

IRAN

On 8 May 2018, continuation of the international agreement concerning Iran's nuclear activities, known as the joint comprehensive plan of action (JCPOA), was thrown into doubt when President Trump announced the US would cease participation.

The JCPOA was an agreement reached in 2015 between China, France, Russia, the UK, the US, Germany, the European Union (EU) and Iran, that provided for Iranian sanctions relief in exchange for verifiable curtailment of the Iranian nuclear programme. The first tranche of sanctions relief became effective on 16 January 2016. Almost all UN and EU sanctions on Iran were lifted. The extra-territorial aspects of the US sanctions (secondary sanctions), which sought to prevent non-US persons from doing business with Iran, were also relaxed. But US persons continued to be restricted in their dealings with Iran.

Following a 180-day wind-down period, the US re-imposed sanctions on Iran's energy sector with effect from 5 November 2018.

US Secretary of State, Michael Pompeo, said re-imposition of sanctions was 'an unprecedented campaign of economic pressure'. However, other signatories to the JCPOA, including the EU, expressed regret at this unilateral action by the US.

Which sanctions were re-imposed?

As of 5 November 2018, more than 700 individuals, entities, aircraft and vessels were added to the US sanctions list, many of which are involved in the production and export of Iranian oil, gas and petrochemicals. Once again, many non-US persons were prohibited from engaging in a significant transaction for the purchase, acquisition, sale, transport or marketing of petroleum or petroleum products or petrochemical products from Iran.

All US persons must comply with the US sanctions on Iran, including all US citizens and permanent resident aliens, all persons within the US, all US incorporated entities and their foreign branches and foreign subsidiaries owned or controlled by US companies. In addition, non-US natural and legal persons who conduct prohibited activities again risk becoming the subject of US secondary sanctions and finding themselves cut-off from

Re-imposed US sanctions fall-out

What has been the impact of the re-imposition of Iran sanctions by President Trump? John Gilbert, Partner, and Robert Meade, a Senior Associate, in Bracewell (UK) LLP's dispute resolution team examine this complex issue.

the US financial system and unable to deal with US persons.

Exceptions to the rule

The US has put significant reduction exemptions in place in respect of the import of Iranian crude oil to China, India, Italy, Greece, Japan, South Korea, Taiwan and Turkey. These exemptions permit those countries to continue buying Iranian oil on a reduced basis for a six-month period.

EU blocking statute

To uphold the JCPOA and protect its Member States from US enforcement action, the EU revitalised the 'Blocking Statute', which seeks to protect EU nationals and companies from the extra-territorial effect of US sanctions on Iran. The Blocking Statute puts EU companies in a difficult position. If they continue their business with Iran in breach of the re-imposed US sanctions, they risk being made the subject of US secondary sanctions. If they decide to exit Iran as a result of the re-imposed US sanctions, they risk breaching the Blocking Statute.

Crude exports impact

Since President Trump announced US withdrawal from the JCPOA, exports of Iranian crude have significantly reduced. According to *Bloomberg Finance*, in April 2018 Iran exported 2.496mn b/d. By December 2018, this had reduced to just 452,000 b/d.

On 5 November 2018, US Secretary of State Pompeo said: 'More than 20 importing nations have zeroed-out their imports of crude oil.' Decline has continued

and exports fell more than 60% in December 2018.

There has been a less severe decline in Iran's production figures. *Reuters* reported decline in Iran's production from 3.82mn b/d in April 2018 to 2.85mn b/d in December 2018. By comparison, according to OPEC, Iran produced 2.67mn b/d in 2013 at the height of the pre-JCPOA sanctions. As production significantly exceeds export, Iran will likely need to store significant quantities of crude once again.

Winding down

Re-imposition of sanctions caused a number of energy companies to wind down their Iranian business in the run-up to 5 November 2018. In May 2018, Total pulled out of the South Pars 11 gas project. In June 2018, Maersk Line announced that it would cease loadings out of Iran from end-August 2018.

Some of those able to take advantage of the significant reduction exemptions continue to import Iranian oil, but it remains to be seen how long this will last. The Chinese state-owned energy company CNPC is reported to be taking Total's stake in the South Pars 11 gas project.

What's next? President Trump's administration has clearly stated its ambition to reduce Iranian exports to zero. US Secretary of the Treasury Steven Mnuchin has said pressure from the US will continue to mount.

Recent history suggests that this could lead to significant penalties being imposed (BNP Paribas was fined almost \$9bn in 2015). International energy companies with business in the US, or that utilise the US financial system, are unlikely to risk business with Iran unless the sanctions are once again relaxed. ●

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