Volume 6, Issue 1, Winter & Spring 2024
pp. 121-133

Iranian Association for
UN Studies

How Iran's Response to Multiple Breaches by the JCPOA Parties Is In-Line with International Law

Sadra Pirniakan *

DOI: 10.22034/iruns.2026.567619.1212

Received: 2025-12-20 Accepted: 2026-04-30

Abstract

Ever since its adoption, the status of the JCPOA has been the subject of discussion amongst scholars. This has been mainly due to the fact that, had the JCPOA been conceived as a Treaty, it would entail certain consequences for the parties to the document "signed". This Note, however, takes a different approach and aims to adopt a more nuanced view of the obligations set forth in the document. If one is to consider the background of the obligations of the UN Member States under UNSC Resolution 2231, namely being obliged "…under Article 25 of the Charter…to accept and carry out the Security Council's decisions…", the status of the JCPOA *itself* under international law becomes less relevant. In other words, the JCPOA is granted a special position in international law; one that is "endorsed" by a UNSC Resolution, and thereby, having a special place so that the UN Member States have an obligation to adhere to it, and facilitate its implementation.With this consideration in mind, the Note provides a hybrid approach to the question of JCPOA and the dispute

* PhD Student of Tarbiat Modares University, Tehran, Iran.
sadra.p1998@gmail.com

between Iran and other participants to it; one that provides the facts necessary in order to come to the rationale behind Iran's lawful measures under international law. After analysing the Trump administration's justifications in its withdrawal from the plan, as well as the EU's obligations under international law, the lawful measures by Iran to counter (and induce) the participants are analysed through the text of ARSIWA.

***Keywords**:* JCPOA, ARSIWA, EU Blocking Regulation, Sanctions, Countermeasures.

Introduction

The Joint Comprehensive Plan of Action ["JCPOA"] was adopted in 2015 by Iran and the so-called 5+1 group of countries. Due to the importance of this document, as well as the legal necessity of handling the international sanctions regime imposed on the Islamic Republic, the United Nations Security Council unanimously adopted Resolution 2231, officially *endorsing* this diplomatic milestone by the Parties to the JCPOA.

Although many have placed doubt as to the existence of the JCPOA as a Treaty,[1] making it governed by the rules and principles of the law of treaties, one could take a more detailed view, as officially presented in the UN's explanation of the 2231, "…Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Security Council's decisions".[2]

Thus, as can be seen, the Council's endorsement of the JCPOA is not without its perks. If all UN Member States, including the Parties to the JCPOA, have an obligation to take "…actions commensurate with the implementation plan set out in the JCPOA and this resolution and

[1] See for instance this article in Farsi: https://kayhan.ir/fa/news/165359
[2] Resolution 2231 (2015) on Iran Nuclear Issue, https://main.un.org/securitycouncil/en/content/2231/background

by refraining from actions that undermine implementation of commitments under the JCPOA",[3] the Council has created an international obligation for them to honor the commitments therein; at least until the day the JCPOA is standing.

With this introduction, the following sections will focus on the first breach of this obligation and the actions that ensued.

I. The Importance of Understanding the "Proper" Time-Line of Events

Following the 2016 election in the United States of America and the commencement of the Trump presidency, doubts began to appear as to the continuance of the US's willingness to honor its obligations.[4]

As follows, on 8 May 2018, the Trump administration announced its unwillingness to honor the said obligations, and that the US is "…Ending [its] Participation in an Unacceptable Iran Deal", since it "was one of the worst and most one-sided transactions the United States has ever entered into".[5] This is despite the fact that many analysts, prior to the withdrawal of the US, called for a similar deal with North Korea, as "An Iran-Style Nuclear Deal with North Korea Is the Best America Can Hope For".[6]

[3] S/RES/2231 (2015), accessible at: https://docs.un.org/S/RES/2231(2015) (Emphasis added)
[4] See for instance, the article written titled "*Trump will refuse to certify Iran nuclear deal as part of broad new strategy against Tehran*" back in 2017, accessible at: https://www.cnbc.com/2017/10/13/trump-will-refuse-to-certify-iran-nuclear-deal-in-strategic-shift.html
[5] "*President Donald J. Trump is Ending United States Participation in an Unacceptable Iran Deal*", accessible at: https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-ending-united-states-participation-unacceptable-iran-deal/
[6] See for instance, the article titled "*An Iran-Style Nuclear Deal With North Korea Is the Best America Can Hope For*" back in 2017, accessible at: https://www.theatlantic.com/international/archive/2017/05/iran-deal-north-korea-jcpoa/525372/

It is all the more interesting, that even in the announcement of the Trump administration on the withdrawal from the JCPOA,[7] they did not invoke an Iranian breach. One of the reasons invoked by the US, instead of justifying the withdrawal, has an exact opposite effect. For them, the JCPOA "enriched the Iranian regime and enabled its malign behavior, while at best delaying its ability to pursue nuclear weapons and allowing it to preserve nuclear research and development".[8] I would like to place an emphasis on the last part of the quoted text: "…allowing it to preserve nuclear research and development".[9] Under IAEA scrutiny at the time, Iran, via an explicit reference to the JCPOA, was allowed to do so.

According to the preface of the JCPOA, "Iran envisions that this JCPOA will allow it to move forward with an exclusively peaceful, indigenous nuclear program, in line with scientific and economic considerations, in accordance with the JCPOA, and with a view to building confidence and encouraging international cooperation. In this context, the initial mutually determined limitations described in this JCPOA will be followed by a gradual evolution, at a reasonable pace, of Iran's peaceful nuclear program, including its enrichment activities, to a commercial program for exclusively peaceful purposes, consistent with international non-proliferation norms.[10]

It seems obvious that what the Trump administration invoked at the time of withdrawal is flawed. Other reasons invoked in the statement of the administration reveals their disregard to the *raison detre* behind their obligation under international law. JCPOA, and the obligations

[7] See *supra* note 5
[8] *ibid.*
[9] *ibid.*
[10] See *supra* note 3 (Emphasis added).

under Resolution 2231 were meant to settle the "Iran nuclear issue",[11] not all of the policy differences between the US and Iran.

II. Breach of the Provisions of the JCPOA

As stated above, the United States, via its "8 May Measures", breached its obligation under Resolution 2231.

More explicitly, the obligation to refrain "from actions that undermine implementation of commitments under the JCPOA" was breached. In this sense, one could invoke the "*inadimplenti non est adimplendum.*"[12] and argue that the parties to the JCPOA cannot contend Iran's response to the withdrawal, and use the "weapon" in Article 18 of JCPOA's Annex V,[13] to namely, subject Iran "to re-imposition in the event of significant non-performance by Iran of JCPOA commitments".[14]

As will be discussed further in the next section, it seems that Iran has resorted to "countermeasures", a means permissible under international law, in order to bring back the violating States/States into following their international obligations, created by the Security Council.

III. "Countermeasures" Adopted by Iran in Response to Such Breaches

The Articles on Responsibility of States for Internationally Wrongful Acts, or ARSIWA in short,[15] is a document by the

[11] See *supra* note 2.
[12] Aaron FELLMETH, Maurice HORWITZ, Guide to Latin in International Law (New York, Oxford University Press, 2009), p 136.
[13] S/2015/544, Annex V, Article 18.1, page 89 accessible at: https://docs.un.org/en/S/2015/544
[14] *ibid*.
[15] Articles on Responsibility of States for Internationally Wrongful Acts, accessible at: https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf

International Law Commission, which has codified, in the most part, the law applicable to international responsibility of States.

Under Article 49(1) of ARSIWA, the object of taking a countermeasure by an injured State is to induce the responsible State into complying with its obligation.[16] However, not all actions are permissible; only those that allow for "resumption of performance of the obligation in question", as enshrined in paragraph 3 of the same Article, may be taken.[17] Iran's response in increasing the levels of enrichment follows this approach.[18]

Even more importantly, Iran has also fulfilled its obligations under Article 50 of the ARSIWA; its countermeasure has not been in areas forbidden or prohibited under international law. Namely, Iran has not resorted to threats or the use of force, nor violated fundamental human rights, committed reprisals, or violated peremptory norms.[19]

Quite the opposite, in fact. The US bombardment of the Iranian nuclear facilities, in the midst of the Israeli/American aggression, has not stopped Iranian policy-makers from following their obligations under international law. Iranian response to the original violations in 2018, and the aggression that followed, remains to be in line with Article 51 of ARSIWA; i.e., proportionality, and being commensurate with the injury suffered.[20]

---

[16] *ibid*, Article 49.1
[17] *ibid*.
[18] See for instance, this article in Farsi, which reads in the title "…by Rouhani's orders, ***some*** of the obligations of Iran under the nuclear deal will decrease", accessible at: https://sobhe-no.ir/newspaper/699/3/27912 (Emphasis added)
[19] See *supra* note 15, Article 50.
[20] *ibid*, Article 51

IV. Snap-back and European States; Full Disregard for Reality and Common Sense

Understanding the "proper" timeline of events allowed us to not only comprehend the past couple of years' ups and downs in the JCPOA's rocky history, but also the Iranian response to such breaches. We gathered that whilst Iran's response seems to follow the law of state responsibility, the other Parties' positions are in full disregard of the facts, and hence, international law.

Since the three European States (Germany, France, and the UK, or E3 in short) had long threatened the resort to the "snap-back" mechanism,[21] And since the US's position is clear, this section will analyze the facts and law surrounding that.

Before we continue, however, we need to briefly review the accepted definitions of primary and secondary sanctions, as they are used in the following sections.

Primary sanctions, in the most basic sense, are those measures applied when States impose "economic sanctions by subjecting to the relevant law's binding force their own subjects – legal entities and natural persons registered in the relevant jurisdiction or being their own citizens, as well as citizens of other countries present within the relevant jurisdiction when sanctions-related activity is conducted".[22] This means that "US primary sanctions are not addressed to non-US persons, and EU primary sanctions are not addressed to non-EU persons".[23]

[21] "*Iran warns European troika against misusing JCPOA 'snapback' mechanism*" accessible at: https://en.irna.ir/news/85829919/Iran-warns-European-troika-against-misusing-JCPOA-snapback

[22] Martin VOGT, "The Impact of Unilateral (Especially US Secondary) Sanctions; How Do International Financial Institutions and Their Compliance Officers Cope?" in Tom RUYS et al. The Cambridge Handbook of Secondary Sanctions and International Law (Cambridge University Press, 2025), p 64

[23] *ibid*.

In this sense, when an activity has a sufficient nexus to the sanctioned entity, the primary sanction becomes applicable. For example, when X conducts business with Y, both of which are located outside the US, are not bound by the US's primary sanctions, but the transaction is in USD, the "sufficient nexus" with the US is present since "the wire transfer have [sic] to be cleared by involving at least one US financial institution".[24] Hence, although the situation looks like an extraterritorial application of sanctions, it remains a primary one. The EU applies its primary sanctions similarly, but rather than being based on currency, "part of the business" must be carried out in the Union if the primary sanction applies.[25]

To understand secondary sanctions, we could follow use the logic of the example given above. Here, "whilst the settlement of a wire transfer in USD within the US clearing system creates a nexus to US primary sanctions, the same wire transfer denominated not in USD but in EUR – lacking the involvement of a US clearing bank and thus of a US person – does not create such nexus but may be subject to US secondary sanctions".[26]

The extraterritorial application of the US's secondary sanctions is not a policy the EU (or the rest of the world) finds acceptable. To that end, the so-called "EU Blocking Regulation" was adopted in 1996 (amended in 2003, 2014, and 2018)[27] so as to protect European interest "against the effects of the extra-territorial application of

[24] *ibid*, p 67
[25] *ibid*, p 68
[26] *ibid*, p 69
[27] "*Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom*" accessible at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01996R2271-20180807

legislation adopted by a third country, and actions based thereon or resulting therefrom".[28]

However, there seems to be a loophole, as the European Commission, in August 2018, (merely months after the 8 May Measures) stated that "EU operators are free to conduct their business as they see fit in accordance with EU law and national applicable laws. This means they are free to choose whether to start, continue, or cease business operations in Iran or Cuba, and whether to engage in or not engage in an economic sector, based on their assessment of the economic situation. The purpose of the Blocking Statute is exactly to ensure that such business decisions remain free, *i.e.*, are not forced upon EU operators by the listed extra-territorial legislation, which the Union law does not recognize as applicable to them."[29]

It seems that the European Commission, instead of properly addressing the over-compliance of many EU entities, has chosen the "free-market" route; such entities remain "free" to choose their area of business. However, this "free decision" is clearly undermined by the fact that "[by] imposing secondary sanctions against individuals and businesses in third states, the sanctioning state is seeking to impose its foreign trade, and sanctions policy on third-state nationals not directly involved in the dispute between itself and the target state. It is therefore attempting to undermine that third state's sovereign right to decide with whom it wishes its businesses and citizens to trade with."[30] As such, these entities and individuals would be penalized for exactly what the "EU Blocking Regulation" was trying to prevent.

[28] *ibid*, the Title.
[29] See *supra* note 22, p 90
[30] Patric C. R TERRY, "Secondary Sanctions, Access Restrictions and Customary International Law", *supra* note 22, p 129.

With this long explanation out of the way, we need to now go back to the JCPOA and the possible resort to the "snap-back" by the three European States. Iran's Foreign Minister, in an op-ed in France's *Le Point*,[31] rightly emphasized that "The economic benefits promised under the JCPOA never materialized, as European companies preferred to comply with US sanctions rather than meet their government's commitments". Although one might criticise this point from the "free-market" standpoint expressed by the European Commission in August 2018 (quoted above), we can see that third States' sovereign right (here, European ones) are clearly violated.

The European companies' decision to withdraw from Iran's economy was not made in a free manner. They had only one choice; exit Iran's market, or have fate similar to Meng Whanzhou,[32] Reza Zarrab,[33] ZTE,[34] HSBC,[35] etc.

Some academics have emphasized the EU businesses' decision to avoid doing business with Iran, rooted in other actions by Iran, and such had long been in the "compliance policy" of those companies.[36] However, they tend to overlook one major fact: If one is threatened with either prison-time, or billion-dollar fines (like the examples given above), they tend to "take the easy way" and avoid doing business with that country altogether. This can be easily seen in the case filed by the Islamic Republic of Iran against the United States, the *Alleged Violation of the Treaty of Amity* currently pending before the ICJ,

---

[31] "*EXCLUSIF. «L'Iran est prêt à tourner la page avec l'Europe»*" accessible at: https://www.lepoint.fr/monde/exclusif-seyyed-abbas-araghchi-l-iran-est-pret-a-tourner-la-page-avec-l-europe-11-05-2025-2589293_24.php

[32] See *supra* note 30.

[33] *ibid*, page 130.

[34] Accessible at: https://www.bbc.com/news/business-39197677.

[35] "*HSBC to pay $1.9bn money-laundering fine*" accessible at: https://www.aljazeera.com/economy/2012/12/11/hsbc-to-pay-1-9bn-money-laundering-fine

[36] See *supra* note 22, page 89.

where the Applicant has provided a considerable number of records proving exactly that.[37]

To sum up, the European Commission by downplaying the necessity of adherence to the "EU Blocking Regulation", as well as its own obligation under international law (as described above, regarding the UNSC Resolution) *facilitated* the US's violation of its commitments. These consequences, *taken as a whole*, led Iran to take countermeasures prescribed under the law of state responsibility, in order to induce all State "Parties" to the JCPOA to comply with their obligations therein and under UNSC Resolution 2231.

In disregard of all that has been stated either in this section or this Note, the European States (E3) seek to walk back from an already made (albeit faulty) conclusion, and that is, Iran has violated the JCPOA's provisions, and they are capable of triggering the snapback mechanism, envisaged in the JCPOA and the UNSC Resolution 2231.

V. The "Decision" by the UNSC to Re-Instate the Sanctions

The JCPOA created a special situation; one that, to the author's knowledge, has not been the case in other situations. Although the 2231 had been conceived as a Resolution, the "snapback" of the sanctions would come automatically, should the "parties" to the JCPOA invoke Iran's "significant non-performance". UNSC, then, would need to put the question of "sanctions relief" to a vote in the context of a Resolution. Should the voting fail, the "automatic" procedure mentioned earlier would succeed.

This is exactly what happened, and upon the failure of a draft Resolution, all of the sanctions "lifted" under Resolution 2231 were

[37] *Alleged Violations of the Treaty of Amity* (Islamic Republic of Iran v. United States of America), Iran's Memorial, Annex 156-185.

reinstated.[38] Based on the information presented in this Note, the best solution to this problem seems to be, once again, a diplomatic one. Despite the argument by Iran that the European States lacked the means to resort to snapback, and Iran ultimately called the decision "…unlawful, unfounded, and provocative…" in nature,[39] the "Decision" has been made, and the sanctions lifted previously are now reinstated in their entirety.[40] Hence, the position advanced by Iran, which is argued in this Note as in line with international law, could serve as a basis for future negotiations and the diplomatic endeavors to peacefully settle the questions surrounding the "Iranian nuclear issue".

Conclusion

As explained above, the resort to "snap-back" due to the "non-performance by Iran of JCPOA commitments" by either the US (a non-Party to the JCPOA, per its withdrawal in 2018) or the E3 would be a total disregard for reality.

Article 18 of Annex V could only be invoked in one instance: In a parallel universe, where the JCPOA encounters no hurdles in its implementation from day one, continues to survive even after ups and downs in the politics of a particular Party to the JCPOA, all Member States of the UN refrain from sabotaging international peace, but the Iran of that universe decides to violate its obligation. In that event, and in that event only, could the E3 of that universe invoke Article 18, and fire the snap-back bullet towards the Non-performer State. That parallel universe, remains what it is; a parallel universe. In our reality,

[38] See *supra* note 2, "Update" section.
[39] Accessible at: https://en.mfa.ir/portal/newsview/775244/
[40] "*Security Council Fails to Adopt Resolution that Would Continue Iran Sanctions Relief*" accessible at: https://press.un.org/en/2025/sc16175.doc.htm

those that breached their obligations towards Iran may not invoke the articles from the very same document they almost destroyed.