

IRAN SANCTIONS UPDATE - VIENNA AGREEMENT ESSENTIALS

INTRODUCTION

On 14 July 2015, Iran and the E3/EU+3 (China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the High Representative of the European Union for Foreign Affairs and Security Policy) reached agreement on the Joint Comprehensive Plan of Action (JCPOA). In exchange for commitments by Iran relating to its nuclear programme, the negotiating parties agreed to lift multilateral and national sanctions imposed on Iran.

JCPOA

Background

The JCPOA builds on the implementation of the Joint Plan of Action (JPOA) agreed in Geneva on 24 November 2013. On 12 January 2014, the parties arrived at technical understandings for the Joint Plan of Action, which resulted in a relaxation of sanctions imposed upon Iran with effect from 20 January 2014. While this was due to last for six months, this was extended several times in order to allow the parties more time to agree the parameters of a comprehensive plan of action and prepare the final text. On 2 April 2015, the parties agreed the parameters for a Joint Comprehensive Plan of Action regarding Iran's nuclear program and sanctions, with the final text to be drafted by 30 June 2015.

Iran's commitments

Iran reaffirms that under no circumstances will Iran ever seek, develop or acquire any nuclear weapons. It also makes a number of commitments in relation to enrichment, enrichment research and development, and stockpiles; arak, heavy water, and reprocessing; and transparency and confidence building measures.

Lifting of sanctions

The JCPOA provides for the lifting of multilateral and national sanctions on Iran. Note that at present, these sanctions have not been lifted (except to the extent that some sanctions are suspended in line with the JPOA) and entities and individuals are required to comply with the existing prohibitions and licensing/authorization requirements.

Sanctions relating to ballistic missile technologies will remain for eight years; similar sanctions on conventional weapon sales to Iran will remain for five years.

United Nations

The UN Security Council resolution endorsing the JCPOA will terminate all the provisions of the previous UN Security Council resolutions on the Iranian nuclear issue simultaneously with the IAEA-verified implementation of agreed nuclear-related measures by Iran and will establish specific restrictions.

Europe

The EU will terminate all provisions of the EU Regulation, as subsequently amended, implementing all the nuclear related economic and financial sanctions, including related designations, simultaneously with IAEA-verified implementation of agreed nuclear-related measures by Iran. Sanctions to be removed include (along with associated services) those relating to financial transfers to and from Iran; banking and insurance activities; financial support for trade with Iran; grants, financial assistance and concessional loans; Government of Iran public-guaranteed bonds; import of oil and gas and petrochemical products; export of key equipment and investment in the oil, gas and petrochemical sectors; shipping and shipbuilding, and the transport sector; gold, precious metals and diamonds, banknotes and coinage; metals; and software. In addition, the European Union will also remove individuals and entities set out in the Annexes to the JCPOA from the asset freezes and visa ban lists.

As a result of the lifting of sanctions, the following activities will be allowed, beginning on “Implementation Day”:

- Financial, banking and insurance measures:
 - Transfers of funds between EU persons, entities or bodies, including EU financial and credit institutions, and Iranian persons, entities or bodies, including Iranian financial and credit institutions, without the requirement for authorisation or notification;
 - Opening of new branches, subsidiaries or representative offices of Iranian banks in the territories of EU Member States; and the establishment of new joint ventures, or the taking of an ownership interest or the establishment of new correspondent banking relationships by Iranian banks with EU banks; and opening by EU persons, including EU financial and credit institutions, of representative offices, subsidiaries, joint ventures or bank accounts in Iran;
 - Provision of insurance or reinsurance to Iran or the Government of Iran, an Iranian legal person, entity or body, or a natural person or a legal person, entity or body acting on their behalf or at their direction;
 - Supply of specialised financial messaging services to any Iranian natural or legal persons, entities or bodies;
 - Entering into commitments by EU Member States to provide financial support for trade with Iran, including the granting of export credits, guarantees or insurance; and into commitments for grants, financial assistance and concessional loans to the Government of Iran; and
 - Sale or purchase of public or public-guaranteed bonds to and from Iran, the Government of Iran, the Central Bank of Iran, or Iranian banks and financial institutions or persons acting on their behalf.

- Oil, gas and petrochemical sectors
 - Import, purchase, swap or transport of Iranian crude oil and petroleum products, natural gas or petrochemical products and related financing;
 - Sale, supply, transfer or export of equipment or technology, technical assistance, including training, used in the sectors of the oil, gas and petrochemical industries in Iran covering exploration, production and refining of oil and natural gas, including liquefaction of natural gas, to any Iranian person, in or outside Iran, or for use in Iran; and

- Granting of any financial loan or credit to, the acquisition or extension of a participation in, and the creation of any joint venture with, any Iranian person that is engaged in the oil, gas and petrochemical sectors in Iran or outside Iran.
- Shipping, shipbuilding and transport sectors
 - Sale, supply, transfer or export of naval equipment and technology for ship building, maintenance or refit, to Iran or to any Iranian persons engaged in this sector; the design, construction or the participation in the design or construction of cargo vessels and oil tankers for Iran or for Iranian persons; the provision of vessels designed or used for the transport or storage of oil and petrochemical products to Iranian persons, entities or bodies; and the provision of flagging and classification services, including those pertaining to technical specification, registration and identification numbers of any kind, to Iranian oil tankers and cargo vessels;
 - Access to the airports under the jurisdiction of EU Member States of all cargo flights operated by Iranian carriers or originating from Iran;
 - Cessation of inspection, seizure and disposal by EU Member States of cargoes to and from Iran in their territories with regard to items which are no longer prohibited; and
 - Provision of bunkering or ship supply services, or any other servicing of vessels, to Iranian-owned or Iranian-contracted vessels not carrying prohibited items; and the provision of fuel, engineering and maintenance services to Iranian cargo aircraft not carrying prohibited items.
- Gold, other precious metals, banknotes and coinage
 - Sale, supply, purchase, export, transfer or transport of gold and precious metals as well as diamonds, and provision of related brokering, financing and security services, to, from or for the Government of Iran, its public bodies, corporations and agencies, or the Central Bank of Iran; and
 - Delivery of newly printed or minted or unissued Iranian denominated banknotes and coinage to, or for the benefit of the Central Bank of Iran.
- Metals
 - Sale, supply, transfer or export of graphite and raw or semi-finished metals, such as aluminum and steel to any Iranian person, entity or body or for use in Iran, in connection with activities consistent with the JCPOA.
- Software
 - Sale, supply, transfer or export of software for integrating industrial processes, including updates, to any Iranian person, entity or body, or for use in Iran, in connection with activities consistent with the JCPOA,
- Listing of persons, entities and bodies (asset freeze and visa ban)
 - Releasing of all funds and economic resources which belong to, and making available funds or economic resources to, the persons, entities and bodies, including Iranian banks and financial institutions, the Central Bank of Iran, listed in Attachment 1 to Annex 2; and

- Entry into, or transit through the territories of EU Member States of individuals listed in Attachment 1 to Annex 2.

United States

The United States will cease the application, and will continue to do so, of sanctions relating to the following (and associated services):

- Financial and banking measures;
- Sanctions on the Iranian Rial;
- Provision of US banknotes to the Government of Iran;
- Bilateral trade limitations on Iranian revenues held abroad, including limitations on their transfer
- Purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt, including governmental bonds;
- Sanctions on financial messaging services to the CBI and Iranian financial institutions as identified in Annex II;
- Provision of underwriting services, insurance, or reinsurance;
- Efforts to reduce Iran's crude oil sales, including limitations on the quantities of Iranian crude oil sold and the nations that can purchase Iranian crude oil;
- Investment, including participation in joint ventures, goods, services, information, technology and technical expertise and support for Iran's oil, gas, and petrochemical sectors;
- Purchase, acquisition, sale, transportation, or marketing of petroleum, petrochemical products and natural gas from Iran;
- Export, sale or provision of refined petroleum products and petrochemical products to Iran;
- Transactions with Iran's energy sector including with NIOC, NICO and NITC;
- Transactions with Iran's shipping and shipbuilding sectors and port operators including IRISL, South Shipping Line, and NITC, and the port operator(s) of Bandar Abbas;
- Iran's trade in gold and other precious metals trade with Iran in graphite, raw or semi-finished metals such as aluminum and steel, coal, and software for integrating industrial processes,
- Sale, supply or transfer of goods and services used in connection with Iran's automotive sector.

The US also undertakes to remove identified individuals and entities from the Specially Designated Nationals and Blocked Persons List (SDN List), the Foreign Sanctions Evaders List, and/or the Non-SDN Iran Sanctions Act List. It also commits to other trade measures, including those relating to commercial passenger aircraft.

Note that US statutory sanctions focused on Iran's support for terrorism, human rights abuses, and missile activities will remain in effect and continue to be enforced.

As a result of the lifting of sanctions, such sanctions, including associated services, beginning on implementation day would not apply to non- US persons who carry out the following or that:

- Financial and banking measures

- Engage in activities, including financial and banking transactions, with the Government of Iran, the Central Bank of Iran, Iranian financial institutions and other Iranian persons specified in Attachment 3 to the Annex, including the provision of loans, transfers, accounts (including the opening and maintenance of correspondent and payable through accounts at non- US financial institutions), investments, securities, guarantees, foreign exchange (including Rial related transactions), letters of credit and commodity futures or options, the provision of specialised financial messaging services and facilitation of direct or indirect access thereto, the purchase or acquisition by the Government of Iran of US bank notes, and the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt.
- Insurance measures
 - Provide underwriting services, insurance, or re-insurance in connection with activities consistent with the JCPOA, including activities with individuals and entities set forth in Attachment 3 to the Annex, including underwriting services, insurance, or re-insurance in connection with activities in the energy, shipping, and shipbuilding sectors of Iran, for the National Iranian Oil Company (NIOC) or the National Iranian Tanker Company (NITC), or for vessels that transport crude oil, natural gas, liquefied natural gas, petroleum and petrochemical products to or from Iran.
- Energy and petrochemical sectors
 - Are part of the energy sector of Iran; purchase, acquire, sell, transport or market petroleum, petroleum products (including refined petroleum products), petrochemical products or natural gas (including liquefied natural gas) to or from Iran; provide to Iran support, investment (including through joint ventures), goods, services (including financial services) and technology that can be used in connection with Iran's energy sector, the development of its petroleum resources, its domestic production of refined petroleum products and petrochemical products; or engage in activities with Iran's energy sector, including NIOC, NITC, and NICO).
- Shipping, shipbuilding and port sectors
 - Are part of the shipping or shipbuilding sectors of Iran; own, operate, control or insure a vessel used to transport crude oil, petroleum products (including refined petroleum products), petrochemical products or natural gas (including liquefied natural gas) to or from Iran; operate a port in Iran, engage in activities with, or provide financial services and other goods and services used in connection with, the shipping and shipbuilding sectors of Iran or a port operator in Iran (including the port operator(s) of Bandar Abbas), including port services, such as bunkering and inspection, classification, and financing, and the sale, leasing, and provision of vessels to Iran, including to the Islamic Republic of Iran Shipping Lines (IRISL), NITC, and South Shipping Line Iran or their affiliates.
- Gold and other precious metals
 - Sell, supply, export or transfer, directly or indirectly, to or from Iran, gold and other precious metals, or conduct or facilitate a financial transaction or provide services for the foregoing including security, insurance and transportation.

- Software and metals
- Sell, supply, or transfer, directly or indirectly, graphite, raw or semifinished metals such as aluminum and steel, coal, and software for integrating industrial processes, to or from Iran in connection with activities consistent with the JCPOA, including trade with individuals and entities set forth in Attachment 3 to the Annex, and the sale, supply, or transfer of such materials to the energy, petrochemical, shipping and shipbuilding sectors of Iran, and Iranian ports, or conduct or facilitate a financial transaction or provide services for the foregoing, including insurance and transportation.
- Automotive sector
- Conduct or facilitate financial or other transactions for the sale, supply or transfer to Iran of goods and services used in connection with the automotive sector of Iran.
- Designations and other sanctions listings
- The removal of designations and/or sanctions, ceasing the application of secondary sanctions for transactions with individuals and entities set out in Attachment 3 to Annex 2; and unblocking of property and interests in property within US jurisdiction for individuals and entities set out in Attachment 3 to Annex 2.

Implementation

Annex V to the JCPOA contains a detailed summary of the steps to be taken at each stage of implementation. Key dates are as follows:

- **Finalisation Day** is the date on which negotiations of the JCPOA are concluded among the E3/EU+3 and Iran, to be followed promptly by submission of the resolution endorsing the JCPOA to the UN Security Council for adoption without delay.
- **Adoption Day** is the date 90 days after the endorsement of the JCPOA by the UN Security Council, or such earlier date as may be determined by mutual consent of the JCPOA participants, at which time the JCPOA and the commitments in the JCPOA come into effect. Beginning on that date, JCPOA participants will make necessary arrangements and preparations for the implementation of their JCPOA commitments.
- **Implementation Day** is the date on which, simultaneously with the IAEA report verifying implementation by Iran of the nuclear-related measures, the EU and the United States take will remove the specified sanctions and the UN will remove the UN sanctions.
- **Transition Day** is the date 8 years after Adoption Day or the date on which the Director General of the IAEA submits a report stating that the IAEA has reached the Broader Conclusion that all nuclear material in Iran remains in peaceful activities, whichever is earlier. On that date, the EU and the United States will remove further sanctions (essentially those relating to missiles and a further phase of removing individuals from the designated lists) and Iran will seek, consistent with the Constitutional roles of the President and Parliament, ratification of the Additional Protocol.
- **UN Security Council resolution Termination Day** is the date on which the UN Security Council resolution endorsing the JCPOA terminates according to its terms, which is to be 10 years from Adoption Day, provided that the provisions of previous resolutions have not been reinstated. On that date, the EU will terminate all final sanctions.

Dispute resolution

Should any dispute arise as between the parties as to whether either side is meeting its commitments under the JCPOA, any party may refer the issue for resolution. The dispute resolution process is a multi-step process:

- Firstly, the issue is referred to the Joint Commission for resolution. The Joint Commission would have 15 days to resolve the issue, unless that period was extended by consensus.
- After consideration by the Joint Commission, any party may refer it to Ministers of Foreign Affairs for resolution within 15 days (extendable, as before).
- In parallel with (or in lieu of) review at the Ministerial level - either the complaining party or the party which is the subject of the complaint may request that the issue be considered by an Advisory Board, which would consist of three members (one each appointed by the participants in the dispute and a third independent member). The Advisory Board should provide a non-binding opinion on the compliance issue within 15 days.
- If, after this 30-day process the issue is not resolved, the Joint Commission would consider the opinion of the Advisory Board for no more than 5 days in order to resolve the issue.

If, after the above steps have been followed and the issue has not been resolved to the satisfaction of the complaining party, and that party deems it serious enough to constitute significant non-performance, then that party may treat the unresolved issue as grounds to cease performing its commitments under the JCPOA in whole or in part and/or notify the UN Security Council that it believes the issue constitutes significant non-performance.

Upon receipt of such a complaint, the UN Security Council, in accordance with its procedures, shall vote on a resolution to continue the sanctions lifting. If such resolution has not been adopted within 30 days of the notification, then the provisions of the old UN Security Council resolutions would be re-imposed, unless the UN Security Council decides otherwise.

Iran has stated that if sanctions are reinstated in whole or in part, Iran will treat that as grounds to cease performing its commitments under the JCPOA in whole or in part.

Role of the Joint Commission

A Joint Commission consisting of the E3/EU+3 and Iran will be established to monitor the implementation of the JCPOA and will carry out the functions provided for in the JCPOA. The Joint Commission will address issues arising from the implementation of the JCPOA and will operate in accordance with the provisions of Annex 4. Of particular note:

- The High Representative of the Union for Foreign Affairs and Security Policy, or his/her designated representative will serve as the Coordinator of the Joint Commission.
- The Joint Commission will carry out functions to ensure compliance with the terms of the JCPOA, including reviewing and consulting to address issues arising from the implementation of sanctions lifting.
- The Joint Commission will meet on a quarterly basis and at any time upon request of a JCPOA participant to the Coordinator. The work of the Joint Commission is confidential and may be shared only among JCPOA participants and observers as appropriate, unless the Joint Commission decides otherwise.

- Decisions by the Joint Commission are to be made by consensus.
- The Joint Commission may establish Working Groups in particular areas, as appropriate (such as procurement and sanctions lifting).

UPDATE

United Nations

On 20 July 2015, the United Nations Security Council unanimously adopted resolution 2231 (2015), endorsing the JCPOA. The full text of the resolution (and the accompanying press release, which includes the reaction of the Security Council members) can be found **here**.

European Union

Following the agreement, the European Union has agreed to extend the sanctions relief set out in the Joint Plan of Action dated 24 November 2013 until Implementation Day. Accordingly, the EU has announced that sanctions will remain suspended until 14 January 2016 to “allow the EU to make the necessary arrangements and preparations for the implementation of the new Joint Comprehensive Plan of Action”.

International Reaction

Arab League: Secretary-General Nabil Elaraby said he hoped the JCPOA would bring "stability and security" to the Middle East.

NATO: Secretary General Jens Stoltenberg called the agreement a "historic breakthrough" and stated: "It is critical for Iran to implement the provisions of today's agreement and to fulfill all its international obligations and advance security in the region and beyond."

European Council: Donald Tusk, president, said: "If fully implemented, the agreement could be a turning point in relations between Iran and the international community, paving the way to new avenues of cooperation between the EU and Iran. Geopolitically, it has the potential to be a game changer."

Qatar: In a press release, the Foreign Ministry described the agreement as a significant step, stressing Qatar's keenness on protecting peace and stability and expressing hope that this agreement would boost them in the region.

Canada: Canada has announced that it will retain sanctions at the present time, until it has further examined the deal reached between Iran and E3+EU3.

Israel: Israel has described the deal as a “historic mistake”.

United Nations: Secretary General Ban Ki Moon said, following the agreement, “I hope — and indeed I believe — that this agreement will lead to greater mutual understanding and cooperation on the many serious security challenges in the Middle East.”

Iraq: Prime Minister Haider al-Abadi described the accord as "a catalyst for regional stability."

CONCLUDING OBSERVATIONS

The fact that an agreement has been reached after years of negotiation is in itself a considerable achievement. Effective implementation and the lifting of sanctions should enable significant and much welcomed commercial activity to be undertaken by Iran in the first quarter of 2016.

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