

Workaround – Iran: a sanctions review

Over four decades of sanctions may have prevented Iran from developing nuclear weapons but have also taught it to exploit every means of circumvention, and seek new ones. Expiry of UN Security Council Resolution 2231, shifting geopolitics and weakening hegemony of the US dollar in global finance are now ratcheting up the threat. **Paul Cochrane** reports.



Work in progress

RELATED

- Iran sanctions relief – on the near horizon
- The next four years: US sanctions policy
- New year, new UK sanctions regime
- If and when – to bank Iran
- 'Implementation Day' dawns – Iran sanctions recede

Implementing international sanctions is never easy, but the sanctions regime on Iran is highly complex, buffeted by shifting diplomatic stances. With its Security Council ally Russia relying on Iranian military and technology supplies to pursue its invasion of Ukraine, time-limited UN restrictions on Iran's nuclear programme officially lapsed on 18 October [2023]. But the USA, European Union (EU), UK and other states have kept sanctions restrictions in place while expanding designations, which is pushing the Islamic Republic to continue practising its well-honed sanctions evasion techniques.

"It is confusing for people, what they read in the news versus what is applicable to a certain situation, as headlines can be 'sanctions against Iran are lifted' or 'sanctions are beefed up'. There are a lot of grey areas in sanctions compliance, and this can be hard for compliance departments at smaller companies," said Saskia Rietbroek, executive director of the Association of Certified Sanctions Specialists (ACSS).

Joint plan – those were the days...

The UN sanctions had been based on UN Security Council Resolution 2231, which was implemented in 2015 as part of the the Joint Comprehensive Plan of Action (JCPOA), known more widely as the 'Iran Nuclear Deal'. The Resolution called upon Iran to not "undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons" and required countries to seek UN permission before transferring certain missiles, drones, and related technology to or from Iran. All UN member states were required to freeze the assets of 23 individuals and 61 entities involved in Iranian nuclear and ballistic missile programmes. [1]

On the same day as Resolution 2231 expired, however, 45 countries, including the USA, many European countries, including the UK, have endorsed the Proliferation Security Initiative (PSI) to continue to "counter destabilising Iranian missile- and UAV- [unmanned aerial vehicle] related activities". The PSI argues that Iran has not abided by Resolution 2231 as it has not taken "the necessary steps towards restoring confidence in the exclusively peaceful nature of its nuclear programme". [2]

A month prior, in September [2023], the US sanctioned entities and individuals based in China, Turkey, the United Arab Emirates and Iran for aiding the Iranian military drone programme. [3] Earlier in the year, in January [2023], the US, UK and the EU imposed fresh sanctions on Iranian individuals and entities for Tehran's crackdown on protestors and for human rights violations. [4]

Relative freedom

The ending of the Resolution from the Iranian perspective is considered "a big win," said Emad Kiyaei, director of the London, UK-based Middle East Treaty Organization, which is a coalition of activists and practitioners seeking to rid the Middle East of all weapons of mass destruction (WMD): "Iran says, 'Okay, the US and Europe, do what you want with sanctions, we will not be dealing with you anyway.' The Resolution's expiry opens up the gates for Iran's defence industry to market their goods and also get into bilateral agreements with other countries. It has become more legitimate."

While the UN no longer prohibits countries from trading in arms with Iran, "the risk is sanctions from Western countries," said Amir Fadavi, a senior director at US-based financial crime, risk and regulatory advisory firm K2 Integrity. "The [West's] thinking is, whatever was targeted by UN sanctions will now be targeted by our sanctions. For us nothing changed, it was the UN, now it's domestic sanctions."

US lead, and other reasons to follow

With the US having the most comprehensive sanctions on Iran – which are wider in scope than on Russia – banks with a global footprint are making sure they comply. "Even if EU sanctions do not prohibit something, but the US sanctions do, EU-based banks will follow them. Most companies are afraid of the US regulator, not of the Europeans," said Rietbroek. This is evidenced in US pressure to stop the use of a barter system INSTEX (Instrument in Support of Trade Exchanges) set up to facilitate transactions with Iran outside of the US banking system by France, Germany and the UK in 2019. INSTEX was liquidated in January 2023. [5] "The US had said to business and banks, 'We will get you if you use this [INSTEX]," Rietbroek noted.

Banks and businesses have long been wary of letting their guard down due to the risks of trading with Iran. After the JCPOA in 2015, European institutions were allowed to do business, but many did not in case sanctions were reimposed. In 2018, when the US withdrew from the JCPOA, decisions were based on a risk-based approach. "The banks were right, it was too risky," said Fadavi. He noted that the other reason to shy away from business with Iran was ongoing money laundering risks and corruption. "A lot of companies have started to use non-sanctions risks to decide to not go to Iran, as it's blacklisted by the Financial Action Task Force (FATF) and listed by Transparency International as a corrupt country."

Same old, still effective

Meanwhile, Iranians have become masters at sanctions evasion. "For more than 40 years sanctions have been in place, and the country has developed ways to survive. This is done by the government and by normal people who want to access the Western market. The best way is money laundering. The difference between the private and public sector is the level of sophistication and scale of it. A lot of shell companies in different jurisdictions are being used, as well as falsified documents, and changed documents on the use of goods; all the ways to avoid anyone out of the country understanding what is going on," said Fadavi.

That said, Iranian sanctions evasion generally follows an established playbook: "It is the same old techniques, I've not seen anything particularly innovative. For those of us involved in financial crime for a long time, we recognise them, such as the use of shell companies," said Rietbroek.

Correspondent banks are potential weak links, noted Fadavi, particularly smaller and medium-sized financial institutions: "It is important to look at those banks, to make sure they have a lot of controls in place. Iran is using banks that are less mature in compliance to get into the global payments system," he said. If the US wanted to ramp up pressure on Iran, he added, it could do so by focusing more on Chinese banks and actors in the Gulf region that may be facilitating Iranian transactions, he added.

New markets, ancient methods

Iranians have become used to playing cat and mouse to get around restrictions, said Kiyaei. "One door closes and another opens, and the Iranians have never had a lack of doors to go through. Malaysia has become a major transit hub for Iranian foreign currency exchanges, and Dubai – despite some restrictions on Iranian business – still plays a role for Iran sourcing hard currency. "Then there is the bartering system done with the 16 countries that surround Iran by land and sea, so there are ways to get through," he said.

Outside of the Western banking system, Iran is utilizing local currencies for trade, which has been bolstered this year by Tehran joining the Shanghai Cooperation Organisation (SCO), a central Asian security and economic body, and being invited to join the BRICS group (Brazil, Russia, India, China, South Africa) in August [2023], along with Argentina, Egypt, Ethiopia, Saudi Arabia and the United Arab Emirates.

"There has been a major vote of confidence for Iran to join these blocs, the SCO and BRICS, which before was a political taboo. This is a complete change for the Iranians, and to have, for the first time, heavyweight economies saying they will do their own local currency exchanges," said Kiyaei.

Such geopolitical developments are making sanctions oversight more difficult, compounded by Russia also seeking to circumvent US and EU controls. "It is getting harder to enforce sanctions and have visibility over direct transactions between counterparties in places like Russia and Iran," said Alex Zerden, an adjunct senior fellow at the Center for a New American Security (CNAS) and founder of US-based Capitol Peak Strategies.

War and oil

For the foreseeable future, the US is expected to continue its sanctions programme against Iran, although this could change due to the Israel-Hamas war that started on 7 October [2023]. "The current crisis in Gaza has brought additional pressure, as Iran is seen as a supporter of Hamas, so there could be increased sanctions against Iran if the conflict widens regionally," he said.

Complying with US sanctions may also be complicated by changes in policy by the White House, as prior to the Israel-Hamas war the US had not been enforcing sanctions related to Iranian oil sales so as to ensure more oil was available on the global markets. "Even though the USA had the authority to go after people buying Iranian oil, they didn't do so. That calculation may change if they regard Iran as a threat, as, if there's more [oil] money for Iran, they could provide more financial aid to Hamas. Everyone knows Iran is supporting Hamas, but they don't know if it's financial or not. Now everyone is waiting on whether there will be a more restrictive approach to Iran," said Fadavi.

Notes

- <https://www.un.org/securitycouncil/content/2231/background>
- PSI signing states: Antigua and Barbuda, Australia, Austria, Bahrain, Belgium, Belize, Bulgaria, Canada, Colombia, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Montenegro, Morocco, Netherlands, New Zealand, Norway, Palau, Panama, Poland, Portugal, Republic of Korea, Romania, Slovakia, Slovenia, San Marino, Spain, Sweden, Ukraine, United Kingdom, United States. <https://www.gov.uk/government/news/joint-statement-on-un-security-council-resolution-2231-transition-day>
- <https://www.reuters.com/world/us-issues-new-iran-related-sanctions-treasury-website-shows-2023-09-27/>
- <https://www.reuters.com/world/us-imposes-sanctions-iranian-officials-irgc-cooperative-foundation-2023-01-23/>
- <https://www.bourseandbazaar.com/articles/2023/2/2/instex-shuts-down-in-a-loss-for-european-economic-sovereignty>

TOPIC ALERTS

- Sanctions
 - Practice Findings
 - Middle East
- Frequency:
- No. of articles:

Email Address: timon.molloy@lloydslistintelligence.com

[Manage topic alerts](#)

Set up Alert

Law Reports: Bound Volumes series

Lloyd's List Intelligence is a specialist publisher in the field of law reporting. Our Bound Volumes collection dates back to 1919 and includes volumes for our leading reports and review journals

Complete your Bound Volumes collection now

Lloyd's List Intelligence

MIDDLE EAST

News

PRACTICE FINDINGS

The customer experience

Ireland and Sweden have gaping holes in defences, FATF finds

SANCTIONS

Northern exposure

News