

RE: Korean Iranian Sanctions Issues

I. Background

In accordance with the United Nations Security Council Resolutions, the sanctions/measures by international society in particular, the US and EU, which have raised the level of restrictions in an effort to restrict the Iran's suspected nuclear development, the Korean Government has decided to join the international sanctions against Iran.

To this end, the Korean Government has declared to prepare new guidelines and regulations in the finance, international trade, transportation, construction, and energy sectors in order to implement recommendations set out in the UN Security Council Resolution No. 1929, by its announcement dated 8 September 2010 ("Announcement"), the copy of which we have provided in our earlier email of 28 November 2011.

Following the above, new and more detailed guidelines have been established by relevant non-public organizations/institutions such as the Korea Foreign Trade Association ("KFTA") and the Korean Federation of Banks ("KFB"), and we hereunder summarize the details of the same for your reference and review.

II. General Overview of Korean Sanctions¹

1. Regarding Movements of Goods (Restriction on Export/Import Trade and Investment)

(1) Permit

As per Article 19 of the Korean Foreign Trade Act ("FTA"), the Korean Minister of Knowledge and Economy ("Minister") may designate and publicly notify restricted goods for exports in order to maintain international/national peace and security ("strategic items").

In particular, Section 3 Article 19 of FTA provides that in exporting any goods, etc. that do not fall within the category of any strategic items but have high potential of being appropriated for manufacturing, developing, using, or storing weapons of mass destruction or missiles as carriers of such weapon ("WMD"), one shall obtain a permit from the Minister ("Permit") in case it is suspected or it becomes known that the importer or the end user of the goods, etc. has intent to appropriate goods, etc. for manufacturing, developing, using or storing WMD.

In case the Korean exporter is found to be in violation of the above provision (i.e., exports without obtaining the Permit), such exporter shall be subject to administrative sanctions such as restriction/prohibition of all or part of export/import for the period of not more than 3 years as per Article 31 of the FTA.

¹ Please be advised that in this email, we have not discussed Korean sanctions on construction sector, which we do not think is so relevant for HMM.

Here, please be advised that the above regulation under Article 19 of the FTA is not country-specific and thus, shall apply generally to any applicable export/trade with any countries including Iran.

(2) Guidelines on Trade and Investment by KFTA

To this date, there are no specific or official regulations or laws promulgated by the Korean Government which deals specifically with trade/investment with Iran.

However, as per the Announcement, KFTA has issued “Guidelines on Trade and Investment” (“Guidelines”), which outlines and explains procedures required in trading with and/or investing in Iran and/or Iranian Entities.

Specifically, the above requires any Korean entities or individuals which intend to trade with or invest in Iran/Iranian entities (i) to obtain the Confirmation on Un-Prohibited Trade and Investment (“Confirmation”) issued by the Korea Strategic Trade Institute (“KOSTI”), and (ii) to submit the same to Korean financial institutions for any financial transactions involved with the Iranian trade/investment in conducting such business.

The basic purpose of requiring the Confirmation in the Guidelines is to prevent Korean companies/individuals from trading with or making new investments on Iran or Iranian entities that involves or furthers developments of (i) strategic materials, and/or (ii) WMD & materials related to conventional weapons, and to deter any acts related to (iii) the development of petroleum, and/or (iv) producing/importing petroleum products.

[You may note that the above prohibited acts are similar to the Comprehensive Iran Sanctions, Accountability and Divestment Act of the United States (“CISADA”).]

In issuing the Confirmation, following criteria are considered by KOSTI:

- A. Whether the trade or investment deals with or is related to prohibited items or acts; and
- B. Whether the transacted parties are subject to financial sanctions.

“Prohibited items” as per the above criteria shall mean the followings:

- (i) Strategic materials and technologies designated as per Article 19 of the FTA (we herewith enclose English copy of Article 19 for your reference); and
- (ii) WMD & materials related to conventional weapons, which shall encompass any exporting materials with high possibilities of being appropriated for producing, developing, employing and storing missiles that carry WMD & materials related to conventional weapons, as well as exporting products, technologies, service and human resources which expressly promote acts in relation to the above.

“Prohibited acts” as per the above criteria shall mean the followings:

- (i) Acts (i.e., contracts executed after 1 July 2010, investment which materially and

directly contributes to the development of petroleum products in Iran including execution, performance of contracts for sale of goods, services and technologies for such purposes, and the execution of investment contract for USD20,000,000 or more, or investment of USD5,000,000 or more in installments, the total sum of which for the period of 12 months is more than USD20,000,000) related to the development of petroleum and products related to developing pipelines, storage tank, etc. in maintaining petroleum, petroleum products, LNG, CNG, and etc.;

- (ii) Acts (i.e., contracts executed after 1 July 2010, investment which materially and directly contributes to the development of petroleum products in Iran including execution, performance of contracts for sale of goods, services and technologies for such purposes, and the execution of contract for USD1,000,000 or more, or in installments for the period of 12 months is more than USD5,000,000) related to producing/importing petroleum products in Iran (including diesel, gasoline, jet fuels, gasoline for aircrafts, etc.

“Designated parties subject to financial sanctions” as per the above criteria shall mean 102 entities including the Islamic Revolutionary Guard Corps (IRGC), Islamic Republic of Iran Shipping Line (IRISL), 15 banks, and 24 individuals designated in consonance with the UN Security Council Resolution No. 1929 as per the list announced on 8 September 2010 by the Korean Ministry of Finance and Strategy (“List”). We herewith enclose the copy of the same for your reference.

In case the above criteria are all met, KOSTI shall issue the Confirmation and the same shall be submitted to transacting banks/financial institutions for payment transactions (in case of export to Iran without submitting the Confirmation to the banks/financial institutions, any payment/receipt transactions regarding the same shall be denied or refused by relevant banks/financial institutions).

On the other hand, even if an export contract is entered into with entities in a third country other than Iran, and the price thereof is to be collected from such third country, in case the goods are ultimately exported/carried to Iran (“indirect export”), it is recommendable to obtain the Confirmation.

Once the Confirmation is obtained and the trade/investment is carried out, in principle, any payments/receipts in such trade/investment could be transmitted without many difficulties.

However, one cannot exclude a possibility that the payment/receipt transmission may become difficult or even impossible even after obtaining the Confirmation in case the transacting bank is listed as the sanctioned party, or due to the sanction in an exchange transaction bank in a third country. In particular, in case the transacting Iranian bank is designated as sanctioned parties, a prior approval/report is required to be obtained and made with Bank of Korea for any payment/receipt thereof, which we will discuss further in details below.

In sum, although the Guidelines may not provide any legally enforceable measures in case of breach of the same, by requiring to obtain the Confirmation and to submit the same to the bank for smooth payment/receipt transaction prior to conducting business with Iran, it effectively places on a restriction on the trade/investment with Iran/Iranian companies in a

practical sense.

2. Regarding Movements of Money (Restriction on Payments/Financial Transactions)

(1) Prior Approval for Financial Transaction related to Iran

As per the Announcement, the Korean Government has expressly declared to introduce and implement the system of requiring prior approval and report/declaration to be obtained from or to be made to Bank of Korea regarding financial transaction related to Iran (“System”). Accordingly, the System came into force as of 1 January 2011 and is effective since then.

[Relevant grounds for authority: Guidelines for Approval on Payment/Receipt for Maintenance of International Peace and Security issued by Ministry of Finance and Strategy as of 22 March 2011, Articles 15-(2) of the Korean Foreign Exchange Transaction Act].

As per the System, the Korean entities/individuals should first check whether the Iranian transacting parties (whether individuals/companies/financial institutions) are sanctioned parties designated by the Korean Government. In case the transacting Iranian party is a sanctioned party, then any payment/receipt transactions with such party cannot be made through Korean banks.

In case the Iranian transacting parties are not sanctioned parties, then the Korean entities/individuals which wish to conduct a financial transaction of payments/receipt with the Iranian party shall check whether the underlying transaction for such payments/receipts are related to any prohibited or restricted items or acts as per the Guidelines (issued by KFTA). In order to make sure that the underlying transaction for such payment/receipt does not involve any prohibited/restricted items or acts, Korean banks normally require Korean entities/individuals to submit Permit and/or Confirmation. In the event that the underlying transactions involves any prohibited/restricted items or acts, then in principle, Korean banks will not allow any payments/receipts to be made with regard to such transactions through them even if the transacting Iranian parties are designated sanctioned parties.

In case the transacting Iranian parties are not sanctioned parties and the underlying transaction does not involve any prohibited/restricted items or acts as confirmed by the submission of Permit or Confirmation, then the Korean Government requires the followings to be abided by the transacting parties under the System:

- (i) Any Korean transacting parties (whether companies/banks/individuals in Korea) shall obtain prior approval from Bank of Korea in case of financial transactions of €40,000 or more (or amounting to such in sum for 12 months) with individuals or institutions (including financial institutions) in Iran; and
- (ii) Any Korean transacting parties (whether companies/banks/individuals in Korea) shall make prior report/declaration to Bank of Korea for all financial transactions of €10,000 or more but less than €40,000 with individuals or institutions (including financial institutions) in Iran.

However, in case the financial transactions of €10,000 or more are connected with medical equipment, medical service, trading food, and any other transactions for humanitarian purposes, such transactions shall be exempted from any obligation to report/declare to or to obtain prior approval from Bank of Korea.

Here, please note that the above regulates transactions with persons related to Iran (other than the sanctioned parties). This shall encompass not only transactions with persons with Iranian nationality residing in Iran or entities established in Iran by persons with Iranian nationality, but also transactions with persons with non-Iranian nationality, a branch of an entity in Iran which belongs to a third country and entities established in Iran by persons with other (third) nationalities.

In particular, even if the direct transacting party is not related to Iran, if it is clear that shipments of exported/imported goods or the provision of related service are conducted in Iran or if their final destination is Iran, then such transactions shall be considered to be transactions with persons related to Iran, and therefore, shall be subject to obligations of prior approval or report/declaration.

On the contrary, in principle, transactions with persons with Iranian nationality who do not reside in Iran, a branch of an Iranian entity in other countries or entities established in other countries by Iranians (or Iranian entities) are not subject to obligations of prior approval or report/declaration with Bank of Korea.

In order to obtain the prior approval or make prior report/declaration, one should submit relevant applications to Bank of Korea and upon the review of the relevant transactions as per the applications, Bank of Korea shall issue a certificate of report/declaration within 10 days from submission of applications, and a certificate of approval within 15 days from submission. Such certificate issued by Bank of Korea shall be effective for 60 days within which the relevant financial transactions shall be conducted.

(2) Opening of Korean Won-Denominated Payment Account

Since the UN Security Council Resolution No.1929 was passed on 9 June 2010, there have been problems in payment and receipt of foreign currencies in connection with Iranian entities due to increasing restrictions imposed on Iran by the international society.

Therefore, the Korean Government has adopted the method to open a Korean Won-denominated payment account under the name of the Central Bank of Iran in Korean banks in order to protect normal and lawful transactions of Korean companies with Iran.

For example, the Central Bank of Iran receives payments for oil in Korean Won and reserves it in the Korean Won-denominated payment account under its name in Korean banks, and later makes payments in Korean Won to Korean companies when Iranian companies have to pay Korean companies for goods exported by Korean companies to Iran. However, making payments in Korean Won is not allowed for transactions with parties subject to the financial sanction.

(3) Guidelines on Payment by KFB

KFB has prepared and implemented “Guidelines on Payment” for Korean banks, which covers the payment procedure to/from Iran. The basic principles of “Guidelines on Payment” is that Korean banks shall not allow any payment or receipt of foreign currencies if the transacted goods or acts are connected to WMD or Specially Designated Global Terrorists (“SDGT”), or with respect to the development of petroleum or producing/importing petroleum products in any transactions with Iran. In this regard, Korean banks may require the transacting parties with Iran to produce the Confirmation

issued by KOSTI as mentioned above in order to allow and permit smooth payment/receipt transaction in the business with Iran/Iranian companies.

III. Our Comments

Given the above introduction on Korean Iranian Sanctions, we hereunder provide you with our comments as per the inquiries below:

Q: How do the Korean sanctions become relevant as a result of HMM's Iranian shipments, e.g. by virtue of the nationality of the shippers/the currency of the payments/the parties involved/the flag of the vessel, etc;

Firstly, we think that restriction on the movements of goods in export/import trade and investment with Iran may not have a direct impact on HMM since the Confirmation and Permit to be obtained prior to such trade are required to the Korean exporters only. Hence, as the ocean carrier, HMM may not be required by the Korean Government to obtain such prior Permit or Confirmation in carrying out daily businesses of HMM.

However, we cannot exclude a possibility/risk that the cargo which HMM carries to Iran may be subject to strategic items or restricted/prohibited goods and thus, HMM should nevertheless be cautious in carrying cargos to Iran to the extent possible (also, we cannot exclude a possibility/risk that HMM may be subject to any sanctions under another country in case it carries any restricted goods in its vessels).

On the other hand, the Korean financial sanctions on any financial transaction with Iran may be more relevant in HMM's conduct of day-to-day business as HMM may need to receive payments or make remittance to Iranian entities (e.g., Iranian shippers may need to pay for the freight for the carriage of its goods to HMM).

In this regard, HMM may first need to check whether the transacting Iranian parties are designated as sanctioned parties by the Korean Government. In addition to the above, HMM may also need to check and confirm whether shipments of exported/imported goods to Iran are not prohibited/restricted items or acts (although primarily, the exporters such as Korean shippers shall first check and confirm this point and obtain relevant Permit and Confirmation in this regard).

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n any event, in case of any shipments to Iran or transaction with Iranian parties (other than the sanctioned parties), HMM shall (i) obtain prior approvals in case of financial transactions of €40,000 or more from Bank of Korea or make prior report/declaration in case of €10,000 or more but less than €40,000 to Bank of Korea in order to ensure that the payment/receipt transactions may be made without any difficulties.

Q: Are any of the cargoes prohibited under Korean sanctions?

Please refer to the list/explanation of prohibited items and acts in Paragraph II-1-(2) above.

Q: How might payments in connection with these transactions be caught by the sanctions, if at all?

For details, please refer to our explanations and comments in Paragraph II-2 above.

Q: Are the parties to the transactions listed as sanctioned entities under Korean law?

Based on information provided to us thus far and in comparison with the List (as attached hereto), we do not find any parties to the transactions with HMM listed as sanctioned entities under Korean law, subject to any further confirmation from HMM in this regard.

Q: Is HMM's trade with Tidewater a problem under Korean sanctions?

Tidewater Middle East Co. ("Tidewater") is not listed as parties subject to financial sanctions under the List. However, due to the sanction imposed on Tidewater by the United States, HMM should take a careful approach in trading/transacting with Tidewater or transporting any goods to Tidewater on HMM's vessels as HMM may be subject to financial restrictions imposed by the United States.

On the other hand, as per the recent development and the likelihood that the Korean sanctions against Iran may be reinforced sooner or later, there is a possibility that Tidewater will be included in the next list of sanctioned parties to be announced by the Korean Government (as per unofficial statement of the official in the Korean Ministry of Land, Transportation and Maritime Affairs given at the meeting with Hyundai Merchant Marine and Hanjin Shipping)

Q: What are the consequences of being in breach of Korean sanctions?

Practically, the Korean parties, which fail to comply with procedures required by the Korean Government or private institutions such as KFTA, KFB in trading with Iran, shall face difficulties especially in financial transactions with regard to any payments and/or receipt of money as explained in details above.

Furthermore, although it may not be relevant to the outcome of breach of Korean sanctions, it is worth noting that the United States might impose retributive restrictions on trade in goods or services if the sanctions imposed on Iran by the United States or United Nations are not honored.

Q: If there is a breach, is there an available defence?

In case of breach of sanctions (which is usually the requirement of obtaining prior confirmation/permit/approval with the relevant authorities), the practical effect and consequence of the same shall be inability to make any financial transfers/transactions with regard to such business.

However, in some cases, if the transaction involves humanitarian purposes (mentioned as exemptions of prior approval/report/declaration in Paragraph II-2 above), then the Korean Government may allow retrospective permission/approval even if prior confirmation or approval or report/declaration has not been made.

Q: What can be done to avoid being in breach in the future, or at least reduce the risk?

As seen from the above, the Korean Government generally requires prior confirmation/approval/permit to be made or obtained before commencing any business with Iran or Iranian entities. In case such procedures are not duly followed, the Korean parties may face difficulties in its financial transactions with Iran related person as explained above. Hence, it is important that HMM learns and is aware of all relevant procedures required in conducting its business with Iran-related entities and take pre-cautious measures before commencing such business with Iran.

IV. Recent Development

According to a Korean newspaper article published on 25 November 2011, the Korean Government is considering to impose new sanctions on Iran against its nuclear development program, which is likely to include a ban on petrochemicals trade. In this regard, the Korean Ministries of Foreign Affairs, Finance and Strategy, and the Korean Financial Supervisory Commission are currently reviewing the level of additional sanctions on Iran.

이란관련 금융제재대상자(126개) 명단

- Bank Mellat (including all it's branches)
- Mellat Bank SB CJSC
- Persia International Bank PLC
- Bank Melli Iran
- Arian Bank
- Bank Kargoshaee
- Bank Melli Iran Zao
- Future Bank BSC
- Melli Bank PLC
- Bank Refah
- Bank Saderat PLC (London)
- Banque Sina
- Export Development Bank of Iran (EDBI)
- Banco Internacional De Desarrollo CA
- Post Bank of Iran
- Hanseatic Trade Trust & Shipping (HTTS) GmbH
- Irinvestship Ltd
- IRISL Club
- Khazer Shipping Lines (Bandar Anzali)
- Soroush Saramin Asatir (SSA)
- South Way Shipping Agency Co Ltd
- IRISL (Malta) Ltd
- IRISL (UK) Ltd (Barking, Felixstowe)
- IRISL China Shipping Company Ltd (Santexlines)
- IRISL Europe GmbH (Hamburg)
- IRISL Marine Services and Engineering Company
- IRISL Multimodal Transport Company
- IRITAL Shipping SRL

- ISI Maritime Limited (Malta)
- Islamic Republic of Iran Shipping Lines (IRISL)
- Asia Marine Network Pte Ltd
- Oasis Freight Agencies
- Bushehr Shipping Company Limited (Tehran)
- Hafiz Darya Shipping Lines (HDSDL)
- Irano Misr Shipping Company
- Marble Shipping Limited (Malta)
- Safiran Payam Darya Shipping Lines (SAPID)
- Shipping Computer Services Company (SCSCOL)
- Valfajr 8th Shipping Line Co.
- Islamic Revolutionary Guard Corps (IRGC)
- IRGC Qods Force
- IRGC Air Force
- IRGC-Air Force Missile Command
- Naserin Vahid
- Sepanir Oil and Gas Energy Engineering Company
- Assa Corporation
- Assa Corporation Ltd
- Bank Melli Iran Investment Company (BMIIC)
- Bank Melli Printing and Publishing Company (BMPPC)
- Cement Investment and Development Company (CIDCO)
- First Persian Equity Fund
- Mazandaran Cement Company
- Mazandaran Textile Company
- Mehr Cayman Ltd.
- Melli Agrochemical Company PJS
- Melli Investment Holding International
- Shomal Cement Company
- EDBI Exchange Company

- EDBI Stock Brokerage company
- Iran Aircraft Manufacturing Company
- Iran Communications Industries (ICI)
- Iran Electronics Industries
- Javedan Mehr Toos
- Ministry of Defense and Armed Forces Logistics (MODAFL)
- Parchin Chemical Industries
- Aerospace Industries Organisation, AIO
- Armed Forces Geographical Organisation
- Azarab Industries
- ESNICO(Equipment Supplier for Nuclear Industries Corporation)
- Etemad Amin Invest Co Mobin
- Fajr Aviation Composite Industries
- Iran Aircraft Industries (IACI)
- Iran Centrifuge Technology Company
- Isfahan Optics
- Iran Insurance Company
- Iranian Aviation Industries Organization (IAIO)
- Kala Naft
- Machine Sazi Arak
- Marine Industries
- MASNA (Moierat Saakht Niroogahye Atomi Iran)
- Mechanic Industries Group
- Nuclear Fuel Production and Procurement Company (NFPC)
- Parto Sanat Co
- Passive Defense Organization
- Raka
- Research Institute of Nuclear Science & Technology
- Schiller Novin
- Shahid Ahmad Kazemi Industrial Group

- Shakhese Behbud Sanat
- State Purchasing Organisation (SPO)
- Yasa Part
- Arfa Paint Company
- Arfeh Company
- Farasepehr Engineering Company
- Hosseini Nejad Trading Co.
- Iran Saffron Company
- Shetab G.
- Shetab Gaman
- Shetab Trading
- Y.A.S. Co. Ltd
- Foruzandeh, Ahmed.
- KHATAM OL ANBIA GHARARGAH SAZANDEGI NOOH
- Javad DARVISH-VAND
- Ali FADAVI
- Parviz FATAH
- Seyyed Mahdi FARABI
- Ali HOSEYNITASH
- Mohammad Ali JAFARI
- Mohammad PAKPUR
- Rostam QASEMI
- Ali SHAMSHIRI
- Ahmad VAHIDI
- Ali DAVANDARI
- Hoseyn (Hossein) FAQIHIAN
- Mojtaba HAERI
- Ebrahim MAHMUDZADEH
- Beik MOHAMMADLU
- Mohammad MOKHBER

- Mohammad Reza MOVASAGHNIA
- Anis NACCACHE
- Mohammad NADERI
- Mohammad SHAFI' I RUDSARI
- Abdollah SOLAT SANA
- ALLAHDAD, Hushang
- MORTEZAVI, Hasan
- MUSAVI, Hossein. 끝