

New US Sanction Provisions- Nord Stream 2 and TurkStream

Recently, the US has enhanced the sanction provisions targeting the construction of the Nord Stream 2 and TurkStream pipeline projects and those who provide vessels and services in connection with either project. The new provisions have the potential to impact on non-US ship owners and others in the marine industry. This circular is to give a briefly summary of the recent efforts made by the US, which mainly contain two pieces of legislation – the Countering America’s Adversaries Through Sanctions Act (CAATSA) and the Protecting Europe’s Energy Security Act (PEESA).

What are Nord Stream 2 and TurkStream?

Nord Stream is a system of offshore natural gas pipelines from Russia to Germany. It includes two lines running from Vyborg to Lubmin near Greifswald forming original Nord Stream(NS1), and two lines under construction running from Ust-Luga to Lubmin termed Nord Stream 2(NS2). NS2 is owned and will be operated by Nord Stream 2 AG, a wholly owned subsidiary of Gazprom.

NS1 was completed on 8 October 2012. NS2 had been expected to become operational in mid-2020. In late December 2019, US sanctions stopped the construction of the NS2, which is currently 93% built.

TurkStream is a natural gas pipeline running from Russia to Turkey. It starts from Russkaya compressor station near Anapa in Russia’s Krasnodar Region, crossing the Black Sea to the receiving terminal at Kiyköy. Construction on TurkStream started in May 2017 and gas deliveries to Bulgaria via the pipeline began on 1 January 2020.

What is CAATSA?

The Countering America’s Adversaries Through Sanctions Act (CAATSA) is a US federal law that imposes economic sanctions on Iran, Russia and North Korea. The bill came into effect on 2 August 2017, with the intention of countering perceived aggressions against the US government by foreign powers. In the 2017 guidance, the State Department had previously stated that the focus of implementation of CAATSA Section 232 was limited to Russian energy export pipeline projects for which a contract was signed on or after 2 August, 2017, effectively exempting the NS2 and the second line of TurkStream because the contracts for the projects were signed before 2 August, 2017.

However, on 15 July 2020, the US Department of State updated its guidance regarding the implementation of Section 232 of Title II of CAATSA. The Updated Guidance expands the scope of CAATSA Section 232 to target certain investments or other activities related to the NS2 and TurkStream pipelines. This includes persons facilitating the construction or deployment of the pipelines, such as financing partners, pipe-laying vessel operators, and related engineering service providers. In addition, activities related to the standard repair and maintenance of that NS2 and the second line of TurkStream could be sanctionable.

SINGAPORE

EF Marine Pte. Ltd.

7 Temasek Boulevard #20-01
Suntec Tower One
Singapore 038987



+65 62 59 75 02



info@efmarinegroup.com

ROTTERDAM

EF Marine B.V.

Willemswerf Building
Boompjes 40
3011 XB Rotterdam
The Netherlands



+31 10 79 86 990



info@efmarinegroup.com

What is PEESA?

On 20 December 2019, the US signed into law the National Defense Authorization Act for Fiscal Year 2020 (NDAA). The act contains the Protecting Europe's Energy Security Act of 2019 (PEESA), which authorizes the President to impose sanctions on vessels engaged in pipe-laying related to NS2 and TurkStream and those foreign persons who knowingly sell, lease, or provide vessels for the construction of the NS2 or TurkStream pipeline projects, or any successor to either project.

Recently, a group of Senators and Congressmen have proposed amendments to PEESA. Senate bill 3897 and House bill 7361 each propose to enhance and clarify PEESA through the PEESA Clarification Act. Both bills seek to expand the type of activities requiring mandatory sanctions.

In addition to the targeting of pipe-laying vessels, both bills expand PEESA to include vessels engaged in "pipe-laying activities." Additionally, both bills propose a provision which would require sanctions against anyone providing underwriting services or insurance/ reinsurance for the vessels described in PEESA. If enacted, the PEESA Clarification could have significant impacts on non-US vessel owners and operators and their insurers.

Our Recommendation

Due to the direct sanctions threat posed to insurers by CAATSA and PEESA, EF Marine shall not provide cover for any activity involving or related to the Nord Stream 2 or Turk Stream construction projects.

We strongly urge shipowners and charterers to assess the risks of entering into contracts on the above-mentioned construction projects, including owning or operating vessels that are used in connection with NS2 or TurkStream or those providing services to such vessels. Thorough due diligence should be conducted internally to ensure that you are not at risk of triggering application of Section 232's sanction provisions.

QUESTIONS?

Should you have any questions following this information, please do not hesitate to contact us.

ABOUT EF MARINE

EF Marine provides Fixed Premium P&I solutions to Shipowners, Charterers and MultiModal operators. EF Marine has a global client base and offices in Singapore and Rotterdam. EF Marine provides 'AA-'rated security from Swiss Re Corporate Solutions with limits up to USD 500m. Through our partnership with Swiss Re Corporate Solutions we provide our clients with first class security combined with EF Marine's extensive knowledge of the P&I market.

SINGAPORE

EF Marine Pte. Ltd.

7 Temasek Boulevard #20-01
Suntec Tower One
Singapore 038987



+65 62 59 75 02



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ROTTERDAM

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Boompjes 40
3011 XB Rotterdam
The Netherlands



+31 10 79 86 990



info@efmarinegroup.com