

THE IRAN (SANCTIONS) (NUCLEAR) (EU EXIT) REGULATIONS 2019

REPORT UNDER SECTION 2(4) OF THE SANCTIONS AND ANTI-MONEY LAUNDERING ACT 2018

Introduction

1. This is a report under section 2(4) of the Sanctions and Anti-Money Laundering Act 2018 (“**the Act**”) in relation to the Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019. Section 2(4) requires a report to be laid before Parliament which explains why the appropriate Minister making regulations under section 1 considers that any purpose of the regulations (other than any purpose which is compliance with a UN obligation or other international obligation) meets one or more of the conditions in paragraphs (a) to (i) of section 1(2) of the Act¹; why the Minister considers that there are good reasons to pursue that purpose; and why the Minister considers that the imposition of sanctions is a reasonable course of action for that purpose.
2. Sanctions will continue to contribute to the UK’s efforts to “defend the rules-based international order”. The UK will continue to be a global leader on sanctions, based on the smart, targeted use of sanctions, as part of wider political and diplomatic strategies. The UK will enhance its leadership role in developing robust evidence to support sanctions regimes and designations – for national and multilateral sanctions. At the international level, the UK will continue to seek multilateral cooperation on sanctions in response to shared threats, given that a collective approach to sanctions achieves the greatest impact.
3. The Act enables Regulations to be made under Section 1(1)(a) for the purpose of compliance with a United Nations (UN) obligation. Acting under Chapter VII of the UN Charter, the UN Security Council (UNSC) may impose sanctions where it has determined the existence of a threat to international peace and security. The UN Security Council adopts the regime through a UN Security Council Resolution (UNSCR). UNSCRs set out the parameters of the sanctions to be imposed, including the types of sanctions measures, any exemptions, and listing criteria; designations are usually made on the face of a UNSCR or by a Sanctions Committee (a sub-committee of the Security Council) established under the relevant UNSCR. All UN member states are obliged as a matter of international law to implement UN sanctions. The UK and other EU Member States currently meet this obligation by transposing all UN sanctions into EU law. Going forward, the UK will meet this obligation by making regulations under the Act. The UNSC first imposed sanctions on Iran for its proliferation-sensitive nuclear activities with UNSCR 1737 in 2006. The EU complemented UN sanctions with additional autonomous sanctions for the same purpose of constraining Iran’s proliferation-sensitive nuclear activities.
4. In January 2016, the EU began implementation of the Joint Comprehensive Plan of Action (JCPOA). The JCPOA was agreed by the E3 (UK, France and Germany), the US, Russia, China and Iran – with the EU as coordinator. The US withdrew from the agreement in 2018. The deal was designed to ensure the exclusively peaceful nature of Iran’s nuclear programme and includes eventual lifting of all UN, multilateral and national sanctions related to Iran’s nuclear programme in return for monitored, verified implementation of nuclear-related measures by Iran.

5. The JCPOA is a phased approach and includes reciprocal commitments as laid out down in the agreement and endorsed by the UN Security Councilⁱⁱ. As a result of the JCPOA, the EU suspended a number of its restrictive measures and designations of individuals and entities in connection with the Iranian nuclear programme in January 2016.¹ Sanctions that are suspended include financial, banking and insurance measures on non-designated individuals and entities; restrictive measures on Iran's oil, gas and petrochemical sectors; and prohibitions on sale, supply, purchase, export, transfer or transport of gold and precious metals. Restrictive measures that remain in place are the arms embargo, restrictive measures related to missile technology, restrictions on certain nuclear-related transfers and activities, and provisions concerning graphite and other semi-finished metals which are subject to an authorisation regime. If Iran continues to meet its commitments under the JCPOA, the EU will suspend its proliferation-related sanctions, including arms and missile technology sanctions, in October 2023 and terminate all of the restrictive measures suspended in January 2016. In October 2025, the EU will terminate all its remaining nuclear-related provisions and all UN provisions still in place under UNSCR 2231 will also be terminated.
6. The UK played a significant role in the development of the EU sanctions regime, and proposed a large number of the designations on individuals and entities imposed under the regime. Bringing these existing EU sanctions into UK law is consistent with UK policy on Iran and our commitments under the JCPOA. The Iran (Sanctions) (Nuclear) (EU Exit) Regulations 2019 ("**the Regulations**") are intended to substantially deliver the same policy effects as the existing EU sanctions regime.
7. In these Regulations the measures the UK is obliged to implement as UN obligations include financial and immigration sanctions imposed on persons designated by the Security Council under UNSCR 2231 and restrictions on missile-related, nuclear-related and military goods and technology. The measures which are implemented otherwise than for the purpose with UN obligations and which are the subject of this report include the financial and immigration sanctions on persons designated by a Minister under these Regulations.

Purposes and reasons for pursuing the purposes

8. The discretionary purposes (i.e. purposes other than compliance with UN obligations) as set out in regulation 4 of the Regulations, that are made under section 1 of the Act, are
 - a. promoting the abandonment by Iran of nuclear weapons programmes;
 - b. restricting the ability of Iran to develop nuclear weapons and nuclear weapons delivery systems; and
 - c. promoting implementation of the Joint Comprehensive Plan of Action.
9. Carrying out these purposes meets one or more of the conditions set out in section 1(2) of the Act. In particular, these purposes would fall within paragraphs (c) and (h), in that they would be in the interests of international peace and security and would contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction. These Regulations

¹ Details are included in the EU guidance issued in January 2016: "Information Note on EU Sanctions to be lifted under the Joint Comprehensive Plan of Action (JCPOA)" <https://eeas.europa.eu/sites/eeas/files/sn10176-re01.en17.en17.pdf>

will help to minimise Iranian activity that threatens UK security and foreign policy interests and/or those of our allies in the region, including nuclear activities outside of the permitted terms of the JCPOA.

10. There are good reasons for pursuing these purposes. Iran has previously pursued a covert nuclear weapons programme as reported by the International Atomic Energy Agency in their November 2011 report on implementation of the Treaty on Non-Proliferation of Nuclear Weapons and related provisions by Iran. The measures are targeted at Iran's nuclear weapons programme and restricting Iran's ability to develop and deliver nuclear weapons. These Regulations will help to uphold the agreement struck with Iran under the JCPOA and maintain pressure on Iran to comply with its international obligations and JCPOA commitments. In doing so, these Regulations will contribute to countering the proliferation of weapons of mass destruction and their means of delivery.

Why sanctions are a reasonable course of action

11. Sanctions can be used to change behaviour; constrain damaging action; or send a signal of condemnation. HMG believes sanctions can be an effective and reasonable foreign policy tool if they are one part of a broader foreign policy strategy for a country or thematic issue, and are appropriate to the purposes they are intending to achieve.
12. Putting sanctions in place is a reasonable measure to maintain pressure on the Government of Iran to comply with its international obligations and commitments under the JCPOA, and to restrict Iran's ability to develop nuclear weapons and delivery systems capable of carrying nuclear weapons. Maintaining a sanctions regime also sends a strong message that the UK will continue to support action to restrict Iran's ability to develop and deliver nuclear weapons and that the UK will continue to support the continued application of the JCPOA.
13. There are three principal kinds of prohibition in the Regulations: those relating to financial sanctions, those relating to immigration sanctions, and those relating to trade sanctions. For the purposes of this report, the measures in scope are those that do not derive from the UK's UN obligations.
14. In relation to financial and immigration sanctions, the Regulations confer a power on the Secretary of State to designate persons that are or have been involved relevant nuclear activity for the purposes of financial restrictions (including an asset freeze and a restriction on providing funds and economic resources; and restriction on supply of specialised financial messaging services for those designated) and a travel ban. These restrictions can only be imposed by the Secretary of State upon specified individuals and entities who meet the criteria set out in the Regulations, namely that there are reasonable grounds to suspect that the person or entity is, or has been, involved in a relevant nuclear activity; is owned or controlled directly or indirectly by a person who is or has been so involved; is acting on behalf of or at the direction of a person who is or has been so involved; or is a member of, or associated with, a person who is or has been so involved; and that their designation is appropriate having regard to the purposes of the regime and the likely significant effects of the designation on that person. This is in order to ensure that the sanctions are clearly targeted and therefore fulfil the stated purpose of the sanctions. The intention is to apply pressure in order to encourage the Government of Iran to comply with its international obligations and commitments under the JCPOA, and to restrict Iran's ability to develop nuclear weapons. Under the JCPoA the EU continues to autonomously

designate 129 individuals and entities and it is the intention of the Government to look to maintain these designations under these Regulations to meet the foreign policy objective of supporting the JCPOA. The Regulations allow for there to be exceptions to the travel ban and also provides for the financial sanctions to be subject to certain exceptions and a licensing framework.

15. In respect of trade sanctions, the Regulations contain restrictions on the trade of goods or technology with a potential ballistic missile, military or nuclear purpose. These measures largely derive from UN obligations but there are some autonomous measures in these Regulations, including the supply of services to ships and aircraft carrying restricted goods and technology. The effect of these sanctions is to directly constrain Iran's capacity to develop nuclear weapons, therefore fulfilling the stated purposes of this regime. The trade measures in the Regulations are targeted and provide for the trade sanctions to be subject to a licensing framework that will be overseen by the Department for International Trade. The power to grant licences under this regime supports the reasonableness of imposing these sanctions measures, as it will mitigate any unintended negative consequences and provide for trade with Iran permitted under the JCPOA.
16. These sanctions are not an end in themselves. They are one element of a broader strategy to achieve the UK's foreign policy goals in Iran. The UK seeks to prevent the acquisition of nuclear weapons capability by Iran and ensure the exclusively peaceful nature of Iran's nuclear programme, including through the implementation of the "Framework for Cooperation" agreed between Iran and the International Atomic Energy Agency (IAEA) on 11 November 2013, the 2015 "Roadmap for Clarification of Past and Present Outstanding Issues", and the full implementation of the JCPOA.
17. The policy intention is to lift the sanctions on Iran in a phased approach as set out in the JCPOA. Should Iran fail to comply with the terms of the JCPOA in full, the consequence would be to re-impose sanctions – as provided for under the deal. Re-imposition of sanctions would be used to put pressure on Iran and restrict its ability to develop and deliver nuclear weapons. The FCO will continue to coordinate with international partners, including on the future of the regime.
18. The Regulations also impose supplemental prohibitions and requirements, in particular those relating to the disclosure of confidential information, the reporting of information by relevant firms, and the holding of records. These kinds of prohibitions and requirements ensure that certain information is appropriately held by those involved with the operation of the sanctions regime, and that certain information is provided to authorities, and ensure that certain sensitive information is treated securely. These kinds of prohibitions and requirements enable the government to properly operate and enforce the sanctions regime, and therefore their imposition is also considered a reasonable course of action for the purposes of the Regulations.

Conclusions

19. The discretionary purposes of these Regulations are promoting the abandonment by Iran of nuclear weapons programmes; restricting the ability of Iran to develop nuclear weapons; and promoting implementation of the Joint Comprehensive Plan of Action.
20. For the reasons set out in this report, carrying out those purposes meets one or more of the conditions in section 1(2) of the Act. As set out in this report, there are good reasons for pursuing those purposes, and the imposition of the kinds of prohibitions and requirements imposed by these Regulations for those purposes is a reasonable course of action for those purposes.

The Rt Hon Sir Alan Duncan MP KCMG

**Minister of State for Europe and the Americas, Foreign and Commonwealth Office, on behalf of
the Secretary of State for Foreign and Commonwealth Affairs**

ⁱ Section 1(2) states:

“A purpose is within this subsection if the appropriate Minister making the regulations considers that carrying out that purpose would –

- a) further the prevention of terrorism, in the United Kingdom or elsewhere,*
- b) be in the interests of national security,*
- c) be in the interests of international peace and security,*
- d) further a foreign policy objective of the government of the United Kingdom,*
- e) promote the resolution of armed conflicts or the protection of civilians in conflict zones,*
- f) provide accountability for or be a deterrent to gross violations of human rights, or otherwise promote -*
 - (i) compliance with international human rights law, or*
 - (ii) respect for human rights,*
- g) promote compliance with international humanitarian law,*
- h) contribute to multilateral efforts to prevent the spread and use of weapons and materials of mass destruction, or*
- i) promote respect for democracy, the rules of law and good governance.”*

ⁱⁱ UN Security Council Resolution 2231 (2015), adopted by the Security Council on 20 July 2015.