

Adoption Day Marks Start of Preparations for Iran Sanctions Relief

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October 18, 2015 marked the starting point for official preparations for the expected lifting of sanctions against Iran under the recently agreed Joint Comprehensive Plan of Action (JCPOA). On this day, termed “Adoption Day,” JCPOA participants started making the necessary legal and administrative preparations for implementation of their JCPOA commitments. We summarize below the US and EU preparations, and the timeline for initial sanctions relief.

On October 18, 2015, preparations officially commenced to enable sanctions relief under the JCPOA regarding Iran’s nuclear program which was agreed in July 2015. In the JCPOA, Iran agrees to curtail its nuclear program significantly. In return, and upon verification that Iran is abiding by the terms of the deal, the UN, the EU, and the US agree to provide Iran with relief from certain nuclear-related sanctions. A summary of the anticipated UN, EU, and US sanctions relief under the JCPOA and the related timeline for full JCPOA implementation is available in a previous [alert](#).

The JCPOA outlines implementation through a step-by-step approach leading to gradual sanctions relief. Two events foreseen in the JCPOA Implementation Plan have now occurred, as the UNSC adopted resolution 2231 on July 20 and Adoption Day took place on October 18 (i.e., 90 days after JCPOA endorsement in UNSC resolution 2231).¹ Further, on October 19, 2015, the Joint Commission established under the JCPOA held its inaugural meeting and participants expressed a continuing commitment to swift implementation of the JCPOA.²

As noted above, the initial sanctions relief will not go into effect until the International Atomic Energy Agency (IAEA) verifies that Iran has implemented certain agreed-upon nuclear-related measures. The timing of this relief is therefore uncertain, but current estimates put “Implementation Day” in spring 2016, if not later.

It is important to note that all current sanctions remain in place (with the exception of certain limited sanctions already suspended) and must be fully complied with until they are formally suspended or lifted.

¹ A copy of resolution 2231, which includes the JCPOA and its Annexes, is available [here](#).

² See [Press Release on the outcome of the first Joint Commission on the Joint Comprehensive Plan of Action \(JCPOA\) on the Iranian nuclear programme](#) (October 19, 2015).

US Waiver Determinations and Findings

Consistent with Annex V of the JCPOA, on October 18, 2015 the President issued a Memorandum³ to the Secretaries of State, the Treasury, Commerce, and Energy to direct them to take all appropriate measures to ensure the “prompt and effective implementation” of the US commitments in the JCPOA. On the same day, the Secretary of State also issued contingent waivers⁴ of certain statutory sanctions in preparation for the implementation of US commitments under the JCPOA, specifically with respect to various nuclear-related secondary sanctions as outlined in Annex V of the JCPOA.

Importantly, although the waivers put in place the framework for the agreed-upon sanctions relief, the waivers will not take effect until Implementation Day. Until then, all US sanctions against Iran—with the exception of the limited relief provided for in the Joint Plan of Action, as extended—remain in effect.⁵ Prior to Implementation Day, entering into contracts (contingent on the JCPOA relief or otherwise) involving Iran, the Government of Iran, or persons (individuals and entities) designated on the List of Specially Designated Nationals and Blocked Persons (SDN List) may be sanctionable. The US has stated that it will continue to “vigorously enforce” the sanctions that remain in effect.

Even after Implementation Day, US persons⁶ will continue to be broadly prohibited from dealing with Iran, with the exception of the limited relief contemplated in the JCPOA that will be licensed by OFAC pertaining to the importation from Iran of food and carpets; the export, re-export, sale, lease, or transfer to Iran of commercial passenger aircraft, spare parts, and components for commercial passenger aircraft, as well as associated services; and certain activities of foreign entities owned or controlled by US persons.

The US Department of the Treasury’s Office of Foreign Assets Control (OFAC) intends to publish detailed guidance and information on the implementation of US commitments with respect to the JCPOA sanctions relief—both for US persons and non-US persons—prior to Implementation Day. OFAC will also post an update on its website once Implementation Day arrives and the JCPOA sanctions relief goes into effect.

EU Adoption of Legal Acts Allowing Future Lifting of Sanctions

On October 18, 2015, the EU Council adopted the legal acts that will allow for gradual future lifting under the JCPOA of all nuclear-related EU sanctions imposed on Iran. They were published in the EU’s Official Journal on the same day. These legal acts (contained in [Council Decision \(CFSP\) 2015/1863](#), [Council Regulation 2015/1861](#) and [Council Implementing Regulation 2015/1862](#)) amend the EU sanctions outlined in Council Regulation 267/2012 and Council Decision 2010/413/CFSP.⁷ More specifically, they provide for expected future sanctions relief by suspending or removing provisions with certain sanctions measures while inserting new provisions outlining an authorization regime for specific nuclear-related transactions with Iran.⁸ For example, these legal acts confirm that a long list of EU asset freeze listings in relation to Iran will be removed on Implementation Day. In addition, the restrictions on fund transfers to and from Iran and other financial services will also be lifted on that date, as will sanctions relating to crude oil and petroleum, petrochemicals, natural gas, precious metals, and key naval equipment.

These published legal acts allowing for sanctions relief will start to apply only on Implementation Day. The legal acts define Implementation Day as the date on which the EU Council “has noted” the IAEA Director-General’s presentation of a report to the IAEA Board of Governors and to the UNSC which confirms that Iran has taken the nuclear-related measures agreed in the JCPOA. The date of Implementation Day shall be published on the applicable day in the EU’s Official Journal.

³ The Presidential Memorandum is available [here](#).

⁴ The Secretary of State’s Waiver Determinations and Findings are available [here](#).

⁵ The August 7, 2015 OFAC Guidance Relating to the Continuation of Certain Temporary Sanctions Relief Pursuant to the JPOA Prior to Implementation of the JPOA, as extended, is available [here](#).

⁶ US persons are defined to include US citizens and permanent residents, wherever located; entities organized under US law, including foreign branches; and any person located in the US.

⁷ See Council Regulation (EU) No 267/2012 (as amended; the latest consolidated version is available [here](#)) and Council Decision 2010/413/CFSP (as amended; the latest consolidated version is available [here](#)).

⁸ We note that this is in addition to certain measures adopted to prepare for JCPOA implementation by allowing EU Member States to authorize certain activities and transfers directly related to specific Iranian nuclear activities, which were adopted on July 31, 2015. Please see our alert on this previous development [here](#).

On Adoption Day, the EU Council also adopted a Declaration noting that the EU's commitment to lift all nuclear-related sanctions under the JCPOA is without prejudice to the possible reintroduction of such sanctions in case of Iran's significant non-performance of its JCPOA commitments.⁹ Importantly, the EU Council has committed to "reintroduce without delay" all terminated and/or suspended sanctions in that case, upon joint recommendation to the Council by the EU High Representative, France, Germany, and the UK. The legal acts also indicate that "adequate protection" will be provided for the execution of certain contracts concluded while JCPOA sanctions relief was in force in case sanctions "snap back" into place.

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⁹ See [Council Declaration](#) (2015/C 345/01).