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Europe and Iran: The Economic and Commercial Dimensions of a Strained Relationship

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ABSTRACT

Europe and Iran had begun to invest in a closer commercial relationship just when the United States withdrew from the nuclear deal in May 2018. Since then, Washington has re-imposed its stringent economic sanctions, targeting Iran's oil exports as a major source of government revenue but also banning financial transactions with the country. This poses an enormous challenge for the EU, which had intended to use the 2015 agreement as a stepping stone to promote regional cooperation and, ultimately, a more comprehensive relationship with Iran.

European Union | Energy security | External trade | Iran | Sanctions | US foreign policy | Transatlantic relations

keywords

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by Cornelius Adebahr*

Introduction

In merely two years, the prospects for EU–Iran economic relations turned from promising to imperilled. The US presidential election of November 2016 dealt a first blow to the euphoria following the signing of the nuclear deal in July 2015. Already at that point, the Islamic Republic's volatile business environment and the reluctance of European banks to provide finance had prevented many companies from following through on their deals. To this was added the increased uncertainty about whether and when the new US president would fulfil his election promises to tear the deal apart. The scale of business activity consequently was less than anticipated, or hoped for.

With Washington pulling out of the deal in May 2018 and fully re-imposing its sanctions by November, the EU's approach aiming to salvage implementation of the nuclear deal has hit a stone wall. That is because various US sanctions now effectively prevent any economic activity by European companies in Iran. Washington's so-called "primary sanctions" had legitimately remained under the deal, banning US companies, including banks, from engaging in nearly all non-humanitarian trade (i.e., excluding food and drugs) with Iran and in particular in any business relation with the Islamic Revolutionary Guards Corps (IRGC). Most importantly, US "secondary sanctions" are also in force again, threatening the companies of third countries – from Europe to India to South Korea and Japan – with considerable fines or a ban on access to the US market should they fail to cease their activities in Iran. What was thus considered a "warming up" period of European companies (re-)establishing relations with their Iranian counterparts soon turned decidedly cool again.

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1. Unfulfilled expectations: EU-Iran trade after the nuclear deal

European companies trying to resume their business ties with Iran have experienced a rollercoaster ride over the past couple of years. The beginning of the implementation of the nuclear deal, formally known as the Joint Comprehensive Plan of Action (JCPOA), in January 2016 sparked enthusiasm among corporations wishing to regain ground in a market they had deserted, as well as those seeking to become part of the new "gold rush" at the confluence of East and West. European officials, too, declared that the deal marked a new era of EU–Iran cooperation.

However, this excitement soon faded when companies realized how US primary sanctions still remaining on the books would impact financial transfers. The lifting of all nuclear-related sanctions by the United Nations, the EU and the United States failed to kickstart business, as US measures against money-laundering and terrorist financing continued to prevent banks from supporting their trade. Another low came in November 2016 when an avowed critic of the JCPOA, Donald Trump, was elected US president. The deal's first anniversary, just a couple of days before the presidential inauguration in January 2017, was thus a sombre affair with no one knowing how long the agreement would hold. Nearly two years later, the deal is not quite dead but literally on life support.

The numbers recount this story: since the election of Hassan Rouhani as Iran's president and the signing of an Interim Agreement in 2013, EU trade with Iran had picked up considerably. At 13.7 billion euro in 2016 (i.e., following the JCPOA's entry into force), trade was nearly double the previous year's total.[1] Even so, the 2016 trade volume still stood at only half its 2011 value. Now, yearly trade has plateaued at around 20 billion euro for 2017 as well as the current year.[2] This means that EU–Iran trade had already stalled by the time Washington pulled out of the deal in 2018, and is likely to shrink given that the International Monetary Fund (IMF) expects a two-year recession in Iran this year and next.[3]

1.1 The EU's efforts to deliver on the economic side of the deal

The EU has been eager to use the JCPOA as a stepping-stone to develop broader relations with Iran. Brussels as well as most member state capitals see Tehran as a key player in the Middle East that must be engaged, not isolated, despite objecting

[1] European Commission DG Trade, *European Union, Trade in Goods with Iran*, updated 6 November 2018, p. 3, https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_iran_en.pdf.

[2] Between January and September 2018, the EU exported goods worth 6.9 billion euro to Iran and imported goods valued at 8.5 billion euro (i.e., a total of 15.4 billion euro in the first three quarters). EU-28 exports to Iran actually decreased by 8 per cent while their goods imports increased by 18 per cent, compared with the first nine months in 2017.

[3] The IMF estimates the Iranian economy to shrink by 1.5 per cent in 2018, and by 3.6 per cent in 2019. Cf. "IMF Says U.S. Sanctions Have Pushed Iran's Economy Into Recession", in *Radio Free Europe/Radio Liberty*, 9 October 2018, https://www.rferl.org/a/imf-says-us-sanctions-pushed-iran-economy-into-recession-cut-oil-exports/29533226.html.

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to its regional activities. Therefore, the EU does not even primarily aim to increase economic ties but rather to collaborate on security threats, energy issues and migration challenges. This is mirrored in the creation of the EU's Iran Task Force within the European External Action Service, which supervises the implementation of the JCPOA, develops the EU's bilateral relations with Iran and engages in policies to promote regional cooperation.

The EU's policy after the signing of the deal was therefore aimed at developing a broad and comprehensive agenda for bilateral cooperation between the EU and Iran. Such partnership should include "economic relations, energy, environment, migration, drugs, humanitarian aid, transport, civil protection, science and civil nuclear cooperation, as well as culture".[4] The visit of a high-level EU delegation to Tehran in April 2016, headed by the High Representative for Foreign and Security Policy and Vice-President of the European Commission, Federica Mogherini, and composed of seven further EU commissioners, was a visible expression of this European intent.[5]

In the same vein, the European Parliament passed a resolution outlining an "EU strategy towards Iran after the nuclear agreement" of 2016.[6] It proposed "a dialogue of the four Cs": *comprehensive* in scope; *cooperative* in fields of mutual interest; *critical*, open and frank in areas of disagreement; and *constructive* in tone and practice. Importantly, the resolution made the further development of EU–Iran relations conditional on the continuous and full implementation of the JCPOA.

In the wake of the implementation of the JCPOA, a number of important deals were struck between European and Iranian companies. While Iran mostly exported oil to its returning European customers, EU companies sold machinery, chemicals and other industrial products.[7] Particularly relevant in terms of its political importance was Total's landmark deal to develop the South Pars gas field jointly with China National Petroleum Corporation and Iran's Petropars, both minority stakeholders of the project.[8] French carmakers Peugeot and Renault increased their investments to set up production lines in Iran, whereas their German competitor Volkswagen

[4] European Commission, *EU High Level Delegation of HR/VP Federica Mogherini and EU Commissioners to Visit Iran* (IP/16/1366), 13 April 2016, http://europa.eu/rapid/press-release_IP-16-1366_en.htm.

[5] European Commission, *EU Visit to Iran: Cooperation Envisaged in Various Sectors* (AC/16/2143), 16 April 2016, http://europa.eu/rapid/press-release_AC-16-2143_en.htm. See also: European External Action Service, *Joint Statement by the High Representative/Vice-President of the European Union, Federica Mogherini and the Minister of Foreign Affairs of the Islamic Republic of Iran, Javad Zarif* (Statement/16/1441), Brussels, 16 April 2016, https://europa.eu/!VC33Wu.

[6] European Parliament, *Resolution of 25 October 2016 on the EU Strategy towards Iran after the Nuclear Agreement* (P8_TA(2016)0402), http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2016-0402&language=EN.

[7] European Commission DG Trade, *European Union, Trade in Goods with Iran*, cit.

[8] Total, *Iran: Total and NIOC Sign Contract for the Development of Phase 11 of the Giant South Pars Gas Field*, 3 July 2017, https://www.total.com/en/node/8489.

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returned to Iran's market after a 17-year hiatus.[9]

A particular focus was directed towards renewable energy. In April 2017, the Commissioner for Climate Action and Energy, Miguel Arias Cañete, travelled to Tehran and participated in the first ever Iran–EU Business Forum on Sustainable Energy. The Forum provided investment opportunities for renewable energy, energy efficiency and energy conservation in Iran and brought together nearly one hundred European and Iranian companies.[10] Notable investments in such projects include the British investment fund Quercus setting up a 600-megawatt solar power plant worth 500 million euro, making it the sixth largest such project globally.[11] Furthermore, the Austrian Benefit & Solar Company signed a contract worth 100 million US dollars to construct four solar power plants with a combined capacity of 70 megawatts in Southern Iran.[12] Finally, the Norwegian solar company Saga Energy signed a deal to invest 2.5 billion euro in the country over five years.[13]

Given that first-tier global banks remained absent from Iran throughout the entire "warming up" period, the financing of larger projects – in particular in the oil and gas sector – posed difficulties even before the re-imposition of US sanctions in November 2018. The unconventional use by Total of its own cash reserves to finance its Persian Gulf gas project pointed to the continuing difficulties in finding major international banks for large-scale investments in Iran. Among EU countries, Austria was most forthcoming with regard to facilitating bank transfers, with Oberbank announcing in 2017 a deal to finance up to 1 billion euro worth of projects through credits guaranteed by the Austrian Export Bank, OeKB.[14] Around the same time, Danish Danske Bank and French state investment bank Bpifrance declared that each would provide up to 500 million euro in annual credits for investments in Iran.[15]

These careful baby steps already faced a looming threat from US primary sanctions against the financing of such business deals. However, the stumbling blocks to increased European–Iranian trade were found not only on the other side of the Atlantic. Doing business in Iran is more broadly problematic for a number of reasons.

[9] Volkswagen, *Volkswagen Starts Automotive Business in Iran*, 4 July 2017, https://www.volkswagenag.com/en/news/2017/07/automotive-business-in-Iran.html.

[10] European Commission DG Energy, *Commissioner Arias Cañete in Iran for the first-ever Iran-EU Business Forum on Sustainable Energy*, 28 April 2017, https://ec.europa.eu/energy/en/node/133229.

[11] Andrew Ward, "UK's Quercus Plans €500m Solar Power Farm in Iran", in *Financial Times*, 20 September 2017.

[12] "Europeans Keen on Investing in Iran's Renewable Energy Sector", in *The Iran Project*, 24 October 2017, https://theiranproject.com/?p=280541.

[13] "Norwegian Firms Signs $3B Deal with Iran for Solar Panels", in *AP News*, 18 October 2017, https://www.apnews.com/68be3303301e458d92d02f5dd34f9c9e.

[14] "Iran Receives First Round of Post-Sanctions Finance from European Banks", in *Financial Tribune*, 22 September 2017, https://financialtribune.com/node/72854.

[15] "French State Bank BPI to Fund Projects in Iran, CEO Tells Paper", in *Reuters*, 24 September 2017, https://reut.rs/2xnMkYA.

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1.2 Always a problem: Doing business in Iran

Iran generally lags behind international financial standards. This is partly due to the opaque nature of its economy, with many business actors being tied to the state, in particular its security institutions, or to religious foundations.

One of the more notorious regime-linked entities is the IRGC, which controls between a fifth and a third of Iran's economy.[16] The Guards are heavily involved in construction and infrastructure, and thanks to their control of Iran's ports and airports, they even benefitted from the smuggling that flourished during the previous sanction period. Another key actor is the Headquarters for Executing the Order of the Imam, known under its Persian acronym Setad (short for *Setad Ejraiye Farmane Hazrate Emam*). This conglomerate amassed a fortune by seizing the properties of Iranian citizens, before growing rich on its own terms through investments in real estate and companies.[17] Today, Setad holds corporate stakes in oil, finance, telecommunications and many other sectors of the Iranian economy, its worth being estimated at around 95 billion US dollars.[18]

These two entities – one (Setad) controlled by the Supreme Leader, the other (the IRGC) loyal to him – are both on the US sanctions list. Given their economic presence throughout the country, it is as hard to avoid doing business with them or their subsidiaries as it is toxic to do so for Western companies. Add to this the more "normal" economic indicators such as company registration, tax procedures, legal certainty and corporate transparency, and any company's hesitation to do business in Iran is understandable, even before considering the sanctions question.[19]

With the JCPOA in place, two avenues had been envisaged (besides the lifting of sanctions) to lay the foundations for increased and more transparent trade with Iran. One was Tehran's request for membership in the World Trade Organization (WTO), the other its compliance with the terms developed by the Financial Action Task Force (FATF), an intergovernmental organization tasked with fighting money-laundering and the financing of terrorism.

[16] Greg Bruno, Jayshree Bajoria and Jonathan Masters, "Iran's Revolutionary Guard", in *CFR Backgrounders*, updated 14 June 2013, https://on.cfr.org/2kLrtpr.

[17] Khosrow B. Semnani, *Where Is My Oil? Corruption in Iran's Oil and Gas Sector*, Salt Lake City, Hinckley Institute of Politics and Omid for Iran, September 2018, https://www.whereismyoil.org/s/WhereIsMyOil_OmidForIran.pdf.

[18] Steve Stecklow, Babak Dehghanpisheh and Yeganeh Torbati, "Khamenei Controls Massive Financial Empire Built on Property Seizures", in *Reuters Investigates - Assets of the Ayatollah*, 11 November 2013, https://www.reuters.com/investigates/iran/#article/part1.

[19] Iran ranks 128th out of 190 countries in the most recent Doing Business report of the World Bank, coming in behind Uganda and Barbados. Cf. World Bank, *Doing Business 2019. Training for Reform*, 31 October 2018, p. 5 and 178, http://www.doingbusiness.org/en/reports/global-reports/doing-business-2019.

Tehran's application for WTO membership was meant to bring more transparent and enforceable rules for trade and investment. It would also bring the biggest economy outside of the organization into the fold, which is why most of Iran's international – in particular, European – business partners would have welcomed that move. However, after significant resistance from the new US administration, the Iranian government by September 2017 had officially abandoned its hopes of joining the WTO.[20] This further dimmed the prospect of increased economic engagement with the Western world.

In contrast, Tehran has not (yet) given up on fulfilling the criteria set by the financial watchdog, FATF. The task force first designated Iran as a "high-risk and non-cooperative jurisdiction" in 2008 due to its institutional shortcomings in the areas of money-laundering and the financing of terrorism.[21] In the light of Tehran's efforts to clear up its banking system since the signing of the nuclear deal, FATF moved to suspend active counter-measures in June 2016 while maintaining the "high risk" designation.[22]

In early October 2018, Iran's parliament passed a law to join FATF's Combating the Financing of Terrorism pact to avoid the country's continued blacklisting.[23] This followed fierce debates both among the political elite more generally and between the country's pragmatic and hardliner factions in particular. Opponents of the law argued that compliance with the pact's terms would contradict national interests in foreign and defence policy as well as economic policy. Tehran would no longer be in a position to support the "Islamic Resistance", including groups such as Hezbollah in Lebanon, nor would it be able to collaborate with secretive individuals and institutions to circumvent international sanctions. Despite these concerns, 143 deputies voted in favour of the law, while 120 voted against.[24]

Full implementation of the FATF conditions would at least lessen the challenges posed by the Iranian business environment. However, and despite the EU's efforts to implement the economic side of the deal, it is the changing US position that has done most to prevent companies from engaging in Iran.

[20] Saeed Jalili, "Iran Abandons Hope for WTO Accession", in *Al-Monitor*, 28 September 2017, http://almon.co/2xh7.

[21] Financial Action Task Force, *FATF Public Statement*, Paris, 28 February 2008, http://www.fatf-gafi.org/countries/n-r/pakistan/documents/fatfstatement-28february2008.html.

[22] Financial Action Task Force, *Public Statement*, Busan, 24 June 2016, http://www.fatf-gafi.org/countries/d-i/iran/documents/public-statement-june-2016.html.

[23] "Iranian Parliament Approves Bill to Combat Financing of Terrorism", in *Tehran Times*, 7 October 2018, https://www.tehrantimes.com/news/428273.

[24] Shahir Shahidsaless, "Signs of a Spectacular Policy Shift in Iran", in *IranSource*, 19 October 2018, https://www.atlanticcouncil.org/blogs/iransource/signs-of-a-spectacular-policy-shift-in-iran.

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1.3 Turning point: Washington's withdrawal from the nuclear deal in 2018

With a new administration in place since January 2017, US policy towards Iran has become more and more aggressive. While the EU continues to support the government in Tehran in its efforts to open up the Iranian economy and society, the new administration would have none of this. For it, anything but active pushback against Iran smacks of condoning the leadership of the Islamic Republic; engaging in trade in particular appears tantamount to strengthening the Iranian regime.

Despite this anti-Iranian predisposition, the new US president initially upheld the commitments under the JCPOA, if only grudgingly. In October 2017 he pompously refused to certify to the US Congress that granting Iran continued sanctions relief was in the US interest, and argued that Iran was in violation of the JCPOA – regardless of all evidence to the contrary. Yet, this was a purely domestic requirement that had no direct effect on the deal's implementation.[25] Even the ultimatum to Washington's European allies in January 2018 to "strengthen" the deal – mainly through increased inspections and an extended duration as well as by including curbs on Iran's missile programme – could be read (very benevolently) as an attempt to improve the deal rather than dismantle it.

In the end, it took the US president well over a year to "nix" rather than "fix" the JCPOA. In May 2018, the US government formally announced its withdrawal from – or, rather, the end of its compliance with – the JCPOA, brushing aside the publicly voiced concerns of its European allies. It then declared that Iran would have to fulfil 12 conditions in order to be relieved of the pressure, from abandoning its nuclear programme in its entirety, to ending support for Hezbollah and Hamas, to withdrawing from Syria.[26] (It later added another demand, that Iran would have to respect human rights.) If Tehran wanted to abide by these conditions, it would have to not only change its behaviour (and give up its security policy in the process) but also its "revolutionary" (i.e., anti-US) nature – which is why many observers judge the end goal of current US policy to be regime change.[27]

The re-imposition of US sanctions and the deepening of the transatlantic rift over Iran have harmed the already dire economic situation in Iran. This is precisely what the United States wants to exploit with its "maximum pressure" campaign.

[25] US Senate, *Iran Nuclear Agreement Review Act of 2015* (H.R. 1191, Pub.L 114-17, 22 May 2015), https://www.congress.gov/bill/114th-congress/house-bill/1191.

[26] US Department of State, *After the Deal: A New Iran Strategy*, Remarks by Secretary of State Mike Pompeo at the Heritage Foundation, Washington, 21 May 2018, https://www.state.gov/secretary/remarks/2018/05/282301.htm.

[27] Simon Tisdall, "Regime Change in Iran is Trump's Real Motive for Siding with the Saudis", in *The Guardian*, 18 October 2018, https://gu.com/p/9y2f7.

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2. "Maximum pressure" vs. "blocking regulation": How Washington aims to squeeze Tehran – and how Brussels is responding

On 5 November 2018, Washington fully re-imposed its pre–nuclear deal set of "crippling" economic sanctions against Iran. The aim is to cut the regime off from its revenue streams, in particular by banning its oil exports and by targeting its financial transactions. Oil sales account for 70 per cent of Iran's total exports, and by bringing these "as close to zero as possible",[28] Washington aims to cripple the regime's income.[29]

2.1 US sanctions have returned in full force

A first batch of US sanctions previously suspended under the nuclear deal came back on the books on August 7. These banned any transactions with Iran involving US dollar bank notes, precious metals, aluminium or steel, or commercial passenger aircraft. Despite a limited direct effect on the Iranian economy, major multinationals began to quickly draw down their activities in anticipation of the major sanctions taking effect three months later. So even before the old/new sanctions kicked in, European companies – from the French oil and gas supermajor Total to global carmakers such as Daimler and Peugeot to Danish shipping giant Maersk – announced that they would leave Iran.[30]

In October 2018, Washington also listed specific institutions related to the Basij militia of the IRGC. At least 20 banks and corporations affiliated with the Basij financial network have been named, including Bank Mellat, Bank Parsian, the conglomerate Mehr Eghtesad as well as firms like Tadbirgaran-e Atieh and Negin Sahel Royal. Their US assets have been frozen and US companies are banned from interacting with them.

The measures that took effect in early November include a worldwide oil embargo and a ban on international financial transactions. Even before these sanctions kicked in, Iran's oil exports had dropped by a third: according to estimates by the International Energy Agency, they fell from 2.4 million barrels per day (bpd) in April 2018 to 1.6 bpd in September 2018. However, independent trackers assess the drop to be considerably less, given how Iran conceals its shipments through technical means as well as re-flagging. Plus, the price of Brent crude had grown too, from 70 US dollars in early May to 85 US dollars in mid-October, relaxing somewhat

[28] US Department of State, *Supporting Iranian Voices*, Remarks by Secretary of State Mike Pompeo at the Ronald Reagan Presidential Foundation and Library, Simi Valley, 22 July 2018, https://www.state.gov/secretary/remarks/2018/07/284292.htm.

[29] Clifford Krauss, "Trump Hit Iran with Oil Sanctions. So Far, They're Working", in *The New York Times*, 19 September 2018, https://nyti.ms/2NkqwWt.

[30] Ellen R. Wald, "10 Companies Leaving Iran as Trump's Sanctions Close In", in *Forbes*, 6 June 2018, https://www.forbes.com/sites/ellenrwald/2018/06/06/10-companies-leaving-iran-as-trumps-sanctions-close-in.

since then. This means that even when providing a discount on its oil, Iran could offset some of the lower sales through a higher price – in particular given that the government calculated its annual budget on the basis of 57 US dollars per barrel.[31]

Despite its long-held goal of bringing Iran's oil exports to zero, Washington eventually relented. For fear of rocking the oil markets, the US administration granted temporary waivers to eight countries to continue oil imports from Iran: China, India, Italy, Greece, Japan, South Korea, Taiwan and Turkey. They had to commit themselves to "drastically" scale down their crude imports from Iran in the next six months. Still, it is not clear that this would bring Iran's crude exports below the magic number of one million bpd, which was the lowest point of the internationally concerted 2012–13 embargo under the Obama administration.[32]

Without the restraints it faces on the oil market, Washington has been much stricter with regard to international financial transfers. Under the threat of US sanctions, Belgium-based bank messaging service SWIFT in early November decided to disconnect dozens of US-blacklisted Iranian banks from its global financial network. Rather than offering a possible waiver to this crucial financial institution, the US administration had threatened penalties against the entity itself, such as a ban on US dollar transactions, amounting to virtual bankruptcy, as well as against individual board members, who include the bosses of two major US banks, Citi and J.P. Morgan.

With SWIFT bowing to US pressure to disconnect listed Iranian banks, even second- and third-tier banks now refuse to carry out any Iran-related transactions for their customers, not just dollar-denominated transactions. Washington also refused to name one Iranian bank specifically for humanitarian financial transfers, as the EU had requested. While such transactions should be legally possible through SWIFT with any non-designated entity in Iran, the reality is that payments for the delivery of food and medicine to Iran are already difficult.[33]

Therefore, the EU has come forward with specific measures to actively enable such legitimate trade.

[31] Benoit Faucon and Summer Said, "OPEC Divided on the Right Price for Oil", in *The Wall Street Journal*, 11 March 2018, https://www.wsj.com/articles/opec-divided-on-the-right-price-for-oil-1520769600.

[32] Richard Nephew, "The US Withdrawal from the JCPOA: What to Look Out for Over the Next Year", in *Columbia SIPA Center on Global Energy Policy Commentaries*, November 2018, https://energypolicy.columbia.edu/node/3251.

[33] Erin Cunningham, "Fresh Sanctions on Iran Are Already Choking Off Medicine Imports, Economists Say", in *The Washington Post*, 17 November 2018, https://wapo.st/2FnLtfs.

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2.2 Europe's efforts to shield its business will continue in the shadow of geopolitics

The Europeans have slowly but steadily built their own defences against the might of US sanctions. While the "blocking regulation" of August has so far been mostly symbolic, the "special purpose vehicle" (SPV) to facilitate financial transactions with Iran is meant to have some effect in the short to mid term – and may possibly help undo the dollar's dominance in the long term.

Timed with the first batch of US sanctions in early August, the EU re-activated its "blocking statute" dating back to previous transatlantic disputes over policy on Iran (and Libya as well as Cuba) in the 1990s. This regulation forbids European companies to observe US sanctions, and offers to compensate them in case of fines being imposed for legitimate trade.[34] Politically, however, the ultimate threat to confiscate US assets in Europe in return for Washington fining EU companies would be difficult to follow through. Moreover, taking the United States to the WTO over sanctions (as the EU did in the late 1990s) is futile with a president ready to start a trade war without respect for global trade rules. The instrument's effectiveness, and in particular the impact of its "immunity clause", will therefore only be known once the first legal cases have been brought and the EU's courts have passed a verdict.

More prominently, the EU together with the E3 (France, Germany and the United Kingdom), China and Russia announced the creation of the SPV on the sidelines of the UN General Assembly in New York. Driven by "the urgency and the need for tangible results", the SPV is understood as a "practical [proposal] to maintain and develop payment channels" with Iran, according to a ministerial statement of the E3/EU+2.[35]

By allowing the settling of import and export transactions without money transfers (i.e., outside the SWIFT system), the EU would offer a sophisticated barter system to facilitate payment flows related to Iran.[36] Like a "clearing house", the SPV could for example settle Iranian crude exports to a French firm with Tehran's purchase of Italian manufactured goods. Concretely, the EU wants to preserve humanitarian trade with Iran (food and pharmaceuticals) but also offer payment settlement

[34] International Crisis Group, "President Trump and the Art of the Iran Nuclear Deal", in *ICG Statements*, 23 November 2016, https://www.crisisgroup.org/node/4855.

[35] European External Action Service, *Implementation of the Joint Comprehensive Plan of Action: Joint Ministerial Statement*, New York, 24 September 2018, https://europa.eu/!qR69PP. Among multinational corporations, SPVs are regularly used financial instruments fulfilling a specific and temporary objective. That means a parent company can utilize this separate financial vehicle to carry out (risky) tasks like strategic investments, assets transfers or property sales, which would otherwise impact negatively on the company's balance sheet or rating.

[36] The mechanism is similar to the ruble-based one used by COMECON partners to settle bilateral trade transactions, or indeed to the ones employed by both China and India during the previous height of international Iran sanctions between 2011 and 2013.

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services to the eight countries that were granted temporary waivers from US sanctions for their oil imports.

The SPV would be set up as a multinational intermediary with independent legal personality and be backed by EU governments, comparable to the Luxembourg-based European Stability Mechanism. With a banking license, the SPV should also be able to provide export loans and other financial services, as well as to balance payments over time and between different trading partners.

Handling such deals by involving euros rather than dollars and without any funds traversing through Iranian hands, the SPV should avoid US sanctions. However, big multinationals with a significant exposure to the US market may fear they could still be sanctioned by US authorities precisely for engaging with Iran through the SPV. Thus, the instrument is designed to encourage small and medium-sized firms with little or no US exposure to stay in the Iranian market.[37]

Therefore, a realistic scenario suggests that the SPV would initially handle humanitarian and other non-sanctionable trade with Iran. By focusing on transactions that are legitimate also under US law but difficult to implement given the risk aversion of most international banks, the EU could develop a compromise that helps protect EU firms while not directly offending Washington. Ultimately, if successfully implemented, the SPV could even enhance the international role of the euro, especially with non-EU partners possibly joining as shareholders.

Even so, the practical hurdles to getting the SPV up and running are high. Although it was originally expected to be established, at least symbolically, by early November, EU member states could not find a host state for this controversial institution. Countries like Austria and Luxembourg refused the request due to significant US pressure, which has led France and Germany to share the burden.[38] In mid-December, then, High Representative Mogherini announced the mechanism would be ready around the turn of the year.[39]

Still, it is not clear how many companies would be ready to use the new mechanism, which can only work well with a certain trade volume. To be precise: to balance, say, Italy's oil imports from Iran worth 3.4 billion euro in 2017, nearly a third of all EU exports to Iran (worth 10.8 billion euro in 2017) would have to be traded through the SPV. This could only be achieved in the long term, once the mechanism has

[37] Shahir Shahidsaless, "US Treasury Identifies Channels Iran Has Used to Circumvent Sanctions", in *IranSource*, 14 November 2018, https://www.atlanticcouncil.org/blogs/iransource/us-treasury-identifies-channels-iran-has-used-to-circumvent-sanctions.

[38] Laurence Norman, "France and Germany Step In to Circumvent Iran Sanctions", in *The Wall Street Journal*, 26 November 2018, https://www.wsj.com/articles/france-and-germany-step-in-to-circumvent-iran-sanctions-1543251650.

[39] Richard Bravo, "EU Sees Effort to Sidestep Iran Sanctions Ready by End of Year", in *Bloomberg*, 10 December 2018, https://www.bloomberg.com/news/articles/2018-12-10/eu-sees-effort-to-sidestep-iran-sanctions-ready-by-end-of-year.

been accepted by economic operators that trust its ability to shield them from US sanctions.

Moreover, there are obvious reputational risks – and those of actual fraud – associated with Iran's status as a "high-risk, non-cooperative" country according to FATF standards. While European companies may avoid direct financial contacts with their Iranian counterparts thanks to the SPV, they are not off the hook with regard to their own due diligence to ensure that their business partners do not engage in money-laundering or terrorist financing. In turn, should one company participating in the barter exchange turn out to be, say, affiliated with the Revolutionary Guards, the outcry from the United States and Israel over EU member states' backing – and, thus, enabling – of such exchanges would be huge.

The EU's blocking statute is hitherto untested and the SPV still needs to be put in place, yet these European measures are already heavy on symbolism. While they cannot effectively protect the freedom of Europe's economic operators, both are important measures to underline the EU's principled opposition to the extra-territorial application of US sanctions. Similarly, even if the SPV initially only serves to facilitate legitimate trade such as food or drug exports to Iran, putting such a payment mechanism in place is an important step away from the dollar-dominated financial system.

3. Mission impossible? The EU tries to preserve relations with Iran while strengthening European autonomy

The EU's efforts to protect the nuclear deal come at a time when some EU countries are looking to rebalance their partnership with the US, while others around the globe are seeking to diminish the reach of US jurisdiction. This lends such measures, symbolical and technical as they are, a much wider meaning, going far beyond the immediate questions of nuclear non-proliferation and trade.

If Brussels' initial reaction to Washington's withdrawal from the nuclear deal was to prevent the unravelling of the internationally recognized agreement itself, the festering dispute with the US administration has morphed into a transatlantic contest of wills: Can the EU actually decide where it wants its companies to do business? The US answer is *no*, while Tehran obviously says *yes, please*. It will be the capitals of the EU-28 that have to decide, individually and collectively, what degree of autonomy they aspire to for themselves as well as for their European community – and what price they are willing to pay for that freedom.

With the EU's 2019 in-tray already being filled with the UK's exit in March, a European election in May and a growing global trade dispute spearheaded by Washington and Beijing, its Iran policy will continue to rank in second or third place. Provided the domestic situation in Iran does not deteriorate, the first half of the year should see a relative stabilization of trade relations thanks to the oil waivers granted by the

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US and the SPV finally becoming operational. With China and Russia being equally determined to keep Tehran in compliance with the nuclear deal all while carefully expanding its business activities despite US sanctions, this muddling through could persist throughout the year – provided that Washington decides to extend the waivers for another six months in May 2019 for fear of otherwise rocking the oil markets.

The bigger question, from a European perspective, is whether the transatlantic rift over Iran will worsen or can be managed in the mid term. The assumption is for Tehran to be waiting out the current president, hoping for a less confrontational successor by 2020 – or even before, should his legal–political difficulties at home boil over. However, not only is hope not a strategy, but this focus on US–Iran enmity also does not take into account the areas of disagreement between the EU and Iran outside the nuclear–trade nexus.

In the end, the EU will have to balance its policies in two directions: towards the United States, which threatens Europe's security interest by withdrawing from the nuclear deal and following regime change policies in Iran, and towards the Islamic Republic, to whose regional activities – including its missile development and deployment, as well as its domestic situation and in particular its ominous human rights record – it objects. Europe can only achieve this balance if it develops its own autonomous approach.

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