

Lifting of Switzerland's Sanctions regarding Iran's Nuclear Program

On 17 January 2016, the Swiss Federal Council announced that Switzerland's sanctions against the Islamic Republic of Iran are immediately and to a large extent lifted further to the successful implementation of the Joint Comprehensive Plan of Action (JCPOA) reached between the E3/EU+3 (China, France, Germany, Russia, UK and USA, with the High Representative of the European Union for Foreign Affairs and Security Policy) and Iran on 14 July 2015.

To that end, the Swiss Federal Council released a New Ordinance on Measures regarding the Islamic Republic of Iran (the "New Ordinance"), dated 11 November 2015, which came into effect on 17 January 2016 at noon.

The remaining restrictions set forth in the New Ordinance are aligned with the corresponding UN and EU measures. They relate to trade and services involving weapons carrier systems as well as equipment which may be used for internal repression or surveillance purposes. Trade in nuclear goods and nuclear-related dual-use goods will be subject to an authorization requirement. Moreover, financial restrictions and travel bans remain in place for a limited number of individuals and entities. The New Ordinance also contains restrictions regarding technical or maintenance services for Iranian cargo aircraft and a prohibition to fulfill certain claims.

This briefing provides an overview of the New Ordinance and identifies the key changes when compared to the regime that was in place beforehand.

Background

On 14 July 2015, the E3/EU+3 and the Islamic Republic of Iran adopted the JCPOA. As such JCPOA shall ensure that Iran's nuclear program will be exclusively peaceful, it provides for a comprehensive range of measures to be taken by Iran to limit and control its nuclear program. In

exchange, it also provides for the rollback of UN Security Council sanctions as well as multilateral and national sanctions related to Iran's nuclear program. Those include steps on access in areas of trade, technology, finance, and energy.

The JCPOA provides for a complete settlement of the nuclear dispute in several milestones, amongst

which 18 October 2015 had marked "**Adoption Day**" (as defined in the JCPOA), i.e. the date on which the JCPOA came into effect and participants began taking steps necessary to implement their respective JCPOA commitments. Now, 16 January 2016 is the "**Implementation Day**" of the JCPOA: on that day, the International Atomic Energy Agency (IAEA) sent its report to the UN Security Council confirming that Iran has complied with its nuclear-related commitments set out in the JCPOA.

Thereupon, the EU and US have lifted a substantial portion of their respective nuclear-related sanctions on Iran, all in accordance with the provisions of the JCPOA.

With the adoption of the New Ordinance, the Swiss Federal Council emphasizes its support to the implementation of the JCPOA.

Key Provisions of the New Ordinance

The measures set forth in the New Ordinance can be summarized as follows:

Trade Restrictions (Art. 2-5)

Trades involving goods, technologies and software intended for nuclear weapons delivery systems destined for Iranian persons or to be used in Iran, and any services or investments related thereto, are prohibited (Art. 2).

However, trades involving nuclear goods, nuclear-related dual-use goods, technology or software are subject to an authorization requirement. Such requirement extends to all services, including investments related to such goods, as well as to any goods that are likely to be intended for Iran's uranium enrichment activities (among others) that would be inconsistent with the JCPOA (Art. 3).

Trades involving armament or goods likely to be used for internal repression or surveillance purposes, as well as any related services (including investments) are also prohibited (Art. 4 and 5).

Restrictions regarding Financing and Shareholding (Art. 6)

Any company active in the extraction of uranium or developing nuclear-related goods, technology or software need an authorization if it intends to enter into an agreement with an Iranian person or entity regarding the acquisition of a stake holding, or the creation of a joint venture. An authorization is also required if the respective company intends to be granted a loan or a credit facility from an Iranian person or entity.

Asset Freeze and Prohibition to Supply (Art. 7-8)

The assets and economic resources of a limited number of Iranian persons and entities listed in the annexes to the New Ordinance are frozen, and the provision of assets, resources or certain specialized payment services to such persons or entities is prohibited (Art. 7).

Assets or economic resources that fall within the scope of the above provision have to be reported without delay to SECO (Art. 8).

Other Restrictions (Art. 9-11)

The provision of technical or maintenance services for cargo aircraft belonging to, or controlled by an Iranian person or entity is prohibited if such cargo relates to the transport of goods that are forbidden under the New Ordinance (Art. 9).

Some of the persons listed in the annexes to the New Ordinance may not enter or travel through Switzerland (Art. 10).

Moreover, the fulfillment of claims of Iranian persons or entities (or any other third party acting upon their instructions or on their behalf) resulting from transactions of which the completion was prevented or affected by the New Ordinance, the Ordinance of 19 January 2011, or the Ordinance of 14 February 2007 is prohibited (Art. 11).

Implementation

The New Ordinance entered into force on 17 January 2016 and is not limited in time. Should Iran not comply with its obligations under the JCPOA, the Swiss Federal Council may amend the New Ordinance for the purposes of re-implementing the previous sanctions or adopt other sanctions.

Compliance with the New Ordinance continues to be monitored by SECO, the State Secretariat for Migration (SEM) and, at the Swiss border, by the Federal Customs Administration.

Key Changes to the Previous Ordinance of 19 January 2011 (as revised per 13 August 2015)

In essence, the following sanctions under the previous Ordinance have been lifted by the New Ordinance:

- prohibition of trade with goods for the oil, gas, and petrochemical industry as well as related services;
- requirement to notify trades with crude oil and oil products, as well as prohibition of related financing, stake holding, and joint ventures;
- prohibition regarding trade with diamonds;
- notification requirement regarding trade with bank notes and coins;
- restrictions regarding export risk guarantees for business with Iran;
- prohibition to acquire a stake holding in or establish joint ventures with Iranian persons or entities involved in certain businesses;
- restrictions regarding money transfers to Iranian persons or entities;
- prohibited banking services and duties of care regarding business with Iranian banks;
- prohibitions regarding government bonds and insurance services.

Conclusion

The New Ordinance lifts a significant portion of Switzerland's measures that were previously in place against Iran and hence marks the latest development in the peaceful resolution of the nuclear dispute. According to its press release of 17 January 2016, the Swiss Federal Council wishes the New Ordinance to be seen as a sign of its support of the implementation of the JCPOA and its interest in intensifying Switzerland's political and economic exchanges with Iran.

Whilst EU and US sanctions were also to a large extent lifted upon Implementation Day in accordance with the JCPOA, certain restrictive measures remain in place (such as the so-called US primary sanctions) and should be carefully considered prior to entering into business with or in Iran.

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