

UK, France, Germany create INSTEX SPV to support trade with Iran

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On 31 January 2019, France, Germany and the United Kingdom (the “E3”) announced the registration in France of INSTEX SAS (“Instrument for Supporting Trade Exchanges”), which is a special purpose vehicle aimed at facilitating legitimate trade between European economic operators and Iran.¹ One of the EU’s responses to the US decision in May 2018 to withdraw from the Joint Comprehensive Plan of Action (“JCPOA”) and re-impose related sanctions against Iran² was the creation of a new mechanism to facilitate legitimate trade for European companies wishing to do business with Iran. Together with the update of the EU’s Blocking Regulation,³ the aim is to ensure that European companies give effect to the JCPOA, despite the US withdrawal.

The creation of the special purpose vehicle, intended to assist and provide reassurance to European businesses wishing to continue trading with Iran, was first announced in September 2018.

The creation of INSTEX by three Member States is supported by the EU, which stated that it will continue to accompany the work of three Member States to make this vehicle operational as soon as possible in close coordination with the Iranian counterparts, and also support their commitment to expand INSTEX to other European countries and open it, in due course, to economic operators from third countries.⁴ On 4 February 2019, the EU Council adopted conclusions that reaffirmed the EU’s support for the JCPOA, along with the aim to ensure that the SPV will provide a positive impact on the EU’s trade and economic relations with Iran.⁵

That said, the future operation of INSTEX is subject to certain conditions. The E3 announcement states that Iran will need to continue to fully implement its nuclear-related commitments under the JCPOA, including full and timely cooperation with the International Atomic Energy Agency (“IAEA”). It also states the E3’s expectation that Iran swiftly implement all elements of its Financial Action Task Force (“FATF”) action plan, in view of the fact that INSTEX will need to operate under the “highest international standards” in relation to anti-money laundering, combating terrorism financing (AML/CFT) and EU and UN sanctions compliance.

Next Steps

It remains to be seen how INSTEX will work in practice, and when it will become operational. The E3 acknowledge that “concrete and operational details” for INSTEX still need to be defined. The E3 and INSTEX

¹ See [Joint Statement by E3](#).

² See our Client Alert of 13 November 2018 on the United States’ decision to re-impose Iran sanctions [here](#).

³ See our Client Alert of 9 August 2018 [here](#).

⁴ See Statement by High Representative/Vice-President Federica Mogherini, 31 January 2019, [here](#).

⁵ See [Iran: Council adopts conclusions](#).

will now focus on developing the legal and technical aspects of how it will operate. The E3 will also work with Iran to ensure that a corresponding Iranian entity is created in order to operationalize INSTEX.

Once operational, the initial focus of the SPV will be to facilitate trade in the agri-foods, pharmaceutical and medical devices sectors. This should greatly mitigate the risk under US sanctions, given that certain sales of food, agricultural commodities, medicine and medical devices, along with associated payments, are allowed under humanitarian authorizations and exceptions to US sanctions provided that certain conditions are met. The United States has yet to issue an official response to the E3's announcement of INSTEX.

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