



Analysis of European Responses to Iran Nuclear Deal Crisis

*Dr. Ankita Dutta**

Abstract

Transatlantic relations have been under severe stress since the unilateral withdrawal of US from the Iran nuclear deal. The European Union views its diplomatic relations with Iran and particularly the JCPOA as a foreign policy success. So far, France, Germany and the United Kingdom have refused to adhere to President Trump's demands to withdraw from it. But while governments expressed their support for the JCPOA, the European private sector – fearing US sanctions – have withdrawn from the Iranian market. This paper looks at the various initiatives taken by the European allies to safeguard the Iran nuclear agreement despite constant pressure from the US administration.

Key words: European Union, JCPOA, INSTEX, SMEs

Introduction

President Donald Trump's decision to withdraw from the Joint Comprehensive Plan of Action (JCPOA) in May 2018 led to the return of the US sanctions that had been frozen as part of the agreement. Trump has maintained that the strategy of 'maximum pressure' is the only way forward and has consequently re-imposed all the US sanctions, including measures targeting foreign companies doing business with Iran. These new sanctions, unlike those that had preceded the JCPOA, have neither the support of the United Nations nor of the European Union (EU). The imposition of these unilateral sanctions by the US have left Iran in a precarious situation - the country's oil exports have halved, its national currency has tumbled in value, and inflation has soared¹. In January 2019, the Iranian President Hassan Rouhani said that the country was facing its toughest economic situation in 40 years since the 1979 revolution.² The situation worsened with the United States' (US') recent decision of refusing to extend any waivers from sanctions on Iranian oil imports³ and by imposition of new sanctions targeting Iran's revenue from export of

industrial metals. An executive order issued by President Trump covers Iran's iron, steel, aluminium, and copper sectors, Iran's largest non-petroleum-related sources of export revenue and 10% of its export economy.⁴

The US withdrawal and the unilateral imposition of the sanctions have placed Europe in a difficult position. The JCPOA was hailed by the EU as its diplomatic success, an achievement for resolving the proliferation crises and promoting a rules-based global order. After a two-year negotiation period, the JCPOA succeeded in bringing the decade-long controversy over Iran's nuclear program to a halt. In accepting the deal in 2015, Iran agreed to extensively curb its nuclear program and subject it to a stringent inspection regime. In return, the five permanent members of the UN Security Council plus Germany, or the EU/E3+3 (EU and US, Russia and China) lifted nuclear-related economic sanctions upon the JCPOA's implementation in 2016. The JCPOA enabled the EU to revitalise its relations with Iran with the idea that trade and political rapprochement would be beneficial to both sides.

Figure 1: Members of Iran Nuclear Deal



Source: CNN, https://edition.cnn.com/politics/live-news/trump-iran-nuclear-deal/h_54e182d299c05776d4f287eb452fb2ea

Since the US withdrawal, the European countries have unanimously agreed that the EU will stay in the agreement as long as Iran remains fully committed to it, and gave the European Commission a green light to be ready to act whenever European interests are affected. For the EU, this is not just about economic interests, it is also about security. It believes that in the absence of a nuclear deal with Iran, security of the region and of Europe would be negatively impacted.⁵ The Iranian government announced that it will exceed the limits of its production of heavy water and low enriched uranium if, 60 days from now (8 May 2019)⁶, the other parties to the JCPOA – E3, EU, Russia and China – have not found ways to safeguard the JCPOA with stronger deeds and not just words. This has put Europe in a tough spot. Although European leaders have rejected Iran's

demands as an unacceptable ultimatum – they have declared their continued support for the JCPOA.

Responses from Europe: The Idea of Maximum Restraint

Since the US unilateral withdrawal from the deal, the Trump administration has adopted a policy of ‘maximum pressure’ on Iran whereas Europe has urged for the policy of ‘maximum restraint’. Washington and all its major partners across the Atlantic have thus found themselves on opposing sides again over how to deal with Iran. Federica Mogherini, the European Union’s chief diplomat, said that the bloc had urged U.S. Secretary of State Mike Pompeo to avoid military escalation. Jeremy Hunt, the British foreign secretary, warned that a failure to do so could risk “a conflict happening by accident with an escalation that is unintended on either side.”⁷ Though the Trump administration has said that it does not want war with Iran - its European allies have signalled that they would oppose such actions if it did. The Spanish government has announced that it would no longer participate in a US-led naval group mission, after Washington announced on 5 May 2019, that it would send the fleet led by the aircraft carrier *USS Abraham Lincoln* to the Persian Gulf. The announcement came after US authorities changed the original objective of celebrating 500 years since the first circumnavigation of the earth, as envisaged by a bilateral US-Spanish agreement, to focus on rising tensions with Iran⁸. Germany and the Netherlands governments respectively, said it would maintain its embassy- and consular-staff numbers in Iraq after the State Department ordered a partial evacuation of the US embassy in Baghdad, citing concerns of threats from Iranian-backed forces. Britain raised the threat level for its forces and diplomats in Iraq because of an increased security risk from Iran.⁹

EU has initiated proposals on four fronts: firstly, it launched the formal process to activate the Blocking Statute by updating the list of US sanctions on Iran falling within its scope. The Blocking Statute, which came into force on 7 August 2018, forbids EU persons from complying with US extraterritorial sanctions and allows companies to recover damages arising from such sanctions from the person causing them, and nullifies the effect in the EU of any foreign court judgements based on them. Secondly, EU on 4 July 2018 launched the formal process to remove obstacles for the European Investment Bank (EIB) to decide under the EU budget guarantee to finance activities outside the EU, in Iran. This allowed the EIB to support EU investment in Iran, particularly through small and medium-sized enterprises (SMEs). Thirdly, as part of confidence building measures, the Commission would continue to strengthen sectoral cooperation and assistance to Iran, including the energy sector and small and medium-sized companies. Fourthly, the Commission in May 2018 encouraged its member states to explore the possibility of one-off bank transfers to the Central Bank of Iran. This approach could help the Iranian authorities to receive their oil-related revenues, particularly in case of US sanctions which could target EU entities active in oil transactions with Iran.¹⁰

Through these measures, the EU has encouraged European firms to continue and even deepen business ties with Iran, identifying nine areas- sectors ranging from economic cooperation, transport and energy to education and culture, as well as global challenges such as climate change, drugs, migration and refugee flows - for the normalisation of trade and economic relations with Iran. In 2018, the Commission adopted a first package of €18 million for projects in

support of sustainable economic and social development in Iran, including €8 million assistance to the private sector. This was the first of a wider package of €50 million for Iran, aiming to support the country to address its key economic and social challenges. Activities supporting the private sector would include support to high-potential Iranian SMEs, the development of selected value chains, and technical assistance to Iran’s Trade Promotion Organisation. As part of the €18 million, the Commission would also provide technical support in the area of environmental challenges for €8 million and support drug harm reduction for €2 million.¹¹

Despite the European Commission updating the Blocking Statute to protect European companies’ Iran trade from re-instated US extraterritorial sanctions as well as updating the European Investment Bank’s (EIB) external lending mandate by making Iran eligible for investment activities, the process has remained complicated. This is because the European Commission cannot force European economic actors to engage in commercial activities with Iran given the potential threat arising of US sanctions. Based on a profit-loss calculation, many European firms have already halted their Iran activities out of concern over potential US penalties, be they financial or exclusion from the far more important US market. While the Multi National Cooperation’s (MNC’s) exposure to the US has already forced them to halt their Iran operations, SMEs, however, could indeed continue their business.

For European economic engagement to continue with Iran, the EU established the Instrument in Support of Trade Exchanges (INSTEX) on 31 January 2019. This acts as a sort of euro-denominated instrument for Iran to conduct trade with European companies. In effect, INSTEX works as a barter arrangement operating outside the US-dominated global financial system. Trade was initially expected to focus on non-sanctionable essential goods such as humanitarian, medical and farm products. The EU₃ have sought broader support for the mechanism from all member states to show the European good faith in implementing commitments under the nuclear accord and to present a united front against any retaliation from Washington.¹² However, it aims in the long term to be open to economic operators from other countries who wish to trade with Iran.

Figure 2: How INSTEX will Work



Source: Graphic News, <https://www.graphicnews.com/en/pages/38799/BUSINESS-Trade-with-Iran-plan>

Assessment

As the divide between the US and Iran increases, Europe finds itself stuck between them, with no easy way to respond to this dilemma. Although, Brussels and Washington agree on the danger of Iran's ballistic programme and Iranian regional policy, EU is questioning the method through which Washington attempts to contain Iran. European countries have been trying, without much success, to come up with ways to insulate themselves from the imposed sanctions and protect trade with Iran, mollifying Tehran and salvaging the limits on the Iranian nuclear program by the JCPOA. The European countries have been working on a limited way around American sanctions that would allow European companies to do a kind of barter trade with Iran without using the dollar or ordinary banks. INSTEX is still in its initial stages and relies on Iran for setting up a similar system, which it did only at the end of April 2019¹³. But so far INSTEX has only been seen as a way to trade in items not covered by American sanctions. This mechanism has not succeeded in normalising economic relations to the extent promised, partly due to rising tensions between Iran and the US and partly due to the autonomy of the private sector from EU member governments and European supra-national administration¹⁴. There are no indications that European companies, which do more trade with the US than with Iran, will want to use INSTEX and risk being blacklisted by Washington. It is also not clear as to how European countries would be able to protect the Iranian banking system or its oil trade, as Washington has cancelled waivers that permitted some countries to buy Iranian oil.¹⁵ This move by US was sharply criticised by the EU High Representative and the Foreign Ministers of Britain, France and Germany. In their statement released on 4 May 2019, they took note "...with regret and concern of the decision by the United States not to extend waivers with regards to trade in oil with Iran. We also note with concern the decision by the United States not to fully renew waivers for nuclear non-proliferation projects in the framework of the JCPOA". Adding that, "The remaining participants to the JCPOA are committed to working on the preservation and maintenance of financial channels and exports for Iran, together with third countries interested in supporting the JCPOA".¹⁶

It remains an uphill task for the remaining signatories of the deal to salvage it especially in the backdrop of heightened US and Iran tensions. Russia which is less dependent on the American banking system and under its own set of sanctions from Washington, has promised to keep trading with Iran, as has China, which has been Iran's main buyer of oil. But it is not clear how significant that trade is or how far they will want to go, especially China which is also engaged with Washington in sensitive trade talks. Iran has argued that it has shown patience over the past year to allow the signatories of the deal to come up with an economic package that could offset some of the damage done by US sanctions. In the lack of any substantial progress made, Iran's recent announcement indicates its shifting policy of 'strategic patience to strategic action'¹⁷ through which Iran hopes to exert some pressure on Europe, Russia and China to deliver on some meaningful measures on the economic package.

**Dr. Ankita Dutta, Research Fellow, Indian Council of World Affairs, New Delhi..*

Disclaimer: The views expressed are that of the Researcher and not of the Council.

Endnotes

¹Reuters, 3 May 2019, <https://in.reuters.com/article/oil-iran-exports/irans-oil-exports-to-slide-in-may-but-not-to-zero-sources-idINKCN1S91EK>, Accessed on 18 May 2019

²Reuters, 30 January 2019, <https://uk.reuters.com/article/uk-iran-usa-sanctions/iran-facing-the-toughest-economic-situation-in-40-years-president-idUKKCN1PO0RR>, Accessed on 13 May 2019

³DW, 22 April 2019, <https://www.dw.com/en/us-to-end-sanctions-waivers-for-iranian-oil-imports/a-48435237>, Accessed on 13 May 2019

⁴Reuters, 9 May 2019, <https://www.reuters.com/article/us-usa-iran-sanctions-metals/trump-administration-imposes-new-sanctions-on-irans-industrial-metals-idUSKCN1SE2I4>, Accessed on 13 May 2019

⁵Iran, Foreign Affairs Council, Council of the European Union, 28 May 2018, <https://www.consilium.europa.eu/en/meetings/fac/2018/05/28/>, Accessed on 13 May 2019

⁶Reuters, 9 May 2019, <https://in.reuters.com/article/usa-iran/europeans-reject-ultimatums-from-iran-as-it-eases-nuclear-curbs-idINKCN1SE2QV>, Accessed on 19 May 2019

⁷Yasmeen Serhan, In an Echo of the Iraq War, the U.S. and Europe Are Split on Iran, *The Atlantic*, 16 May 2019, <https://www.theatlantic.com/international/archive/2019/05/europe-us-escalation-iran-iraq-war/589588/>, Accessed on 18 May 2019

⁸Reuters, 14 May 2019, <https://www.reuters.com/article/us-usa-iran-spain/spain-pulls-destroyer-from-us-gulf-mission-amid-iran-differences-idUSKCN1SK106>, Accessed on 15 May 2019

⁹Reuters, 16 May 2019, <https://af.reuters.com/article/worldNews/idAFKCN1SM19Z>, Accessed on 18 May 2019

¹⁰European Commission acts to protect the interests of EU companies investing in Iran as part of the EU's continued commitment to the Joint Comprehensive Plan of Action, Press Release, European Commission, http://europa.eu/rapid/press-release_IP-18-3861_en.htm, Accessed on 14 May 2019

¹¹European Commission adopts support package for Iran, with a focus on the private sector, International Cooperation and Development, European Commission, 23 August 2018, https://ec.europa.eu/europeaid/news-and-events/european-commission-adopts-support-package-iran-focus-private-sector_en, Accessed on 14 May 2019

¹²DW, 31 January 2019, <https://www.dw.com/en/what-is-the-eu-iran-payment-vehicle-instex/a-47306401>, Accessed on 14 May 2019

¹³Iran Officially Launches Trade Mechanism To Match Europe's INSTEX, *Radio Farda*, 30 April 2019, <https://en.radiofarda.com/a/iran-officially-launches-trade-mechanism-to-match-europe-s-instex/29911927.html>, Accessed on 14 May 2019

¹⁴Clement Therme, *The rise of tensions between Iran and Europe: the Trump factor*, IISS, 1 March 2019, <https://www.iiss.org/blogs/analysis/2019/03/iran-and-europe-rise-of-tensions>, Accessed on 14 May 2019

¹⁵The New York Times, 8 May 2019, <https://www.nytimes.com/2019/05/08/world/europe/eu-iran-nuclear-sanctions.html>, Accessed on 14 May 2019

¹⁶Statement on the JCPoA by the High Representative of the European Union and the Foreign Ministers of France, Germany and the United Kingdom, 4 May 2019, Brussels, EU External Action, https://eeas.europa.eu/headquarters/headquarters-homepage_en/61840/Statement%20on%20the%20JCPoA%20by%20the%20High%20Representative%20of%20the%20European%20Union%20and%20the%20Foreign%20Ministers%20of%20France,%20Germany%20and%20the%20United%20Kingdom, Accessed on 23 May 2019

¹⁷Ellie Geranmayeh, *60 Days to Save the JCPOA*, Commentary, ECFR, https://www.ecfr.eu/article/commentary_60_days_to_save_the_jcpoa_iran_nuclear_deal, Accessed on 14 May 2019