

E3 triggers Iran nuclear deal dispute settlement mechanism (while EU sanctions lifting continues for now)

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France, Germany and the United Kingdom, known as the “E3”, announced on 14 January 2020 that they had triggered the dispute resolution mechanism under the Joint Comprehensive Plan of Action (“JCPOA”) due to concerns about Iran’s implementation of agreed JCPOA commitments. This is a first step towards potential future re-imposition of the sanctions lifted by the European Union (“EU”) and United Nations (“UN”) under the JCPOA in 2016, but for now such sanctions lifting continues.

According to their statement,¹ the E3 has triggered the dispute resolution mechanism set out in the JCPOA.² The E3 may trigger this mechanism if they believe that Iran does not meet its JCPOA commitments. The mechanism involves several potential steps: the issue is first referred to the Joint Commission (consisting of high-level JCPOA party representatives, i.e. including from Russia and China), which has 15 days to resolve it unless the time period is extended by consensus. Depending on the conclusions by the Joint Commission, the issue may be referred on to the Ministers of Foreign Affairs and/or an Advisory Board. If the issue remains unresolved to the satisfaction of the complaining party (i.e. the E3), that party could deem this to constitute “significant non-performance” by Iran as grounds to cease to perform some or all of its own obligations under the JCPOA and trigger a procedure at the UN Security Council level (which either leads to a Resolution to continue the sanctions lifting or the re-imposition of its old Resolutions). As confirmed in an EU statement,³ EU High Representative Josep Borrell will, as Coordinator of the JCPOA Joint Commission, oversee the process.

While the dispute settlement mechanism could lead to potential future re-imposition of the EU and UN sanctions lifted under the JCPOA in 2016,⁴ such sanctions remain lifted while the dispute resolution mechanism is ongoing. At this early stage of the process, it is difficult to predict if and when the E3 may consider the issue to constitute “significant non-performance” by Iran under the JCPOA (e.g. in light of various statements by Iran since the re-imposition of US sanctions in 2018 that Iran has reduced compliance with certain nuclear-related commitments under the JCPOA). The EU and E3 statements of 14 January 2020 confirm the continued commitment of these participants to preserve the JCPOA, and that the aim of triggering the dispute resolution mechanism is to bring Iran back into full compliance with its JCPOA commitments.

¹ See *Joint statement by the Foreign Ministers of France, Germany and the United Kingdom on the Joint Comprehensive Plan of Action: 14 January 2020*, available [here](#).

² See JCPOA text (including paragraph 36 on the dispute resolution mechanism) [here](#).

³ See *Statement by High Representative Borrell as Coordinator of the Joint Commission of the Joint Comprehensive Plan of Action on the Dispute Resolution Mechanism* (14 January 2020), available [here](#).

⁴ See our alert from 21 July 2015 providing an overview of the EU and UN sanctions lifting under the JCPOA [here](#).

The EU has indicated in the JCPOA guidelines issued in 2016⁵ that if there is “significant non-performance” by Iran of its commitments under the JCPOA – and the issue cannot be resolved through the dispute resolution mechanism set up under the JCPOA – then the EU will reintroduce the lifted sanctions (referred to as “EU snapback”). If so, this EU snapback would be enacted through a decision by the EU Council, based on a recommendation from the EU High Representative and France, Germany and the UK. This would mean all the EU sanctions lifted in 2016 will be reintroduced. The EU’s JCPOA guidelines clarify, however, that any EU snapback would not have retroactive effect, and that it would reintroduce the lifted sanctions only. The guidance indicates that the execution of contracts concluded while the JCPOA sanctions relief was in force, and in accordance with the JCPOA, will be permitted during a wind-down period, to be specified in the legal instruments formally re-introducing the pre-JCPOA sanctions.

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⁵ See *Information Note on EU sanctions to be lifted under the Joint Comprehensive Plan of Action (JCPOA)* (23 January 2016), available [here](#).