal the transactions will weigh in favor of a determination that the transaction was significant. A transaction's impact on the objectives of U.S. sanctions is also considered. Given the importance of Iran sanctions in U.S. foreign policy, this factor is highly likely to indicate that an Iran-related transaction is significant.

Given the breadth of the Executive Order, the severity of the sanctions authorized by it, and the aggressiveness with which the Trump Administration has enforced U.S. sanctions on Iran, the Club wishes to stress that vessel owners and charterers ensure that their vessels are not carrying any materials relating to construction, mining, manufacturing or textiles sectors of the Iranian economy or any materials for individuals or entities involved in such sectors. Service companies in the shipping industry, including insurance and classification companies, port operators and brokers should also diligently vet clients in order to avoid servicing a vessel owner or charterer engaged in such trades.