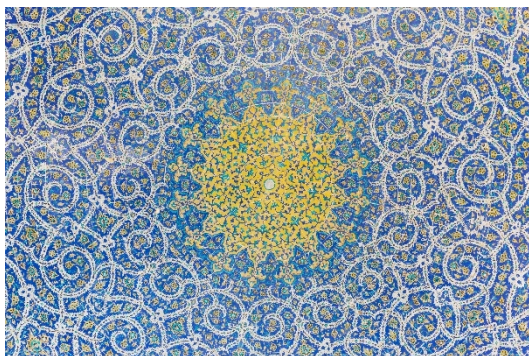


Future of the Iran nuclear deal

How much can US pressure isolate Iran?

SUMMARY

In July 2015, Iran and the E3/EU+3 – France, Germany, the UK and the EU plus China, Russia and the USA – signed the Joint Comprehensive Plan of Action (JCPOA), a landmark agreement to ensure the peaceful nature of Iran's nuclear programme in exchange for the termination of restrictive measures against Iran. Following certification by the International Atomic Energy Agency (IAEA) that Iran had complied with its nuclear dismantlement commitments, implementation of the JCPOA commenced on 16 January 2016. On that day, known as Implementation Day, all nuclear-related UN, US and EU sanctions on Iran were lifted. President Trump, who took office in January 2017, has consistently called the JCPOA 'a terrible deal'. In January 2018, he announced that the US would cease implementing the JCPOA in May 2018 unless Congress and US allies successfully addressed what he called the agreement's 'disastrous flaws'. During the short period given by President Trump, the US worked with EU allies on a 'supplemental agreement', to address the perceived weaknesses of the JCPOA. However, sufficient common ground could not be reached and on 8 May, President Trump announced that the US was leaving the nuclear deal with Iran and would (re)-impose sanctions. These block American firms from doing business in Iran, and bar foreign firms that do business with Iran from accessing the entire US banking and financial system. In addition, companies that violate the sanctions risk huge fines. The E3/EU have repeatedly stressed their support for the continued full and effective implementation of the JCPOA by all sides, pointing to the fact that it imposes very tough nuclear inspections and that the IAEA has confirmed 10 times that Iran is abiding by its commitments under the agreement. Russia and China have likewise expressed their unwavering support for the agreement. Iran has given the EU 60 days to ensure the continued implementation of the JCPOA, in particular its trade and economic aspects. The US has threatened to impose sanctions on European companies that continue to do business in Iran, but also signalled willingness to continue working on a 'supplemental agreement'.



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- The Iranian response
- What is at stake for European companies?
- Mitigating the impact of US sanctions
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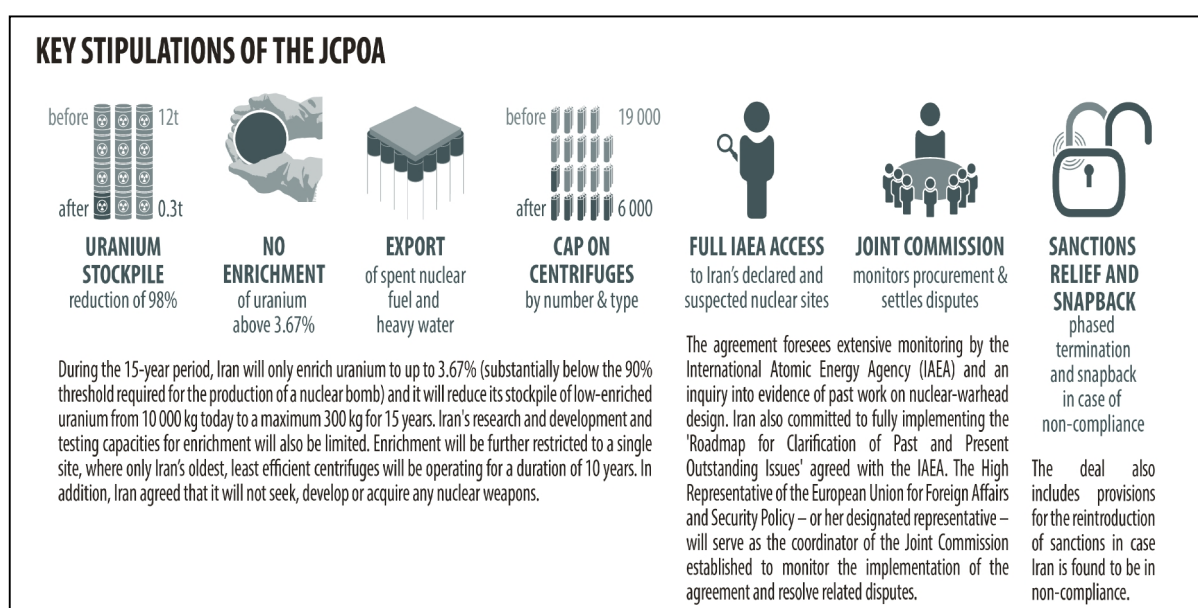
Author: Beatrix Immenkamp, with contributions from Fernando Garces de Los Fayos Tournan (Policy Department for External Policies)

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The Joint Comprehensive Plan of Action (JCPOA)

The [Joint Comprehensive Plan of Action](#) (JCPOA) was signed in July 2015 between Iran and the E3/EU+3 – France, Germany, the UK and the EU plus China, Russia and the USA. It aims to normalise Iran's relationship with the rest of the international community in the areas of trade, technology, finance, and energy and was endorsed by the UN Security Council on 20 July 2015. The main objective of the JCPOA is to ensure the purely peaceful nature of Iran's nuclear programme. In exchange, the other parties agreed to gradually lift restrictive measures on Iran. Iran and the E3/EU+3 envisaged that the implementation of the JCPOA would allow Iran to move forward with 'an exclusively peaceful, indigenous nuclear programme' and the rest of the international community to progressively 'gain confidence' in Iran's intentions. Iran specifically agreed that it would not seek, develop or acquire any nuclear weapons. The deal provides for extensive monitoring by the IAEA and an inquiry into evidence of past work on nuclear warhead design. Full implementation of the JCPOA was expected to generate a more positive climate for cooperation with Iran in the long term.



Source: [The nuclear agreement with Iran](#), 2016, EPRS.

US criticism of the JCPOA

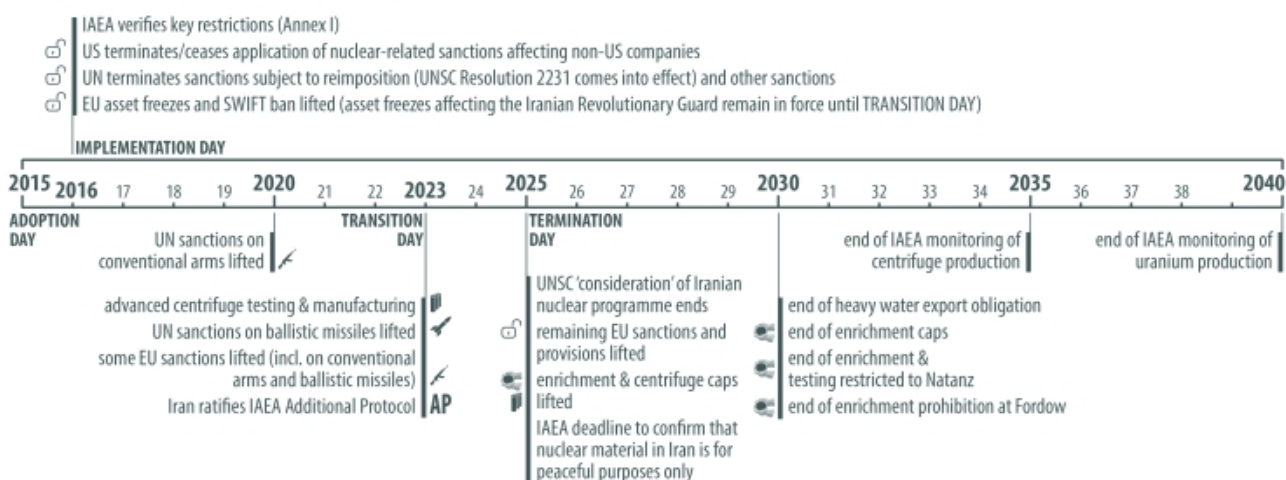
President Trump administration's [criticism](#) of the JCPOA has focused on alleged shortcomings in the inspections regime, the absence in the agreement of provisions targeting Iran's ballistic missile programme and the so-called sunset clauses.

- **IAEA inspections regime:** under the JCPOA, the IAEA was granted full access to Iran's declared and suspected nuclear sites, including military sites **on request**. The IAEA has certified repeatedly – most recently on [5 March 2018](#) – that Iran continues to fully implement its commitments under the JCPOA and that the IAEA had been given access to all the sites and locations that it needed to visit. The US administration is pushing for UN nuclear inspectors to have **immediate** access 'to all sites' they wish to inspect, including non-nuclear military installations.
- **Ballistic missiles programme:** Iran began developing [ballistic missile capabilities](#) during the 1980-88 war with Iraq, during which the country found itself unable to retaliate against Iraq's superior military power. Tehran considers ballistic missiles a crucial means of deterrence in a turbulent and antagonistic neighbourhood. The possible threat posed by Iran's ballistic missiles stems primarily from their potential connection to its nuclear programme, since ballistic missiles can carry nuclear

weapons. When negotiations over Iran's nuclear programme began in 2013, attempts were made to include ballistic missiles in a final agreement, but Iranian opposition to the idea was too strong. The agreement does not mention Iran's ballistic missile programme, but mandates instead that the matter be regulated in a new Security Council resolution. UN Security Council [Resolution 2231](#), endorsing the JCPOA, was adopted on 20 July 2015 and called for an eight-year moratorium on 'any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology'. The [Western expectation](#) was that Iran should suspend missile testing for eight years. When Iran tested a series of ballistic missiles in 2016, this was seen as 'threatening the constructive spirit of the JCPOA', and by the US as a 'violation' of Resolution 2231. The US sees Iran's continuing ballistic missile development as a regional and a global threat; President Trump has called for sanctions outside the JCPOA to target Iran's ballistic missiles programme.

- **Sunset clauses:** [Sunset provisions](#) in the JCPOA state when the various restrictions imposed on Iran's nuclear programme will expire. Critics say that this provides Iran with a '[patient pathway](#)' to acquiring nuclear weapons. Defenders of the provisions point out that the JCPOA provides for Iran to be subjected to years of intrusive, unprecedented inspections, through which the IAEA would gain confidence in the peaceful nature of the country's nuclear activities. Iran is expected to ratify the IAEA's Additional Protocol in 2023, which allows short-notice inspections of undeclared facilities in Iran and which the country is now voluntarily implementing. So far, no country has developed nuclear weapons while subject to IAEA inspections under the Additional Protocol. The US President has asked for all sunset clauses to be removed from the JCPOA, so that all its nuclear-related constraints remain in place indefinitely.

LENGTH OF IMPOSED OBLIGATIONS & RESTRICTIONS



Source: [The nuclear agreement with Iran](#), 2016, EPRS.

The regional context

[Critics](#) of the JCPOA consider that the unfreezing of Iranian assets held abroad and the economic dividends of the agreement have allowed Tehran to deepen its involvement in conflicts in Syria and Yemen and increase support for groups such as Hezbollah and the Houthis. While these activities are not covered by the JCPOA, the [White House](#) takes the view that Iran is 'not living up to the spirit of the deal' with its 'destabilising behaviour' and its support for 'terrorist proxies' in the region. The Israeli Prime Minister, Benjamin Netanyahu, who opposes the JCPOA and denounced it as a '[historic mistake](#)' in 2015, recently [claimed](#) to have 'new and conclusive proof' of Iranian violations of the JCPOA, alleging that it was evidence that the agreement was ineffective. The High Representative of the EU for Foreign Affairs and Security Policy and Vice President of the European Commission

(HR/VP) Federica Mogherini however said that the [information](#) presented by Prime Minister Netanyahu did not contain new information and had 'not put into question Iran's compliance with the JCPOA'. Tension has also been rising between Israel and Iran in Syria. Israel has been concerned for years about the [deployment](#) of Iranian troops to Syria in support of the Syrian regime, including the alleged build-up of [military bases](#). Iran has repeatedly called for an end to the existence of the Jewish state. [Airstrikes](#) on Iranian targets in Syria attributed to Israel have been increasing in frequency and intensity, most recently [in retaliation](#) to the firing of 20 Iranian [rockets](#) at Israeli military positions in the occupied Golan Heights.

The response of the E3/EU, Russia and China

The EU expressed its [deep regret](#) at the [US announcement](#) to withdraw from the JCPOA, which had been unanimously endorsed by UN Security Council Resolution 2231. Describing the JCPOA as a key element of the global nuclear non-proliferation architecture and crucial for the security of the region, the EU has vowed to 'preserve the nuclear deal'. The leaders of France, Germany and the United Kingdom issued a [joint statement](#) on 8 May 2018 emphasising their continuing commitment to the JCPOA. In a [joint statement](#) published on 5 May 2018, the Russian Federation and the People's Republic of China likewise expressed their 'unwavering support for the comprehensive and effective implementation of the JCPOA'.

Since January 2018, the E3 – France, Germany and the UK – had been exploring with the US whether a compromise consistent with the JCPOA on the 'shortcomings' of the JCPOA outlined by President Trump was possible. By early May, the two sides had reportedly reached a [consensus](#) on 90 per cent of the text of what has been referred to as a supplemental agreement. The E3 agreed to impose restrictions on Iran's ballistic missile programme and to address Iran's activities in the Middle East, two of the three demands that Mr Trump made in January. However, consensus could not be reached on the sunset clauses and the US requirement that the restrictions on Iran's nuclear fuel production be extended indefinitely. The leaders of the E3 noted in the joint statement they issued on 8 May that all the above issues needed to be addressed in the future, including Iran's ballistic missiles programme, its 'destabilising regional activities' and a long-term framework for Iran's nuclear programme after 2025.

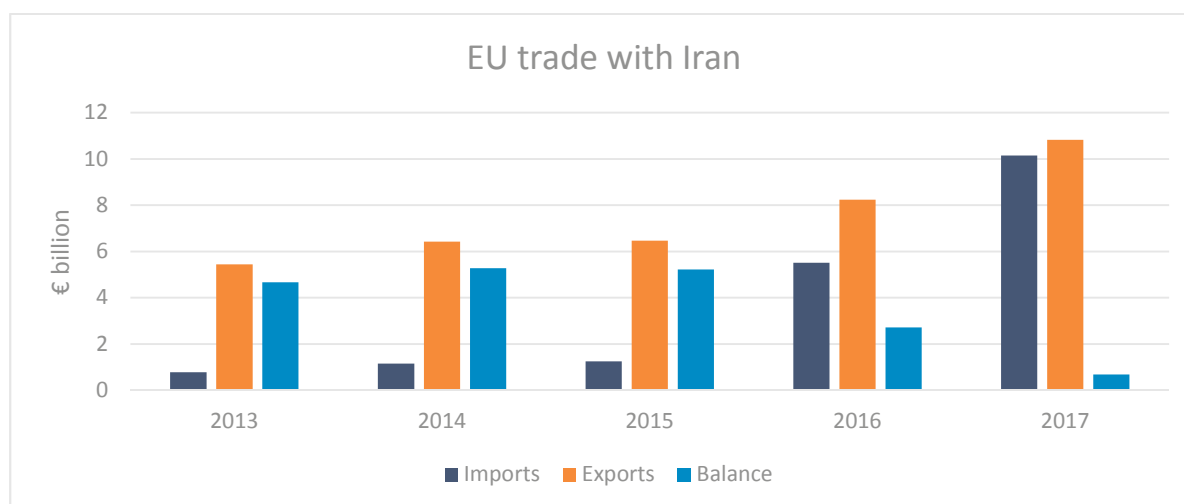
The Iranian response

The response of the Iranian political elite to the US withdrawal has been very mixed, reflecting deep divisions within the country over the JCPOA. Iranian President [Hassan Rouhani](#), a strong supporter of the nuclear agreement, has repeatedly said that Iran would remain committed to the JCPOA if 'Iran's interests were protected' and the remaining five signatory countries continued to abide by the agreement. However, he also warned that Iran was ready to resume uranium enrichment in the [coming weeks](#) if the JCPOA collapsed. Building on his consistently forceful anti-US rhetoric, Iran's supreme leader, [Ayatollah Ali Khamenei](#) strongly criticised the US for its unilateral withdrawal from the deal. He said that Iran would only continue to implement the agreement if the EU partners withstood US pressure and provided Iran with 'practical guarantees'. Iranian hopes hinge on measures to protect EU firms from the effects of US sanctions, since the normalisation of trade and economic relations with Iran constitute essential parts of the agreement. Recent announcements by European companies that they will not keep investing in Iran has been interpreted by Iran as '[not consistent](#)' with the EU's commitment to continued implementation of the JCPOA. Iran has set out several [conditions](#) for the country to remain in the deal, namely, an EU commitment to preserve the EU's oil trade with Iran and take steps to guarantee that Iran can sell as much of its oil as it wants on the world market; to find practical ways to bypass the US financial system, by making direct euro-denominated payments for Iranian oil to Iran's central bank; to compensate for the JCPOA's 'loss of value' following the US's withdrawal, by increasing EU investment in Iran; and to refrain from seeking new negotiations on Iran's ballistic missile programme and its activities in the Middle East.

At the other end of the [political spectrum](#), the commander of the Islamic Revolutionary Guard Corps, Mohammad Ali Jafari, congratulated the nation on the US withdrawal from the JCPOA, describing the agreement as 'not credible even before the withdrawal'. Other senior clerics warned against relying on foreign powers and questioned the EU's ability to save the JCPOA. [Hardliners](#) in Iran always disliked the JCPOA, not least because the economic isolation of the pre-2015 sanctions-era brought benefits for their interests in the large semi-public economic sector. Iranians' disappointment with the US withdrawal is expected to strengthen hard-line [political elites](#).

What is at stake for European companies?

The lifting of nuclear-related sanctions under the JCPOA has had a positive impact on EU trade and economic relations with Iran. From its lowest point in 2013, EU trade with Iran reached a total of € 21 billion in 2017. The average annual growth rate in EU exports to Iran since 2013 is 18.7 %; in 2016-2017, the growth rate reached 31.5 %. Imports nearly doubled in the 2013 to 2017 period, with an 83.9 % increase in 2016-2017. Iran is the EU's 30th largest trading partner, while the EU is Iran's third largest trading partner. In [February 2018](#) 40 % of Iran's oil exports went to EU Member States, including the UK, France, Italy, Spain, Greece and Hungary.



Data source: [European Commission](#).

Over the past two years, European companies have entered into important commercial and investment agreements with Iran, worth billions of euros. But following the re-imposition of US sanctions, many of these deals are under threat. Following President Trump's announcement on 8 May 2018, all US [sanctions](#) lifted under the JCPOA will be reinstated after a 90-day or 180-day wind-down period, and with full effect. These include [secondary sanctions](#) with extraterritorial effect, which prohibit non-US companies active in the following commercial activities from engaging with Iranian counterparts. (Primary sanctions, which prohibit US persons from engaging in almost any business dealings with individuals or entities in Iran, were never lifted under the JCPOA).

From 7 August 2018, the US will re-impose sanctions on:	From 5 November 2018, the US will re-impose sanctions on
the Iranian government's purchase of US dollar banknotes;	petroleum-related transactions with the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and the National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
Iran's trade in gold and other precious metals;	Iran's port operators, and shipping and shipbuilding sectors, including the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;

the direct or indirect sale, supply or transfer to or from Iran of graphite, raw or semi-finished metals such as aluminium and steel, coal, and software for integrating industrial processes;	transactions by foreign financial institutions with Iran's Central Bank and other designated Iranian financial institutions;
significant transactions related to the sale or purchase of Iranian rials or the maintenance of significant funds or rial accounts outside Iran;	the provision of specialised financial messaging services to Iran's Central Bank and other designated Iranian financial institutions;
significant transactions related to the sale or purchase of Iranian rials or the maintenance of significant funds or rial accounts outside Iran;	the provision of underwriting services, insurance, or reinsurance for transactions with Iran;
Iranian sovereign debt;	Iran's energy sector.
Iran's automotive sector.	

Data source: [US Treasury](#).

Moreover, the US Office of Foreign Assets Control (OFAC) will put certain Iranian entities — such as the National Iranian Oil Company (NIOC) and Naftiran Intertrade Company (NICO) — back on the [Specially Designated Nationals](#) (SDN) List. This will mean that non-US persons who engage in activities with these entities will — as of 5 November 2018 — run the risk of infringing US secondary sanctions. Foreign entities that violate the above provisions might be penalised.

The re-imposition of sanctions will mostly affect post-2016 investments in Iran by aircraft makers, oil companies and car manufacturers. Commercial agreements in these strategic sectors, such as those referred to below, are seen as '[barometers](#)' of the nuclear deal's success and will be crucial to its ongoing survival:

- Airbus, which signed a €17.5 billion deal with Iran in 2016 for the sale of 118 commercial aircraft (of which only three have been delivered), will see its existing US licence to sell planes to Iran revoked. A European company, Airbus is still subject to US [export restrictions](#) because its planes include US-made components.
- Re-imposed sanctions are designed to reduce Iran's export of crude oil, giving countries 180 days to wind up existing contracts and achieve 'significant reductions' in their purchases of Iranian oil. France's Total, Anglo-Dutch Royal Dutch Shell and Italy's ENI were more active in Iran than US companies. French oil company Total SA signed a €4.25 billion, 20-year agreement with Iran in July 2017.
- French carmaker PSA Peugeot Citroen agreed in 2016 to open a plant producing 200 000 vehicles annually in Iran, under a €255 million deal with Iranian company SAIPA.
- Renault signed a €660 million investment deal to build 350 000 cars a year at a factory outside of Tehran, together with two Iranian firms.
- Scania of Sweden has established a factory in Iran to build 1 350 buses.
- German industrial equipment manufacturer Siemens, has multi-billion-euro contracts with Iran for rail, power plants and other projects.
- Italy's FS has a €1.2 billion deal to build a high speed railway between Qom and Arak.

Mitigating the impact of US sanctions

The US administration's stated strategy behind the re-imposition of nuclear sanctions, and the imposition of extensive new sanctions ('the [strongest sanctions in history](#)'), is to compel Iran to drastically change its behaviour at home and abroad. On 21 May 2018, newly-appointed Secretary of State Mike Pompeo set out [12 conditions](#) that Iran must fulfil for any new nuclear agreement to be reached. The cooperation of international partners, including the EU, will be crucial to the success of the US strategy. The US administration has [hinted](#) that it might impose sanctions on EU companies that continue to do business with Iran. The US has in the past imposed [huge fines](#) on EU businesses that violated US sanctions. However, the US State Department has indicated that the

administration intends to work with EU governments and companies to achieve 'common objectives' rather than 'focus on punishing European firms'. US law permits the administration to resort to waivers and exemptions from existing sanctions law.

For its part, the EU has started to [activate Regulation \(EC\) 2271/96](#) (the 'Blocking Regulation') to counter the US move on sanctions. The Blocking Regulation was adopted on 22 November 1996 to protect EU businesses against the effects of the extra-territorial application of legislation adopted by a third country. The Blocking Statute forbids EU persons from complying with US extraterritorial sanctions, 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. The Blocking Regulation will be amended by the European Commission to include the new US measures, effectively ordering EU businesses not to comply with US sanctions. However, the [effectiveness](#) of the Blocking Regulation as a mechanism to [offset the effects](#) of re-instated US sanctions on Iran has been [questioned](#). While it might shield a company from fines imposed by the US – by compensating EU companies for the payment of US sanctions – it cannot for example prevent financial institutions that engage in transactions with Iran from losing access to the US financial system. Moreover, many EU companies would have to choose between doing business in the US or in Iran, and facing [fines](#) either in the US (for non-compliance with US sanctions) or in the EU (for complying with the US law). Medium-sized EU companies with little or no [US exposure](#) could continue to do business in Iran in non-dollar currencies. However, a revised Blocking Regulation will do little to alleviate the concerns of major multinationals with important economic interests in the US, which may simply prefer to pull out of Iran.

Experts have evoked the importance of devising 'bridging solutions' to maintain banking connections with Iran in the face of US sanctions on financial transactions with Iran. [Suggestions](#) have included temporarily connecting respective central banks in EU Member States to the Central Bank of Iran and creating emergency export credit lines. Export credit agencies and state-owned banks could be encouraged to devise 'novel banking mechanisms allowing a degree of risk-sharing between governments and the financial sector on business with Iran.' Efforts should focus on creating special purpose vehicles to finance sector-specific trade and investment in Iran. Other suggestions have included '[net level](#)' financing, whereby Iran's revenues from exporting oil to the EU could be used to pay for Iran's imports from Europe.

Outlook

Participants at a [meeting](#) of the EU/E3 – EU plus Germany, France and the UK – with the Iranian Foreign Minister in Brussels on 15 May 2018 reaffirmed their resolve 'to continue to implement the deal in all its parts, in good faith and in a constructive atmosphere'. The EU has announced the launch of 'intensive expert discussions' with Iran to find 'practical solutions' in the next few weeks to the key issues associated with maintaining the deal's economic and trade benefits, including:

- maintaining and deepening European economic relations with Iran;
- the continued sale of Iran's oil and gas condensate petroleum products and petrochemicals and related transfers;
- maintaining effective banking transactions with Iran;
- continued sea, land, air and rail transportation relations with Iran;
- the further provision of export credit and the development of special purpose vehicles in the financial banking, insurance and trade areas, with the aim of facilitating economic and financial cooperation, including by offering practical support for trade and investment;
- the further development and implementation of memoranda of understanding and contracts between European companies and Iranian counterparts;
- further investments in Iran;
- the protection of EU economic operators and action to ensure legal certainty;

- the further development of a transparent, rules-based business environment in Iran.

The [European Commission](#) has begun the preparatory work to amend the Blocking Regulation and neutralise the extra-territorial effects of the American sanctions in the EU. The Commission has also launched the formal process to extend the third-country lending mandate of the European Investment Bank (EIB) to Iran. Once adopted, this will allow the EIB to finance activities in Iran, in order to support EU investment in Iran, particularly by small and medium-sized companies. The European Parliament and the Council will have a period of two months to object to these measures, once proposed, before they enter into force. Moreover, the Commission has proposed that EU governments make direct [money transfers](#) to Iran's central bank to avoid US penalties.

The EU/E3 are facing an uphill battle. The HR/VP herself has admitted that businesses cannot yet rely on the provision of 'legal or economic guarantees'. European Commission President Jean-Claude [Juncker](#) has warned that although the EU will exploit means to maintain economic and trade relations with Iran to the full, the EU's options are limited in the face of the extraterritoriality of the US sanctions. Several [European businesses](#) have already announced their likely withdrawal from Iran or the end of commercial ties. Among others, the French group Total has warned that it will not continue its project on developing the biggest gas field in the world in Iran unless it obtains a specific project waiver from the US authorities. The two Danish oil shipping companies [Maersk](#) and [Torm](#) have announced that they plan to wind down their dealings with Iran, while the Swiss-based container shipping line MSC has also said it will not take any new bookings for Iran.

In addition to dealing a heavy blow to international diplomacy and nuclear non-proliferation efforts, the unilateral US withdrawal from the JCPOA marks a new low in relations between the US and the EU. Months of negotiations between the E3/EU and US representatives on a supplemental agreement and personal interventions by E3 leaders have failed to persuade President Trump to stay in the JCPOA, renew sanction waivers and thus give all the parties concerned time for further negotiations. Instead, ignoring the personal pleas of European leaders, President Trump has opted for the harshest option of re-imposing the full array of US nuclear-related sanctions plus additional, new sanctions on Iran and withdrawing from the JCPOA. In the [words](#) of European Council President Tusk, 'looking at the latest decisions of President Trump, one might even think: with friends like that, who needs enemies'.

In 2016, the European Parliament expressed its [support](#) for the JCPOA, praising it as a notable achievement for multilateral diplomacy. Both the update of the Blocking Regulation and the addition of Iran to the list of eligible countries that the EIB can support through its external lending mechanism, will take the form of delegated acts, which the European Commission is expected to adopt shortly. Parliament and Council have two months from the adoption of those acts to object to those measures, but may signal earlier that they will not object, allowing them to come into force sooner.

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