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IRAN SANCTIONS: WHERE ARE WE NOW?

President Trump's recent decision to decertify the Iran nuclear deal had no immediate legal impact but signaled a shift in tone from the Administration. Although the Administration and Congress have yet to act upon a threatened reimposition of sanctions, uncertainty surrounding the future of an already tenuous agreement will feed further caution within the private sector, threatening the deal's survival.

By Sean Kane *

When the Iran nuclear deal was announced in July 2015, both supporters and detractors of the pact agreed, at least, that it was among the most significant international accords in decades. After some 25 years of negotiations aimed at halting and reversing Iran's nuclear program, and a near decade of steadily escalating sanctions imposed by the United Nations, the European Union, and the United States – including, in the last case, new and controversial measures (sometimes called “secondary sanctions”) aimed at severing ties between Iran and third countries – the EU and the so-called P5+1 (the five permanent members of the UN Security Council, plus Germany) announced a relaxation of multilateral and secondary sanctions that had begun to severely cripple Iran's economy in the preceding decade. The hope, if not the expectation, was that the agreement would result in a flood of new, non-U.S. investment in and trade with Iran and, by boosting more moderate factions in Tehran, could even begin the slow process of unwinding the primary U.S. embargo, which was not part of the nuclear deal but rather is pegged to Iran's ongoing human rights abuses and support for terrorism.

That future has not arrived. Although a handful of non-U.S. companies have made a tentative re-entry into the Iranian market, deals have been difficult to negotiate, not least because of the cost and expense of ensuring compliance with what sanctions do remain, as well as the persistent risk aversion among international financial institutions, many of which remain wary of financing projects involving Iran. That was true even in the last year of the Obama Administration, when EU officials were actively promoting lawful business with Iran and U.S. government officials were, more quietly, providing comfort and guidance to non-U.S. audiences to ensure the success of the deal. It is even more true in the wake of President Trump's October 2017 announcement that he would not certify the pact, as required every 90 days under U.S. law. While the decertification decision had no immediate legal impact, it has undoubtedly led to increased uncertainty regarding the U.S. posture towards the agreement. Whether intended or not, that uncertainty will mean that Iran sees even less material benefit from the deal in the short term, boosting hardliners within the regime and risking a slow collapse of the agreement.

*SEAN KANE is counsel in the Washington, D.C., office of Hughes Hubbard & Reed LLP. He was formerly the Deputy Assistant Director for Policy at the Office of Foreign Assets Control. His e-mail address is sean.kane@hugheshubbard.com.