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Supporting Global Business Interests In The Face Of New US International Sanctions Threats

While the dust has only begun to settle on President Trump's decision to back out of the Joint Comprehensive Plan of Action and reimpose US sanctions on Iran, it is becoming clear that this decision will have important repercussions for European businesses, whether they have operations and or interests in the United States or not.

The Trump Administration's decision to withdraw from the JCPOA confronts the United States and Europe with policy dilemmas and contradictions. For the United States, the question of "What now?" looms the largest. If as the Administration has said, the United States wants to engage Iran in a broader negotiation designed to put more serious constraints on its nuclear program as well as limit its ballistic missile development and its regional activities, it will need to reassemble the same global coalition that came together to apply the economic pressure that produced the existing agreement. But how likely are China, Russia and the EU3 (Britain, France and Germany) to engage in such an effort? In the case of Europe, in particular, is Brussels or are governments in London, Berlin or Paris likely to follow the American lead when Washington is pressing European companies to wind-up their business operations in Iran?

Europe also faces real dilemmas. The chief goal of the EU3 is to preserve the JCPOA with its existing limits on Iran's uranium enrichment and related nuclear development activities. The Iranian government has clearly stated that it will only continue to adhere to the existing agreement if European trade and investment continues unimpeded. But if European governments take steps to support and protect business with Iran this could easily lead to an unwanted confrontation with the Trump Administration. The timing of such a confrontation could not be worse, with Europe and America already at loggerheads over threatened tariffs on steel and aluminum and possible US secondary sanctions on energy companies participating in a new Russian gas pipeline. And even if EU governments decide to challenge Washington on Iran, it is not at all clear whether major European companies, especially those with significant interests in the United States, will follow their lead. Many of these companies will not want to jeopardize their positions in the U.S. market to preserve the option of doing business in Iran. In a nutshell, while European governments may make a brave stand, US "dollar diplomacy" may end up prevailing.

An initial reading of the National Security Presidential Memorandum and the Treasury Department's related Frequently Asked Questions (FAQ) makes clear that this will be a full and rigorous re-imposition of all sanctions that were in force prior to the JCPOA. The US administration expects companies involved in the Iranian economy to wind down their activities by either August 6th or November 4th, depending on the specific sector of the economy. This was confirmed by US National Security Advisor John Bolton who added that during the wind down period, no new contracts within the scope of the sanctions could begin and that "it [was] possible there [would] be secondary sanctions imposed on European companies as a result of the US withdrawal from the Iran nuclear deal."

These are some of the key challenges which European companies should prepare to address:

On the U.S. side:

- How will OFAC deal with requests for licenses and will any flexibility be offered? Is there a possibility for existing projects — especially those that have involved large-scale investments — to be “grandfathered” and permitted? How aggressive will Treasury be in pursuing non-US entities that do not have US-based assets?
- The Administration is now seriously thinking about how to roundup European support for going back to the Iranians and to negotiate a better deal. Would this offer some room to engage with US authorities and be enough to ensure that Washington isn’t too aggressive in promoting a new, comprehensive sanctions regime?
- While the likelihood of congressional action is normally very low in these situations, will the potential impact on companies based in Allied countries cause Congress to address this issue, and if so, how? Will members of Congress support efforts to seek licenses by European firms that have significant investment — and employees — in the United States?

On the European side:

- The initial European reaction — especially among the EU3 — has been to condemn the US move and declare that they will continue to implement the JCPOA. Some European capitals have proposed invoking 1996 EU legislation that blocked EU companies from complying with earlier US sanctions against Iran and Cuba. But European efforts to protect their companies will face steep challenges.
- How vulnerable are European firms to US threats? Could companies with no direct ties or business interests in the US be protected by the EU to enter or continue operating on the Iranian market?
- How will European companies continuing to operate in Iran cope with increased collateral risks to their business operations elsewhere in the Gulf / Middle-East?

Within the Middle East:

- How will the Iranian government respond politically to this new, more aggressive posture from the Trump Administration? Will they opt to follow through on pledges to withdraw from the JCPOA entirely or will they bend to these new pressures and engage in some form of renewed and comprehensive talks? Or will Iran choose to pursue a middle path of adhering to the JCPOA while attempting to drive a wedge between the US and its P5+1 partners?
- What impacts will the reimposition of sanctions and the resulting curb on economic activity have on the Iranian economy? Could those economic pressures create real political instability within the country and what might be the internal security response from Tehran?
- Iran has extensive relationships and capabilities throughout the region – assets which they leverage effectively to achieve their interests. Will Iran make good on threats to increase

asymmetric activities across the region to thwart the interests of the US or destabilize its allies?

- Israel and most of the GCC states are highly supportive of the renewed sanctions and closely aligned with the US on countering Iranian influence in the region. What repercussions may there be for European companies doing business in these states if those companies are seen maintaining commercial ties with Iran?

Questions for Asian Governments and Companies:

Asia's reaction to US actions has been relatively muted compared to that of Europe. Of course, there is considerable diversity in the interests of Asian countries. China is a signatory and will certainly see prospects for greater trade and investment opportunities in Iran with the U.S. out of the picture. Similarly, India will not want to participate in a new sanctions regime, especially with its growing demand for energy, and Iran's nearby supplies. Japan and South Korea are likely to be much more circumspect, especially given their close, but complicated relations with the United States. South Korea in particular is likely to be restrained in its reaction as long as US discussions with North Korea are underway. For Japan, US re-imposition of sanctions represents a second major blow after the imposition of steel and aluminum tariffs.

- How vulnerable are firms based in India and China - including state-owned enterprises - to US pressure on sanctions? Are they sufficiently isolated from the US market and financial system that they will be able to pursue projects in Iran with little consequence? Can those that are active in the United States be restructured in ways that reduce their vulnerability?
- What measures will the Indian and Chinese governments take to protect their companies, and will they be explicitly encouraged to continue their activities in Iran?
- Will Japan, which has just signed a major trade deal with the European Union, and which also has an investment accord with Iran, cooperate with the EU to protect firms and resist US pressure and even legal action?
- What impact will the re-imposition of sanctions have on negotiations with North Korea and the current positive movement toward stability on the Korean peninsula?

There has hardly been a time in the last 70 years in which European policy makers and business leaders needed to engage more actively at all political levels not only in the United States, but also in Brussels and in key European capitals. Transatlantic commercial and trade cooperation – the bedrock of the post-World War II international order - is clearly under threat.

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