

## VI. Conclusions

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While it is too early to reach any definitive conclusions about many of the issues highlighted in this chapter, several preliminary points can be made.

### Targeted or comprehensive?

Despite the recent arguments in favour of a shift towards targeted sanctions and away from comprehensive sanctions, the USA and the EU were willing to impose an ever-widening array of trade and financial sanctions that had a significant impact on Iran's economy. The Iran sanctions were always significantly less severe than the economic sanctions imposed on Iraq in the 1990s. Even so, during their imposition they were the subject of sustained criticism, because of the impact they were having on Iran's economy and for the unintended consequences they were generating.<sup>1</sup> In addition to the broader economic impacts on Iran's population, even in cases where sanctions exempted medicine, food and humanitarian aid from their scope these items were effectively denied Iran because of the risk aversion and over-compliance of suppliers and financial institutions.<sup>2</sup> These arguments have fed growing signs of resistance in parts of the international community to a perceived increase in the use of economic sanctions. For example, the argument that unilateral sanctions are contrary to human rights has recently gained some momentum within the UN Human Rights Council.<sup>3</sup>

The shift towards the adoption of more comprehensive sanctions was largely driven by the United States. The global reach of US policy tools, particularly in the field of financial regulation and trade controls, also did much to strengthen their impact. However, the adoption of many of these comprehensive sanctions at the EU level lent the measures additional weight, particularly given the significant economic ties between EU member states and Iran.<sup>4</sup> The EU's sanctions against Iran signalled an increased willingness on the part of the EU and its member states to expand the use of sanctions beyond narrowly targeted restrictions and towards more comprehensive measures. The EU has also imposed more comprehensive targeted sanctions on Syria and Russia where, unlike with Iran, the measures were not

<sup>1</sup> World Bank, Middle East and North Africa Region, *Economic Implications of Lifting Sanctions on Iran*, MENA Quarterly Economic Briefing no. 5 (World Bank: Washington, DC, July 2015).

<sup>2</sup> Moret, E. S., 'Humanitarian impacts of economic sanctions on Iran and Syria', *European Security*, vol. 24, no. 1 (2015), pp. 120–140.

<sup>3</sup> Portela, C., 'How the EU learned to love sanctions', ed. M. Leonard, *Connectivity Wars* (European Council on Foreign Relations: London, 2016), p. 42.

<sup>4</sup> Esfandiary, D., 'Assessing the European Union's sanctions policy: Iran as a case study', EU Non-Proliferation Consortium, Non-Proliferation Paper no. 34, Dec. 2013.

preceded by the imposition of UN sanctions. According to one commentator, '(t)his indicates an emerging consensus within the EU that sanctions should have a serious economic impact, and a growing acceptance that individuals and entities not directly involved in the policies being condemned may suffer from the measures'.<sup>5</sup>

### **Were comprehensive sanctions decisive in coercing Iran?**

Many commentators have argued that the more comprehensive sanctions imposed by the USA and the EU played the most decisive role in coercing Iran into changing its policies. During the JCPOA negotiations, there was a widely held view that Iran would not be swayed by sanctions but would instead adjust its economic policy to adapt to the restraints they imposed.<sup>6</sup> However, as the negotiations reached their conclusion it became clear that lifting the trade sanctions and accessing funds held in Western banks were key factors motivating Iran's negotiating team.<sup>7</sup> By contrast, the more targeted sanctions imposed by the UN had little impact on Iran's negotiations. Their importance was in the 'legitimizing role' they played in supporting the more comprehensive sanctions by the USA and the EU.<sup>8</sup>

If this assessment of the relative importance of the UN, EU and US sanctions is accurate, it challenges many of the assumptions that have driven much of the work on smart sanctions in recent years. In particular, it could challenge the widespread dismissal of the 'naive theory of sanctions', which held that increased economic pressure would drive political leaders to change policy.<sup>9</sup>

That said, while sanctions no doubt played a role, there is broad consensus on the fact that wider political developments also played a key role in making the agreement possible. Without the election of President Barack Obama in 2008 (and his re-election in 2012) and that of President Hassan Rouhani in 2013 it seems inconceivable that a deal could have been reached. President Obama maintained US objectives vis-à-vis the Iranian nuclear programme, and also maintained the sanctions policy, but he framed these policies in terms that facilitated dialogue. While it could be argued that the imposition of sanctions played a role in the election of President Hassan Rouhani, how-

<sup>5</sup> Esfandiary (note 4), p. 40.

<sup>6</sup> International Crisis Group, 'Spider web: the making and unmaking of Iran sanctions', *Middle East Report* no. 138 (International Crisis Group: Brussels, Feb. 2013), pp. 34–35.

<sup>7</sup> Nephew, R., 'How US made sure its sanctions worked', *The World Today*, Royal Institute of International Affairs (Feb./Mar. 2016), pp. 36–38. Richard Nephew was the Principal Deputy Coordinator for Sanctions Policy at the US Department of State between 2013 and 2015.

<sup>8</sup> The Targeted Sanctions Initiative at the Graduate Institute, Geneva, <<http://sanctionsapp.com/>>.

<sup>9</sup> Targeted Sanctions Consortium (TSC), *Effectiveness of UN Targeted Sanctions: Findings from the Targeted Sanctions Consortium* (TSC: Geneva, Nov. 2013), p. 13.

ever, it would be hard to argue that it was the only factor—or even that it was the most decisive.

### **Continuing complexities post-sanctions**

The complexity of various targeted sanctions imposed on Iran, the difficulties of lifting them in an orderly fashion and the ongoing problems of over-compliance by Western companies might generate sufficient ill will to undermine the JCPOA.<sup>10</sup> Moreover, the deal could still collapse as a result of the collateral impact of non-nuclear-related sanctions by the EU and—particularly—the USA. The implementation of the JCPOA and UN Security Council Resolution 2231 will not have any impact on existing sanctions in place for reasons other than concern over the Iranian nuclear programme. However, the Iranian Government has emphasized that once nuclear-related sanctions are lifted, they should not be reimposed using a different legal framework. Should that happen, Iranian representatives have underlined that Iran would no longer consider itself bound by the commitments in the JCPOA.<sup>11</sup>

Iran is currently the target of a number of sanctions that are not nuclear-related. The USA has maintained autonomous sanctions related to allegations of Iranian state sponsorship of terrorism since the 1980s and all financial transactions with Iran have been prohibited for US companies since 1995.<sup>12</sup> In the first quarter of 2011 the EU adopted restrictive measures in response to what was determined to be a deteriorating human rights situation in Iran.<sup>13</sup>

In addition, the Financial Action Task Force (FATF) on money laundering has found Iran to be a country that fails to meet adequate standards in countering terrorist financing. The FATF has therefore identified Iran as a threat to the integrity of the international financial system, and called on its participating states to apply effective countermeasures to protect their financial sectors from the money laundering and terrorist financing risks emanating from Iran.<sup>14</sup>

Aside from the Iranian nuclear programme, targeted financial sanctions have been used to try to dissuade Iran from continuing its development of

<sup>10</sup> International Crisis Group (note 6), p. ii.

<sup>11</sup> United Nations, Security Council, Letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council United Nations, S/2015/550, 20 July 2015.

<sup>12</sup> The White House, The Iran and Libya Sanctions Act of 1996, Fact sheet, 6 Aug. 1996.

<sup>13</sup> Council Decision 2011/235/CFSP of 12 Apr. 2011 concerning restrictive measures directed against certain persons and entities in view of the situation in Iran, Brussels, 14 Apr. 2011; Council Regulation (EU) 359/2011 of 12 Apr. 2011 concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Iran, Brussels, 14 Apr. 2011.

<sup>14</sup> Financial Action Task Force (FATF), FATF Public Statement, Paris, 23 Oct. 2015.

ballistic missiles.<sup>15</sup> At the end of 2015, the US Government was being urged by members of Congress to consider whether targeted financial sanctions should form part of the response to further progress made by Iran in its ballistic missile development programme.<sup>16</sup> If Iran takes the view that as nuclear-related sanctions are lifted, essentially identical restrictions are being imposed for other reasons, a serious issue could arise over JCPOA implementation.

<sup>15</sup> See sections II and III in this chapter.

<sup>16</sup> Zengerle, P., 'US says considering response to Iran ballistic missile test', Reuters, 17 Dec. 2015.