
Final Deal Reached on Iran Sanctions Relief

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On July 14, 2015, the United States and its P5+1 negotiating partners, together with Iran, announced the final terms of the Joint Comprehensive Plan of Action (JCPOA) concerning Iran's nuclear program. The JCPOA is designed to impose various restrictions on Iran's nuclear program, but sanctions relief will only take effect after the International Atomic Energy Agency (IAEA) verifies that Iran has implemented key measures—potentially several months (or longer) from now.

Once this occurs, the United States and European Union (EU) have committed to suspend and eventually terminate “nuclear-related” sanctions against Iran. US and EU sanctions relating to human rights, terrorism and conventional weapons proliferation will remain in place. However, the parties have also made certain commitments to phase out the United Nations conventional arms embargo against Iran over the next five to eight years. Clearly, a harmonized US-EU approach to Iran-related sanctions was a critical factor in bringing about these negotiations; in the aftermath of the JCPOA, it remains to be seen whether significant US-EU cleavages will emerge on the terms, scope and timing of their respective sanctions relief.

In the United States, such relief would come principally in the form of suspending various “secondary sanctions” that are applicable only to non-US persons, in addition to the issuance of new licenses that could provide relief to the foreign subsidiaries of US firms. Thus, US firms will generally remain prohibited from engaging in most transactions with Iran, including restrictions on approving or facilitating dealings with Iran undertaken by their foreign subsidiaries. By comparison, EU sanctions relief would be relatively comprehensive.

Until the IAEA verifies Iranian compliance, the P5+1 will simply extend the sanctions relief that has been in place under the Joint Plan of Action (JPOA) since January 2014, as we previously [summarized](#). In the meantime, the US Congress will have at least a 60-day period to [review](#)—and potentially reject—the JCPOA. As a practical matter, it is unlikely that major changes in the international sanctions regime against Iran will occur before the end of the year or early 2016.

Scope of US Sanctions Relief

Under the terms of the Sanctions Annex, the United States will cease to apply all “nuclear-related” sanctions against Iran after Iran meets certain benchmarks related to its nuclear program (described further below). Nuclear-related sanctions refer primarily to US secondary sanctions that are directed towards non-US persons for engaging in certain types of prohibited conduct.¹ US persons and US-owned or US-controlled foreign entities (such as foreign-based subsidiaries) will continue to be generally prohibited from engaging in most Iran-related transactions. As noted, the scope of sanctions relief does not encompass sanctions imposed against Iran for other non-nuclear-related reasons, including human rights abuses and terrorism.

However, the United States has also committed to license non-US entities that are owned or controlled by a US person to engage in activities with Iran that are “consistent with the JCPOA.”² This provision appears to contemplate an even broader scope of eventual sanctions relief by licensing the Iran-related activities of foreign subsidiaries of US firms that are currently prohibited under Section 218 of the Iran Threat Reduction Act.³ Depending on its implementation, this measure could effectively place foreign subsidiaries of US firms on roughly equal footing vis-à-vis Iran with their European competitors, and US sanctions against Iran would generally apply only to US firms themselves. However, as noted, US sanctions would still include the prohibition against approving or facilitating another person’s dealings with Iran, which is likely to present significant compliance challenges for many US firms that have foreign subsidiaries seeking to do business with Iran.⁴

US sanctions relief will cover a wide range of sectors, including financial services and banking, insurance, energy and petrochemicals, shipping, metals, aviation, automotive, and others. The most significant relief will occur in sectors that have been central to the sanctions regime: financial services and energy.

- *Financial Services.* US sanctions relief will permit non-US firms to engage in financial transactions with various persons listed in attachments to the Sanctions Annex, including the Central Bank of Iran, other Iranian financial institutions, and the National Iranian Oil Company.⁵ It will also include a lifting of sanctions on the Iranian Rial; the provision of US banknotes to the Government of Iran; trade in Iranian revenues held overseas; involvement with Iranian sovereign debt; and SWIFT financial messaging services to Iranian financial institutions.
- *Energy.* In addition to the lifting of nuclear-related financial sanctions against Iranian energy firms, US sanctions relief will also ease secondary sanctions on Iran’s crude oil sales; investment and the provision of services in Iran’s oil, gas and petrochemical sectors; the purchase of Iranian petroleum products and natural gas; involvement with other aspects of the Iranian energy sector; and the provision of associated energy services.

The United States will also terminate various Executive Orders.⁶ Notable exclusions from the list of Executive Orders to be terminated are Executive Order 13599, which blocks all Iranian government property under US jurisdiction; Executive Order 13224, which blocks the property of certain Iranian

persons who commit or support terrorism; and Executive Order 13553, which blocks the property of certain Iranians for human rights abuses.⁷

The United States will also remove from its Specially Designated Nationals (SDN), Foreign Sanctions Evaders, and Non-SDN Iran Sanctions Act lists numerous Iranian persons and entities set forth in attachments to the Sanctions Annex. Although the list is lengthy and includes elements of Iran's military establishment, the Sanctions Annex includes a footnote that the list is "without prejudice" to sanctions that may apply under other legal provisions, suggesting that certain of the entities subject to nuclear-related delisting may remain sanctioned under other authorities.⁸

Scope of EU Sanctions Relief

EU sanctions relief towards Iran will be more comprehensive than US relief given that the EU has maintained relatively few non-nuclear-related sanctions against Iran and has never imposed secondary sanctions against non-EU persons operating in Iran.

The EU has agreed to terminate all nuclear-related sanctions contained in Council Regulation 267/2012, as amended, and Council Decision 2010/413/CFSP, in addition to national implementing legislation. The nuclear-related sanctions that will be lifted apply to the following sectors: financial services, banking, insurance, oil, gas, petrochemical, shipping, shipbuilding, transport, gold, precious metals, banknotes, coinage, software and armaments, as well as nuclear proliferation sensitive activities. The EU sanctions relief will result in key changes for the financial services and energy sectors:

- *Financial Services.* The EU measures will permit transfers of funds between EU persons and Iranian persons; the opening of new branches, subsidiaries or representative offices of Iranian banks in the EU; the establishment of new joint ventures and correspondent banking relationships by Iranian banks with EU banks; the opening by EU persons of representative offices, subsidiaries, joint ventures or bank accounts in Iran; the supply of specialized SWIFT financial messaging services to Iranian persons; and the entering into commitments by EU Member States to provide financial support for trade with Iran, including the granting of export credits.
- *Energy.* The EU measures will also permit dealings in Iranian crude oil and petroleum products, natural gas or petrochemical products and related financing; the export of equipment, technology, or services for use in the Iranian energy sector; and the granting of any financial loans or credit to any Iranian person that is engaged in the oil, gas and petrochemical sectors.

The EU will also lift asset freeze and travel ban sanctions against various persons included in an attachment to the Sanctions Annex.

Scope of UN Sanctions Relief

As described in further detail below, the UN Security Council (UNSC) will adopt a Resolution as

soon as next week that would endorse the deal and apparently set the terms for lifting all UN sanctions relating to the Iranian nuclear program. The parties have also made certain commitments to phase out the United Nations conventional arms embargo against Iran over the next five to eight years.

Sanctions Snapback

The sanctions are designed to “snap back” into place in the event of Iranian non-compliance. For example, the Implementation Annex provides that the UNSC Resolution endorsing the JCPOA and terminating UN sanctions will be “subject to re-imposition in the event of significant nonperformance by Iran of JCPOA commitments.”⁹ The JCPOA also creates a Joint Commission for the settlement of disputes and appears to outline a mechanism by which UN sanctions would be re-imposed.¹⁰ Furthermore, as described below, the agreement envisions that US statutory sanctions provisions and Council Regulation (EU) No 267/2012 would not be formally terminated until up to eight years into the JCPOA, allowing for the possibility of re-imposing sanctions.

Sanctions Sequencing

The JCPOA also contains a detailed Implementation Annex that establishes a roadmap for UNSC action, verification and sanctions relief.

- *Finalization Day.* Promptly after Finalization Day (July 14, 2015), the parties will submit to the UNSC a Resolution that would endorse the deal and potentially lift all UN sanctions against Iran, although US officials have stated that the Resolution would simply “incorporate old sanctions resolutions and the conditions for lifting them.”¹¹ It could be adopted as soon as next week.
- *Adoption Day.* Adoption Day will occur 90 days after approval of the UNSC Resolution (or at an earlier date if agreed by the parties), at which time the EU and the United States will adopt a “regulation” and issue “waivers,” respectively, that would provide for sanctions relief, effective upon Implementation Day.
- *Implementation Day.* After the IAEA verifies implementation by Iran of certain measures related to its nuclear program, the United States and EU will implement the sanctions relief on Implementation Day. Moreover, the UN will terminate various UNSC Resolutions relating to the Iranian nuclear program, including sanctions provisions.
- *Transition Day.* Eight years after Adoption Day (or upon a report from the IAEA), the EU will terminate Council Regulation (EU) No 267/2012. The United States will seek “such legislative action as may be appropriate” to terminate, or modify to effectuate the termination of, certain statutory sanctions, including removal of various Iranian persons from its sanctions lists. Such measures are presumably intended to result in the permanent repeal of statutory sanctions, rather than temporary waivers or licenses relating to the sanctions statutes.
- *UNSCR Termination Day.* Ten years after Adoption Day, the UNSC Resolution will be terminated, and “the UN Security Council would no longer be seized of the Iran nuclear

issue.”

Congressional Review

In the meantime, the Iran Nuclear Agreement Review Act of 2015 provides Congress with a 60-day period to review—and potentially reject—the JCPOA.¹² Within five days of completion of the JCPOA, the President must submit the agreement to Congress and may not “waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran.”¹³

Congress will have the opportunity to pass a Joint Resolution of Disapproval, which would require approval by both chambers of Congress, including presumably at least 60 Members of the US Senate (several Democratic Senators would have to oppose the deal). This would extend the review period for 12 additional days. The Chairman of the Senate Foreign Relations Committee, Senator Bob Corker (R-TN), has indicated that such a vote would not occur until September 2015.¹⁴ In the event of a Joint Resolution of Disapproval, the President has committed to veto the Resolution.¹⁵ A veto would extend the review period for 10 additional days, during which period Congress could attempt to override his veto by a two-thirds majority vote.

¹ JCPOA, Annex II, n. 6. The term “non-US person” means any individual or entity, excluding (i) any United States citizen, permanent resident alien, entity organised under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States, and (ii) any entity owned or controlled by a US person.

² JCPOA, Annex II, Section 5.1.2.

³ P.L. 112-158, Section 218 (prohibiting “an entity owned or controlled by a United States person and established or maintained outside the United States from knowingly engaging in any transaction directly or indirectly with the Government of Iran or any person subject to the jurisdiction of the Government of Iran.”)

⁴ A notable exception under the JCPOA is certain trade in civilian aircraft, parts and services. See JCPOA, Annex II, Section 5.1.1.

⁵ Such financial services include 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. JCPOA, Annex II, Section 7.2.

⁶ See JCPOA, Annex II, Section 4.

⁷ Executive Order 13599, 77 Fed. Reg. 26 (Feb. 8 2012); Executive Order 13224, 66 Fed. Reg. 186 (Sept. 23, 2001); Executive Order 13553, 75 Fed. Reg. 190 (Oct. 1, 2010).

⁸ JCPOA, Annex II, n. 14.

⁹ JCPOA, Annex V, Section 18.1.

¹⁰ JCPOA, Sections 36-37.

¹¹ Carol Morello and Karen De Young, Historic deal reached with Iran to limit nuclear program, THE WASHINGTON POST, July 14, 2015.

¹² P.L. 114-17.

¹³ *Id.* Sec. 135(b)(3)

¹⁴ Burgess Everett, *Corker: Iran vote not likely until September*, POLITICO, July 14, 2015.

¹⁵ Clifford Kraus, *To Tap Iran's Oil, Companies Face Many Hurdles but an Eventual Boon*, N.Y. TIMES, July 14, 2015.

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