

# SHIP MANAGEMENT INTERNATIONAL

## Who is holding shipping to ransom?



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**Dispatches: Iran**  
London lawyer leads Iranian maritime initiative



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# DISPATCHES

SHIPPING BUSINESS REPORTS FROM AROUND THE WORLD

## London lawyer leads Iranian maritime initiative

By James Brewer

Financial and economic sanctions have enormously complicated the trading picture between the world and the important maritime nation of Iran, but even if political issues were solved tomorrow or had never arisen, all concerned with the shipping process would still need specialist know-how to ensure their interests were protected.

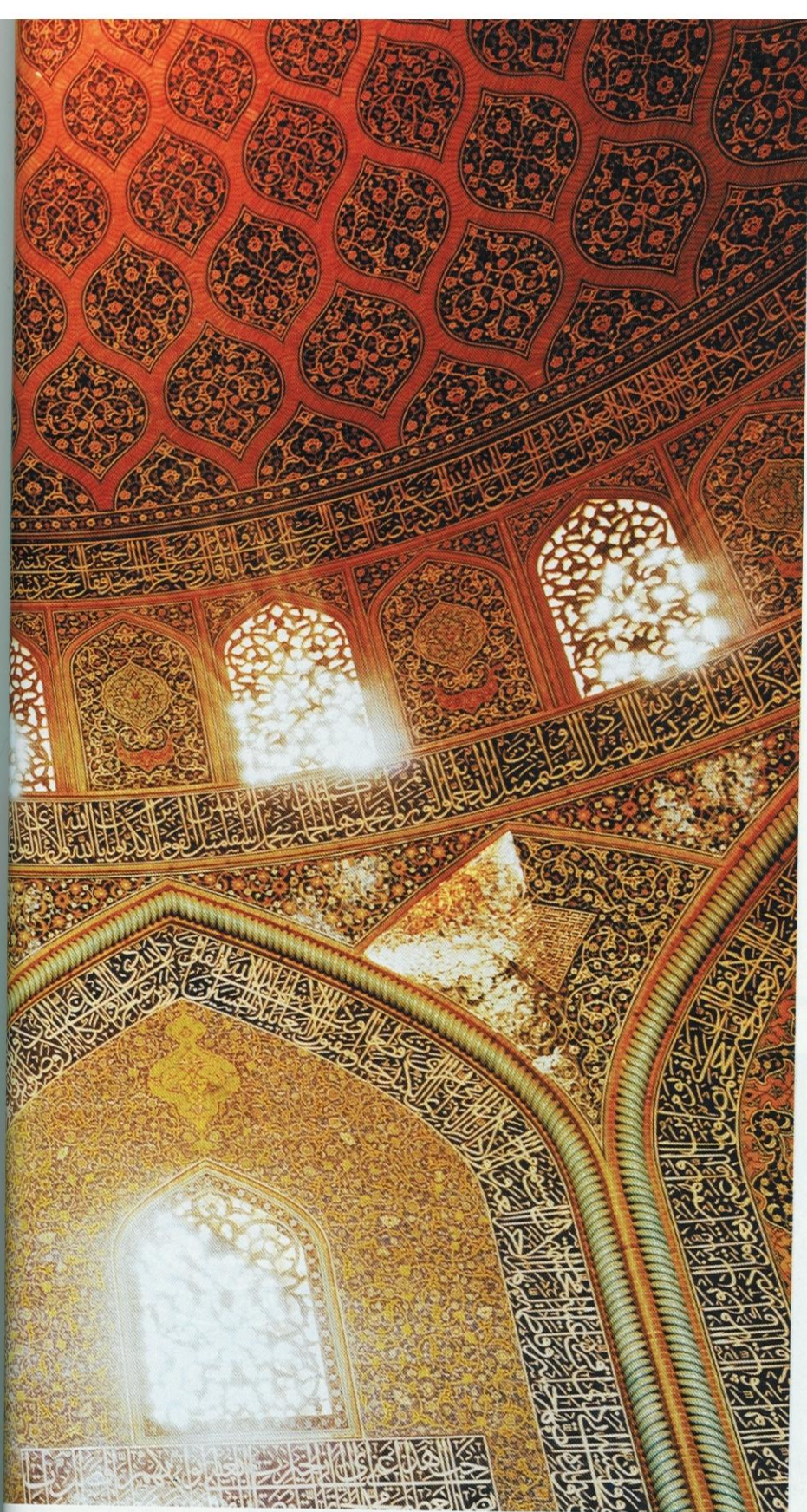
Sanctions in any event dampen trade, rather than stifle it. In contrast to the US, UK and some other nations, Russia is wary of supporting such restrictions, and China is lukewarm, so Iran continues to export a huge

range of goods, from crude oil to saffron, Persian carpets to pistachios, fruit to chemicals. Imports of food, machinery and manufactured goods proceed in quantity too. "At Bandar Abbas and Bandar Khomeini there is a lot of trade going on," says one source familiar with the region. Growth levels of around 10% in non-oil exports are reported by some sources.

This makes all the more timely an initiative by Maryam Taher, managing partner of London law firm M Taher & Co, to step up services to maritime entities with

**"They look at the ship like any other asset – there is no separate legislation. In the civil code, a marine asset is considered like any normal asset"**





Maryam Taher

**“There is a huge advantage in having people in the region whom we trust and respect, and they trust and respect us”**

having people in the region whom we trust and respect, and they trust and respect us. In a recent arrest case in Iran, the person we appointed to assist us in the matter offered to put up the substantial security required by the court in order to expedite matters rather than relying on time consuming bank transfer from another jurisdiction. This shows how important it is to get issues expedited by people who know and trust you.”

Sanctions at the time of writing have been directed at IRSL and Bank Mellat, and have impacted the insurance market, but it seems that lawyers and other professionals are legally able to continue advising them and their counterparties.

The sanctions provisions impinge on some proceedings, but that is just one part of the overall picture. “We know that there are so many Iran related cases waiting to be dealt with,” says Ms Taher.

This means that ship owners, charterers, P & I clubs, insurers, brokers, recovery agents and freight forwarders all need advice and sometimes assistance to steer them through potentially choppy waters.

There is obviously scope for many misunderstandings over interpretation of charter parties and insurance clauses, and potential for allegations of breach of contract, partly because people may be unfamiliar with the legal system in Iran. In fact, it is clear that there is an urgent need for a greater degree of mutual appreciation of the procedures in London and Tehran.

Born in Iran and speaking Farsi, and able to travel to Iran at any time without visa restrictions, Ms Taher is well placed to facilitate resolution of both tricky and basic issues. Her preference is to resolve disputes through negotiation and alternative dispute resolution methods such as mediation. In any event, it is important to have knowledge about the court system and its practice, and of useful precedents.

business activity involving Iran. Ms Taher specialises in all aspects of shipping, aviation, transport, insurance and International trade and energy. The firm however has built up expertise in other areas including asset finance, acquisition, company and commercial and banking matters.

She has formed helpful relationships with local law firms. Ms Taher says there is enormous value in having the good will of such local experts as this gives her firm the regional presence it has been seeking. “We originally had planned to have our own law

firm in Tehran. But having experienced the quality of these people over time, we decided that it would be far more useful to work in conjunction with them than going it alone,” explained Ms Taher.

“We already have best friend relationships with other professionals in Iran such as master mariners, agents, surveyors, and engineers. This is in addition to having a London trained Country Representative, who is permanently positioned in Tehran, being our eyes and ears in that market.”

She added: “There is a huge advantage in



The international political situation, which has led to strained relations at high level, is one element that has to be taken on board. On top of rising political tension, the banking squeeze has put up the cost of funds, with often a very high premium for any transaction involving Iran to cover perceived risk. Securing extra finance has been quite difficult. On the positive side, Iranian business people have a reputation for straight dealing.

**“We have been involved since last summer in arrest of bunkers, and in a long-running piracy case in which a ship is carrying cargo to Iran”**

The fraught atmosphere has caused practical difficulties for IRISL, with mutuals within the International Group of P&I Clubs declining P&I cover, in the light of Bermuda (where some of the clubs and their reinsurers are registered) aligning itself with the US and the UK in banning trade transactions with the Iranian company. Some time ago the company was reported to have renamed many

## IRISL comes under the spotlight

HM Treasury passed the Financial Restrictions (Iran) Order 2009 no 2725 (Prevention of Nuclear Proliferation Terrorist Financing and Money Laundering) which came into force on October 12, 2009. It directs that "relevant persons" must not enter into, or continue to participate in, any transaction or business relationship with Bank Mellat and Islamic Republic of Iran Shipping Lines. This includes all branches of Bank Mellat and IRISL, wherever they are located. Subsidiaries and joint ventures of Bank Mellat and IRISL and any company under the ownership or control of these two entities are not subject to the requirements.

A court may impose a prison term of up to two years and/or a fine for non-compliance. Those who need to be involved in transactions and business relationships with Bank Mellat or IRISL have to obtain a licence from the Treasury. "Relevant persons" are defined as credit and financial institutions in the UK. This means banks, insurance companies, insurance brokers in respect of long term insurance, and providers of investment services and branches located in the European Economic Area. Excluded from the directive are

branches located outside the EEA; subsidiaries not operating in the UK; financial and credit institutions not operating in the UK; and subsidiaries operating in the UK that are not financial or credit institutions.

Some Iranian shipping companies, including IRISL, have been named by the US Treasury Office of Foreign Assets Control in a prohibition of dealings by US persons, including provision of insurance services. Congress has been working on proposals for sanctions on the export of refined petroleum products to Iran. This could cover domestic and foreign entities that provide ships, insurance or reinsurance in that trade. In a recent circular, Standard P&I Club interprets these to include owners, charterers, managers, crew, and a P&I club and its reinsurers.

The International Group of P&I Clubs has not been advised of any further intended action by the UK government in relation to insurance arrangements for other Iranian companies or in relation to trading to Iran, but says that in the US this cannot be ruled out.

So far, the sanctions are interpreted as not applying to law firms.

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## Given the deep gap between laws and regulations in Iran and the rest of the world, foreign insurers are more interested in reinsurance

of its vessels and switched them out of the national flag.

Repercussions are beginning to be felt throughout the maritime community. The International Group of P&I Clubs is monitoring closely the push in Washington for sanctions. Alistair Groom, chief executive of Standard P&I Club, has for instance told members of a proposal to amend that club's rules in the light of the likelihood of new legislation, particularly from the US, tightening sanctions.

Ms Taher, who qualified at Clyde & Co and worked for other firms before setting up independently six years ago, is used to large and complex cases. These have included the Cita, a container feedership which sank in the Isles of Scilly giving rise to major claims by cargo interests worldwide; a major product liability matter involving more than \$100m;

and collisions, arrests and defence matters, including cases related to piracy incidents.

In Iran, the legal system has a civil law background, and hence is totally different from the English common law system. It is a very old system, and as it is very strict over authentication of documents, commencing any proceedings is a very time consuming affair. Courts accept only original or certified documents, which then have to be translated by official translators who are only allowed to work from originals. "Time therefore is of the essence when you are trying to arrest a vessel," says Ms Taher.

The Iranian Maritime Code itself dates back to 1964; directives have been promised on various aspects of it, but have not yet materialised. Another point to note is that Iran is not a signatory to any of the Arrest Conventions. "This shows how important it is to get matters expedited by people who know and trust you," says Ms Taher.

Getting the security back can also be very difficult, but fundamentally, satisfying security works as in other jurisdictions, she explains. Much relies on the judge's discretion, and "research indicates that the treatment is fair and working very well." An applicant has to use local legislation for the arrest of a vessel. "They look at the ship like any other asset – there is no separate legislation. In the civil code, a marine asset is considered like any normal asset."

Her recent cases have involved some of

the everyday concerns of the shipping sector worldwide. "We have been involved since last summer in arrest of bunkers, and in a long-running piracy case in which a ship is carrying cargo to Iran."

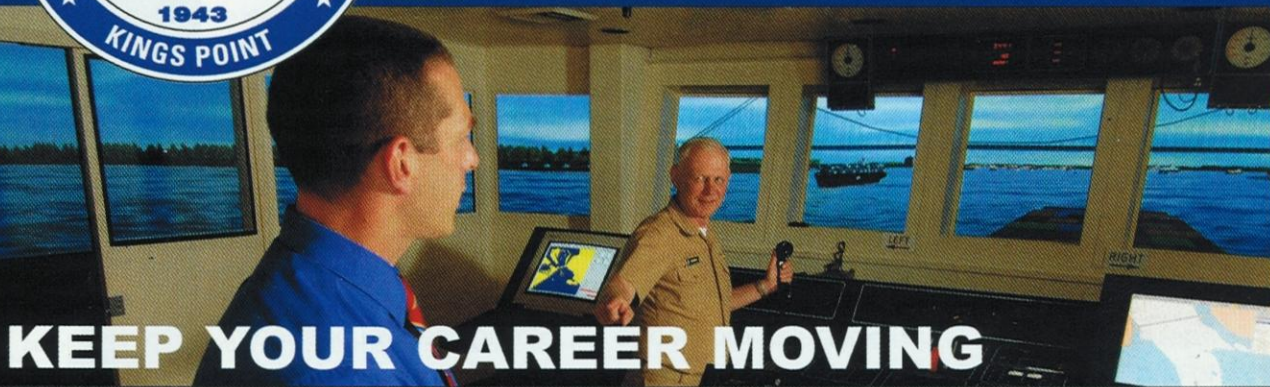
An announcement just a short while ago illustrates how vital it is for the business sector to keep up to the minute with developments in Iran. The authorities said that foreign companies would soon be allowed to participate in Iran's insurance industry, which would entail easing of present regulations prohibiting such participation. This is seen as an essential step to making the insurance industry in Iran more competitive, and bringing it into line with the wider modern insurance world. The proposals put forward still require full government approval. At present, given the deep gap which exists between laws and regulations in Iran and the rest of the world, foreign insurers are more interested in reinsurance than direct insurance.

For several years, Ms Taher has been researching in depth the legal systems of the Middle East, including Iran. "Expansion is definitely going to be on the basis of client demand," she says. "We are not going to expand for the sake of it. You can see that people need expertise on ship finance, mergers and acquisitions, banking and insurance, and we have been working on this. Our strength is not just legal expertise, we have diplomatic connections, and access to experts in London and abroad, giving the capability to assist the clients fully." ■



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