



BRIEFING PAPER

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The JCPOA and rising US-Iran tensions

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Summary

In 2015 Iran and the EU announced they had reached an agreement on the Iran nuclear issue. Under the Joint Comprehensive Plan of Action (JCPOA) Iran agreed to limit its nuclear programme and allow enhanced inspections by the International Atomic Energy Agency. In return, UN Security Council sanctions and multilateral and national sanctions were lifted. The UN Security Council endorsed the JCPOA in Resolution 2231.¹

In May 2018, however, the US announced it was withdrawing from the deal and started to re-introduce sanctions. In April 2019 the Trump administration announced its intention to reduce Iran's oil exports to zero. The [US accuses Iran](#) of using oil revenues to "support its destabilizing activities and fund terrorist proxies", to finance its nuclear weapons and ballistic missile programmes and undermine the stability of the region, including threatening freedom of navigation through the Gulf. In November 2018 the US re-instated sanctions targeting both Iran and states that trade with it.

The JCPOA's other signatories so far remain committed to the Agreement. The UK, France and Germany responded to the US withdrawal in 2015 by emphasising their continuing commitment to the JCPOA. The EU has passed legislation aiming to protect EU-Iran trade from the extraterritorial effects of US sanctions.

In April 2019 Iran warned it would start enriching uranium beyond the amount agreed in the deal if European countries did not do more to protect Iranian trade from the effects of US sanctions. In May Iran said it would no longer abide by the JCPOA limit of 300kg stored uranium enriched to 3.67% and later announced it would breach the stockpile limit by 27 June.

On 2 July the International Atomic Energy Agency confirmed that Iran had [breached the 300kg limit](#) for its stockpile of low-enriched uranium. On 7 July Iran said that it had begun enriching uranium [over the limit of 3.67%](#), the concentration limit set out in the JCPOA.

These announcements came against a backdrop of rising tensions with the US. In the year since the US pulled out of the JCPOA and started re-imposing sanctions, Iranian oil exports have fallen from around 2.5 million barrels per day to below 1 million in April 2019. The Iranian *rial* has lost more than 60% of its value against the US dollar. The IMF predicts that inflation will hit 40% this year.

Tensions have significantly increased after two separate attacks on tankers in the Gulf region in May and June 2019. The UK Government agrees with Washington that Iran is responsible for the attacks. The then [Foreign Secretary](#) said "responsibility for the attacks almost certainly lies with Iran", while the Minister for the Middle East said it is "almost certainly" the responsibility of the Islamic Revolutionary Guard Corps, arguing "no other state or non-state actor could plausibly have been responsible".²

The US is sending an additional 1,000 troops to the Middle East, having already announced the deployment of an aircraft carrier group to the Gulf.

Many commentators have argued that the growing tensions could result in conflict by misunderstanding. The UK Government said in May it is concerned about "the risk of unintended escalation between the United States and Iran". In June the Minister for the Middle East said the Government's aim is to "de-escalate the situation".

¹ For more information see the UN Security Council backgrounder on [Resolution 2231](#).

² [HC Deb 17 June 2019 c61](#)

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The legal basis for the detention of the Iranian tanker Grace 1 is [Council Regulation \(EU\) 36/2012 as amended](#), which lists as proscribed entities refineries in Syria. Although some have questioned whether the EU sanctions should have been used in this way, they do have provisions for Member States to act against third country vessels in EU waters.

1. The JCPOA

1.1 The deal

The 2015 [Joint Comprehensive Plan of Action](#) (JCPOA) nuclear deal was the culmination of negotiations originally started by the UK, France and Germany (the 'E3') in 2003. Although the US eventually joined the negotiating team, and was crucial to its success, the EU and the 'E3' still see the deal as a European achievement.³

Under the plan Iran agreed to limit its nuclear programme and accept enhanced inspections by the International Atomic Energy Agency. In return, UN Security Council sanctions and multilateral and national sanctions were lifted. The UN Security Council endorsed the JCPOA in Resolution 2231.⁴

According to the International Atomic Energy Agency, the JCPOA had been achieving its (limited) goals: Iran had been implementing its nuclear-related commitments and was subject to "the world's most robust nuclear verification regime".⁵ The commitments meant that the 'break-out' time it would take for Iran to create nuclear weapons was kept longer because of limitations on Iran's stockpile of enriched uranium from which it would make weapons-grade fissile material for a nuclear warhead.

Many US Republicans were unhappy with the deal, because it meant much larger oil sales with which the Iranian government could fund its activities. Particularly troubling were the Islamic Republic's foreign policies: supporting armed groups such as Hezbollah that allies like Israel see as a serious threat.

There was no evidence of any let-up in these "aggressive" policies, which some hoped for as a by-product of the JCPOA. Indeed, the regional confrontation between Saudi Arabia and Iran got worse.

³ For more information see the Common Briefing Paper [The Joint Comprehensive Plan of Action nuclear deal with Iran](#), October 2015. The EU3 + E3 are the UK, France and Germany plus China, the US and Russia. They have also been referred in the past to the P5+1, reflecting the five permanent members of the Security Council plus Germany.

⁴ For more information see the UN Security Council backgrounder on [Resolution 2231](#). A BBC report also summarises the [key details](#) of the nuclear deal.

⁵ ['Statement by IAEA Director General Yukiya Amano'](#), IAEA, 9 May 2018

2. Trump abandons JCPOA

President Trump had criticised the Joint Comprehensive Plan of Action (JCPOA) many times and threatened not to renew sanctions waivers that implemented US commitments under the deal.

In 2015 the US Congress passed [legislation](#) to require the President to report back to Congress every 90 days to 'certify' both that Iran was complying with its terms and that the deal continued to be in US interests. Twice the President reluctantly certified the deal to Congress, partly under pressure from other senior ministers. At the third opportunity, in October 2017, President Trump declined to certify the deal, on the grounds that Iran's actions were not proportionate to the sanctions relief granted under the deal.⁶

'Decertification' did not end the deal, but it did give a clear indication of the direction of administration policy.

US withdrawal

On 8 May 2018, the [Trump administration announced](#) that the US was withdrawing from the JCPOA. The US would, after varying 'winding-down periods', start to re-introduce sanctions and end the waivers that protect entities from third countries from US sanctions.⁷

Shortly afterwards Mike Pompeo, who had just replaced Rex Tillerson as Secretary of State, set out 12 demands for concluding a new treaty with Iran:

- Declare to the International Atomic Energy Agency (IAEA) a full account of the prior military dimensions of its nuclear programme and permanently and verifiably abandon such work in perpetuity.
- Stop enrichment and never pursue plutonium reprocessing, including closing its heavy water reactor.
- Provide the IAEA with unqualified access to all sites throughout the entire country.
- End its proliferation of ballistic missiles and halt further launching or development of nuclear-capable missile systems.
- Release all US citizens as well as citizens of US partners and allies.
- End support to Middle East terrorist groups, including Hezbollah, Hamas and Islamic Jihad.
- Respect the sovereignty of the Iraqi government and permit the disarming, demobilisation and reintegration of Shia militias.
- End its military support for the Houthi rebels and work towards a peaceful, political settlement in Yemen.

⁶ For more information see the Commons Briefing Paper [The Iran nuclear deal and 'decertification'](#), October 2017

⁷ For more on the timetable for US sanction re-introduction, see the House of Commons Library Insight [Iran nuclear deal: what next?](#), 10 May 2018

- Withdraw all forces under Iran's command throughout the entirety of Syria.
- End support for the Taliban and other "terrorists" in Afghanistan and the region and cease harbouring senior al-Qaeda leaders.
- End the Islamic Revolutionary Guard corps-linked Quds Force's support for "terrorists" and "militant" partners around the world.
- End its threatening behaviour against its neighbours, many of whom are US allies, including its threats to destroy Israel and its firing of missiles at Saudi Arabia and the United Arab Emirates, and threats to international shipping and destructive cyberattacks.⁸

Sanctions

On its withdrawal from the JCPOA, the US re-imposed sanctions on Iran. Some of these sanctions had different winding down periods, but by 4 November 2018 the last of these periods had expired.⁹

The US also added 700 individuals and entities to the list of sanctioned persons on 5 November. The US has added further names to the designated persons list since then.

In April the Trump administration announced its intention to "[bring Iran's oil exports to zero](#)" to deny Iran oil revenues. This was in the context of announcing it would not reissue Significant Reduction Exemptions when they expire in May.

On 3 May 2019 the US ended waivers for the transfer of enriched uranium out of Iran, the transfer and storage of heavy water outside Iran and the construction of additional reactor units at Bushehr.

On 8 May 2019, the US [imposed sanctions](#) on Iran's iron, steel, aluminium and copper sectors.

Effect

In the year since the US pulled out of the JCPOA and started re-imposing sanctions, Iranian oil exports have [fallen from around 2.5 million barrels per day](#) to below 1 million in April 2019.

The Iranian *rial* lost more than 60% of its value against the US dollar in 2018 and the economy contracted by 3.9%. In 2019 it is forecast to shrink by 6% with inflation hitting 40% according to the IMF.¹⁰

⁸ Mike Pompeo, '[After the Deal: A New Iran Strategy](#)', Heritage Foundation, 21 May 2018

⁹ See the US Treasury's [frequently asked questions on Iran sanctions](#) and also the US State Department's index on [Iran sanctions](#).

¹⁰ '[Iran inflation could reach 40 percent this year as economy shrinks further – IMF](#)', *Reuters*, 29 April 2019

3. Iranian JCPOA response

In April 2019, Iran announced that it would install further uranium enrichment centrifuges at Natanz nuclear plant.

Iran gave the remaining parties to the agreement (Britain, France Germany, China and Russia) 60 days to put into action their nuclear deal undertakings. Iran said that the European countries needed to find some way for banks and importers to do business with Iran without suffering US sanctions, or Iran would start enriching uranium beyond 3.67%. In February 2019 the International Atomic Energy Agency reported that Iran had 163.8kg of low-enriched uranium, giving some leeway before the 300kg limit was breached.¹¹

On 8 May 2019 Iran announced that it would no longer abide by the JCPOA limit of 300kg stored uranium enriched to 3.67%. Storing more low-enriched uranium would reduce somewhat the amount of time it would take Iran to make the fissile material for a nuclear warhead. But weapons grade uranium must be enriched to 90%, so any stockpile of low-enriched uranium would still need further enrichment. Iran was also considering leaving the Nuclear Non-Proliferation Treaty.

At the same time, Iran announced that it would no longer be bound by the restrictions on storing heavy water and would resume construction of the heavy water reactor at Arak if the other signatories of the JCPOA do not deliver sanctions relief to Iran.¹²

On 10 June, the IAEA confirmed that Iran had increased the rate at which it was producing enriched uranium, although the IAEA did not say by how much;¹³ the stockpile limit had still not been exceeded and it was not clear at what point it would be.¹⁴ The IAEA submits [regular reports](#) to the UN Security Council.

On 20 May [Iran announced](#) that it was quadrupling the rate of production of low enriched uranium.

Iran formally announced on 17 June that it would breach the 300kg limit on its stockpile of enriched uranium in ten days (27 June). The Head of Iran's Atomic Energy Organisation also warned it would only take them a day or two to increase enrichment beyond 3.67%.¹⁵

Iran quadrupled its production of 3.67% enriched uranium.

On 25 June [France, Germany and the UK announced](#) that they were "gravely concerned by the increased tensions in the Gulf" and reiterated their "commitment to the full implementation of SCR 2231 and the preservation of the JCPOA",

¹¹ [IAEA report to the UN Security Council \(S/2019/212\)](#), 6 March 2019

¹² See Arms Control Association, [Timeline of nuclear diplomacy with Iran](#)

¹³ [IAEA Director General's Introductory Statement to the Board of Governors](#), IAEA, 10 June 2019

¹⁴ ['Iran has accelerated enrichment of uranium, IAEA says'](#), *Reuters*, 10 June 2019

¹⁵ ['Iran nuclear deal: enriched uranium limit will be breached on 27 June'](#), *BBC News*, 17 June 2019

On 1 July Iran said that its stockpile of low-enriched uranium had [passed the 300kg limit](#). This was later confirmed by the International Atomic Energy Agency (IAEA). Iran was now in breach of the JCPOA for the first time.

Iran also announced that it would take further steps if the other signatories of the deal did not take more action to preserve the benefits of the deal for Iran. Those steps could be enriching to 5% or to 20%, which would significantly reduce the time needed to produce weapons-grade uranium.¹⁶

On 7 July Iran announced that it had started enriching uranium to [higher concentrations than the 3.67%](#) limit set out in the JCPOA.

Arak reactor

Iran has also said that it is considering restarting work on the unfinished Arak nuclear reactor to its original design, meaning that it could produce enough plutonium for about two nuclear bombs per year. The JCPOA included an agreement to change the plans for Arak so that plutonium production would not pose a proliferation threat.

On 3 July President Rouhani said that work on Arak would not re-start if the other signatories, China, France, Germany, Russia and the UK, fulfilled their commitments under the JCPOA.

3.1 Where does that leave Iran's nuclear programme?

Early Iranian moves in response to US withdrawal from the JCPOA did not mean that Iran was immediately in breach of the JCPOA but on 1 July it was confirmed that Iran was technically in breach.

Nuclear weapons

Iran denies having a weapons programme, although the IAEA and the US intelligence community have assessed that Iran used to have a weapons programme but closed it down, or almost all of it, in 2003. The US National Intelligence Estimate, however, also assessed that Tehran is "keeping open the option to develop nuclear weapons" and that any decision to end a nuclear weapons program is "inherently reversible".¹⁷

There was [evidence in 2009](#) that Iran had been working on a nuclear trigger. The IAEA asked Iran to explain the evidence that Iran had experimented with an advanced design, allowing for much smaller nuclear warheads.

The US Intelligence Community reports that Tehran has the technological and industrial capacity to produce nuclear weapons, but has not yet mastered all the necessary technologies.

It is not clear whether Iran has a workable design for a nuclear weapon.

¹⁶ See In Perspective: [Iran and the Steps to Building Nuclear Weapons](#), Arms Control Association for more detail

¹⁷ [Iran's Nuclear Program: Status](#), Congressional Research Service, 10 May 2019

Breakout time

The higher stockpiles of low-enriched uranium and the so far relatively small stockpile of higher enriched uranium have not produced a [short-term risk of proliferation](#), according to the Arms Control Association. Bigger stockpiles, particularly of uranium enriched to 5% or more, would begin to make a significant difference to breakout time.

The so-called breakout time, the time it would take Iran to make enough high-enriched uranium to build a nuclear warhead, was estimated at about two to three months before the JCPOA. With the JCPOA in place that was lengthened to about 12 months.

Resuming construction of the Arak reactor to the original design would also not present a threat of proliferation in the short term, because the reactor would take years to complete.

4. European attempts to save the deal

In May 2018, when the US first announced the end of US support for the JCPOA, European leaders issued a [joint statement](#) affirming their continued support for it:

Together, we emphasise our continuing commitment to the JCPOA. This agreement remains important for our shared security. We recall that the JCPOA was unanimously endorsed by the UN Security Council in resolution 2231. This resolution remains the binding international legal framework for the resolution of the dispute about the Iranian nuclear programme. We urge all sides to remain committed to its full implementation and to act in a spirit of responsibility.¹⁸

On 9 May 2019 the foreign ministers of France, Germany and the UK issued another [joint statement](#) re-iterating the Europeans' full commitment to the JCPOA and expressing their "great concern" about Iran's announcement that it would no longer abide by stockpile limits:

We reject any ultimatums and we will assess Iran's compliance on the basis of Iran's performance regarding its nuclear-related commitments under the JCPOA and the NPT (Treaty on the Non-Proliferation of Nuclear Weapons). In this respect, we recall the key role of IAEA (International Atomic Energy Agency) monitoring and verification of the implementation by Iran of its nuclear-related commitments.

EU Foreign Ministers met on 17 June. Afterwards EU High Representative for Foreign Affairs and Security Policy [Federica Mogherini said](#) Iran has so far been compliant with its nuclear commitments. She said the EU strongly hopes, encourages and expects Iran to continue to comply with its commitments. She observed it had become "increasingly difficult for all to keep the nuclear deal fully implemented"¹⁹ over the last year and acknowledged European efforts to put in place mechanisms to allow legitimate economic transactions (see Instex below).

Blocking regulation

The EU has passed legislation aiming to protect EU-Iran trade from the extraterritorial effects of US sanctions.

The EU's 'blocking regulation' was originally passed in 1996, to deal with extraterritorial action against those doing business with Cuba. The regulation forbids EU persons from complying with the trade sanctions legislation of third countries where those sanctions "purport to have extraterritorial effects".²⁰

¹⁸ For more detail on early EU efforts to support the deal, see the Commons Briefing Paper [Can Europe save the Iran nuclear deal?](#) 15 May 2018

¹⁹ European External Action Service, [Remarks](#) by High Representative/Vice-President Federica Mogherini at the press conference following the Foreign Affairs Council, 17 June 2019

²⁰ [Draft explanatory memorandum to the Protecting against the Effects of the Extraterritorial Application of Third Country Legislation \(Amendment\) \(EU Exit\) Regulations 2019](#)

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It has been amended various times and is now intended to cover EU trade with Iran.

On 2 April the UK approved the [Protecting Against the Effects of the Extraterritorial Application of Third Country Legislation \(Amendment\) \(EU Exit\) Regulations 2019](#), which provides for the EU-derived blocking regulation to continue to have force on exit day from the EU.

INSTEX

One of the factors making EU trade subject to US legislation is that international financial transactions tend to use the US financial system.

On 31 January 2019, France, Germany and the UK launched the Instrument for Supporting Trade Exchanges (INSTEX), a Special Purpose Vehicle payments system that bypasses the US financial system and allows international payments without using dollars.

INSTEX would focus firstly on items that the Iranian people need most, foodstuffs, pharmaceuticals and consumer goods, according to the [joint statement on its launch](#). In other words, it would not deal with the oil trade in the first instance. That provision avoids a direct clash with the US for now, since US sanctions permit trade in these categories.

The statement said that the E3 would work with Iran to set up an effective and transparent corresponding entity necessary for INSTEX to work. They also said that the E3 expect Iran to implement its Financial Action Task Force (FATF) action plan against money laundering.²¹

Representatives of the E3 met Iranian officials in Brussels on 7 May to discuss these steps.²²

The Iranian [government has tabled bills](#) to bring Iran into compliance with FAFT conditions but the move has met resistance from hardliners, who argue the changes would allow the West to cut Iranian financial flows to Hezbollah and other Iran-supported groups.

The [US administration questioned](#) whether the E3 could prevent the special purpose vehicle being used for money laundering and terrorist financing, given that the Iranian economy was so opaque and so closely intertwined with bodies such as the Revolutionary Guards. The administration spokesperson said: "Where we see sanctionable activity, we're going to take action to confront it".²³

On 20 March 2019 [Iran announced](#) it had set up a reciprocal company for INSTEX.

On 28 June the Joint Commission, set up by the JCPOA to oversee implementation, Britain, France, Germany announced that INSTEX, a 'special purpose vehicle' to allow traders to bypass the US financial system, had "been [made operational](#)". On 3 July President Rouhani said that INSTEX was "[empty](#)".

²¹ For more on anti-money laundering rules see the Commons Briefing Paper [Money laundering law](#), February 2018

²² [HC Deb 8 May 2019, c1226-7](#)

²³ [Reuters, EU-Iran trade vehicle unlikely to meet anti-money-laundering norms - U.S.](#), 7 May 2019

On 18 July, Russia signalled its [intention to join INSTEX](#) and called on the EU to increase its scope to cover oil exports. The fact that oil trade was not included in the original INSTEX is perhaps the main reason why the Iranians have considered it insufficient.

US officials, meanwhile, are reportedly confident that INSTEX [cannot make enough difference](#) to provide serious relief from US sanctions against Iran.

Nevertheless, US Treasury Secretary Steven Mnuchin [said on 18 July](#): “If you want to participate in the dollar system you abide by US sanctions”, a warning that traders who wanted to evade US sanctions on Iran should be prepared to give up using the dollar altogether.

5. Increasing tensions

The last few months have seen a significant increase in tensions between the US and Iran, amid fears a misunderstanding could result in conflict.

US aircraft carrier group to the Gulf

On 4 May 2019 the US announced it was sending an aircraft carrier group into the Gulf. The decision was taken following “clear indications” that Iran or their proxies were preparing to attack US forces in the region, according to an administration official.²⁴

A deputy commander of the Iraq-based coalition fighting ISIS/Daesh, a British Major General, [appeared to contradict](#) that on 14 May: “There are a substantial number of militia groups in Iraq and Syria, and we don’t see any increased threat from any of them at this stage”.

Reports then appeared, later dismissed by the President, that the US was preparing to send 120,000 extra troops to the region, and on 19 May, President Trump [tweeted](#): “If Iran wants to fight, that will be the official end of Iran. Never threaten the United States again!”

On 17 June the US announced it would send approximately 1,000 additional troops to the region to address “air, naval, and ground-based threats in the Middle East”. The US said:

The recent Iranian attacks validate the reliable, credible intelligence we have received on hostile behavior by Iranian forces and their proxy groups that threaten United States personnel and interests across the region.²⁵

Terrorist designations

On 8 April the [US designated the Islamic Revolutionary Guards Corps](#) as a terrorist organisation. Iran retaliated by designating all US Central Command troops as terrorists. Central Command covers the Middle East. These designations of official security forces raise serious questions about how international humanitarian law would be applied in conflict; treating opposing military personnel as terrorists could nullify the protection normally provided by the Geneva Conventions.²⁶

Sabotage of oil tankers (May)

Four oil tankers were damaged on 12 May 2019: two Saudi-registered, one Norwegian and one registered in the UAE.

US National Security Adviser John Bolton said that “naval mines almost certainly from Iran” were the cause of the damage.²⁷ Earlier, a US Vice

²⁴ [‘U.S. Deployments Followed ‘Clear Indications’ Iran Was Preparing to Attack, Official Says’, *Time*, 6 May 2019](#)

²⁵ [“Statement From Acting Secretary of Defense Patrick Shanahan on Additional Forces to U.S. Central Command”, US Department of Defense, 17 June 2019](#)

²⁶ Christopher Galvin, [‘A Threat to Jus in Bello: Legal Implications of Iran’s Designation of the US Central Command as a Terrorist Organisation’](#), Royal United Services Institute, 15 May 2019

²⁷ [‘Tankers almost certainly damaged by Iranian naval mines, US says’, *BBC News Online*](#),

Admiral had said he believed "with a high degree of confidence that this [attack] stems back to the leadership of Iran at the highest levels".

The UAE [presented the findings](#) of its investigation into the sabotage to the UN Security Council on 6 June 2019. The UAE said that the attacks were carried out by a state, but did not mention Iran.

Iran has [denied responsibility](#), saying the US allegations were "ridiculous".

On 4 July 30 Royal Marines helped seize the Iranian-flagged Grace 1 in Gibraltar because it was suspected of carrying oil from Iran to Syria, in breach of EU sanctions.

On 11 July, HMS Montrose rebuffed an attempt by Iranian forces to [impede the transit](#) of the BP tanker British Heritage, according to the UK government. The Islamic Revolutionary Guards Corps (IRGC), which has been accused of carrying out such action in the past, denied that the incident had taken place.

Stena Impero

On 19 July Iranian military seized a British-registered tanker bound for Saudi Arabia. The Stena Impero is still in Iranian custody at the time of writing.

Iraq

On 16 May the US ordered hundreds of civilian staff to leave the US Embassy in Baghdad and the US Consulate in Erbil, capital of the Autonomous Kurdish Region of Iraq.

On 19 May, a rocket landed less than a mile away from the US Embassy in Baghdad.

Missiles

On 8 May the US said that Iran was moving short-range ballistic missiles in the Persian Gulf, which US took as indications that Iran or its proxies were preparing to attack US forces in the region.

On 10 May the acting US defence secretary Patrick Shanahan was reported to have said that the US would be deploying more Patriot missile defence systems.

On 17 May the US officials said that Iran had removed some missiles from at least two small boats.

Attack on tankers (June)

The US has [blamed Iran](#) for an attack on two tankers, Front Altair and Kokuka Courageous, on 13 June 2019. The US Secretary of State, Mike Pompeo, said:

This assessment is based on intelligence, the weapons used, the level of expertise needed to execute the operation, recent similar Iranian attacks on shipping and the fact that no proxy group

operating in the area has the resources and proficiency to act with such a high degree of sophistication.²⁸

The UK Government [agrees](#) with the US assertion that Iran is responsible. Dr Andrew Murrison, the Minister for the Middle East, told the Commons:

Following our own assessment, the UK concludes that it is almost certain that a branch of the Iranian military, the Islamic Revolutionary Guard Corps, attacked the two tankers on 13 June. No other state or non-state actor could plausibly have been responsible. These latest attacks build on a pattern of destabilising Iranian behaviour and pose a serious danger to peace and stability in the region.²⁹

When pressed on the intelligence supporting that assessment, the Minister added: “we are as sure as we can be of the source of this latest attack”.³⁰

Other EU governments were [less willing](#) to apportion blame when they gathered for a foreign ministers meeting on 17 June. However, the day after, the German Chancellor said there is “strong evidence” that Iran was behind the attacks and called for all sides to de-escalate the situation.³¹

Dr Aniseh Bassiri Tabrizi of the defence think tank RUSI questions Iran’s motives for attacking the tankers. He points out that Tehran has so far pursued a policy of strategic patience but this may be coming to an end if Iran is indeed behind the attacks: “it would demonstrate that the country's key decision makers feel the risk of military escalation is one worth taking because of the lack of alternative options”.³²

Other signs of increasing hostility

On 24 June the White House announced new [sanctions on Iranian political and military leaders](#), including the Supreme Leader Ayatollah Khamanei.

On 1 July Israel [blamed the IRGC](#) and its proxies for an attack on the Bahraini embassy in Baghdad.

On 20 June Iran [shot down a US surveillance drone](#). It was the first time that Iran had attacked a US military asset directly. Iran claimed that the aircraft, which has a bigger wingspan than a Boeing 737, had entered Iranian airspace. The US said that the drone was at least 34 km from Iranian airspace. The US had said the previous week that Iran had fired at and missed a US drone.

²⁸ [“US military says video shows Iran removing unexploded mine from oil tanker”](#), *CBS News*, 13 June 2019

²⁹ [HC Deb 17 June 2019 c61](#)

³⁰ [HC Deb 17 June 2019 c62](#)

³¹ [‘Germany says there is ‘strong evidence’ Iran behind tanker attacks’](#), DW.com, 18 June 2019

³² [‘Gulf of Oman tanker attacks: What could be Iran’s motive?’](#) *BBC News*, 14 June 2019

5.1 Legal basis for detaining the Grace 1

EU sanctions

The Government's rationale for detaining the Grace 1 was that it was a necessary step to uphold EU sanctions on Syria.

In a statement before the 15 July EU Foreign Affairs Council, the then Foreign Secretary [Jeremy Hunt said](#):

As I said to the Iranians this weekend, the detention of the Grace 1 was a Gibraltar-led enforcement of EU Syria sanctions. Action had to be taken, and this was nothing to do with the oil being Iranian.

Former Swedish Prime Minister [Carl Bildt](#) questioned what he saw as the extraterritorial action, however:

The legality of the UK seizure of a tanker heading for Syria with oil from Iran intrigues me. One refers to EU sanctions against Syria, but Iran is not a member of the EU. And the EU as a principle doesn't impose its sanctions on others. That's what the US does.

The EU sanctions regime is set out in [Council Regulation \(EU\) 36/2012 as amended](#). Sanctions include a ban on the import from Syria of oil but no general embargo on oil trade with Syria.

Michelle Linderman of the Foreign Policy Centre argues that the action against the Grace 1 was based on the listing as a sanctioned entity of Baniyas refinery in Syria.³³ Article 14.2 of the Regulation states:

No funds or economic resources shall be made available, directly or indirectly, to or for the benefit of the natural or legal persons, entities or bodies listed in Annex II and IIa.

Baniyas Refinery Company was added to Annex II on 23 July 2014. The Homs Refinery Company was added on the same date.

On alleged extraterritoriality, Linderman maintains that the application of the Regulation is wide enough to justify the action.³⁴ Article 35 says that the Regulation shall apply: "on board any aircraft or any vessel under the jurisdiction of a Member State". Linderman concludes:

Against this background, *Grace 1* loaded with cargo on her way to a designated refinery in Syria would fall within EU sanctions jurisdiction once she entered EU waters.

On 4 July, the European Commission [declined to comment](#) about the detention of the Grace 1, saying that the implementation of sanctions is a matter for member states.

Gibraltar law

In March 2019 Gibraltar passed the [Sanctions Act 2019](#), providing for the automatic recognition and enforcement of international sanctions, including EU sanctions.

On 3 July, Gibraltar passed the [Sanctions Regulations 2019](#), which specifically provides for the Gibraltar Government to detain a ship if

³³ Michelle Linderman, '[Seizure of Stena Imperio by Iran raises questions about legality of Gibraltar's detention of Grace 1](#)', Foreign Policy Centre, 23 July 2019

³⁴ *Ibid.*

it has a reasonable suspicion that the ship has been or is likely to be involved in a breach of EU Council Regulation (EU) No 36/2012, the EU Syria sanctions Regulation.

On 19 July the Government of Gibraltar was [granted permission](#) to detain the Grace 1 for a further 30 days, with a new Supreme Court hearing scheduled for 15 August.

Brexit

On 3 April 2019 the UK the passed the [Syria \(Sanctions\) \(EU Exit\) Regulations 2019](#) in order to ensure that the provisions of the current EU sanctions regime remains in force in the event of a no-deal Brexit.

The Government explains:

If the UK leaves the EU without a deal, we will look to carry over all EU sanctions at the time of our departure. We will implement sanctions regimes through new legislation, in the form of regulations, made under the [Sanctions and Anti-Money Laundering Act 2018 \(the Sanctions Act\)](#). The Act will provide the legal basis for the UK to impose, update and lift sanctions after leaving the EU.³⁵

³⁵ [Sanctions policy if there's no Brexit deal](#), Foreign and Commonwealth Office, 1 February 2019

6. Accidental war?

Many [commentators have argued](#) that the growing tensions could result in conflict by misunderstanding. US and Iranian assets are present in close proximity in the waters of the Gulf, in Iraq and in Syria, and have increasingly been on high alert. After the June tanker attacks, the BBC's Jonathan Marcus observes "the reality is that a conflict between the US and Iran - albeit by accident rather than design - is more likely today than at any time since Mr Trump took office".³⁶

Iran and the US are not the only participants in the tussle for influence in the Middle East – Israel, Saudi Arabia and the UAE are lined up against Iran and may make unpredictable moves. Iran also has its proxies in Gaza, Lebanon, Iraq and Syria, all in highly unstable situations, and a move by any of them could draw the sides into conflict.

The US National Security Adviser John Bolton has made it clear that he favours regime change in Iran and has ratcheted up the rhetoric over Iran. US Secretary of State Mike Pompeo said, after the 13 June tanker attacks, that "the US is considering a full range of options" which include military actions.³⁷

President Trump, however, has made it his policy to end the US participation in Middle East wars. Pompeo acknowledged that when he said "President Trump has said very clearly, he doesn't want to go to war". The President has indicated several times that he wants to re-negotiate a better deal than the JCPOA with Iran and may have calculated that only extreme economic pressure plus a growing threat of conflict is likely to bring Iran back to the negotiating table.

Critics have said that this is risky strategy, not only because of the risk of accidental conflict, but also because Iran is unlikely to buckle under economic pressure. The Islamic Republic has been the subject of US sanctions almost since it came into existence and is experienced at living with them or getting around them. Sanctions are often thought to have benefited the business interests of the Islamic Revolutionary Guard Corps (IRGC) and regime hardliners because they control the black market.

Politically, too, economic pressure may not be effective, since the Islamic Republic's own narrative centres on 'resistance' – to the US, particularly, and to Israel. And increased pressure may favour hardliners, always suspicious of the JCPOA, over pragmatists such as President Rouhani. The Iranian President responded to the US deployment of additional troops by saying "[Iran will not wage war on any nation](#)".

³⁶ "[Is the United States heading for war with Iran?](#)", BBC News, 17 May 2019

³⁷ '[Pompeo says US weighing 'full range' of options to counter Iran, including military strike](#)', CBS News, 16 June 2019

Analysts argue that Iran is also unlikely to enter negotiations from a position of weakness and without a face-saving way out.³⁸

The acting Secretary of Defence, Patrick Shanahan, [stepped down](#) on 18 June. He has been replaced by Army Secretary Mark Esper.

Possible flashpoints

The International Crisis Group [warned in June 2019](#) that war could be triggered by a variety of events:

A missile strike fired by Huthis in Yemen toward a Saudi or Emirati city or an inadvertent clash in the Strait of Hormuz, a critical artery of the international energy trade clogged with U.S. and Iranian vessels, could provide justification for direct U.S. retaliation on Iranian soil, or for torpedoing European efforts to sustain the JCPOA without the U.S. Risks are high in a region that faces a free-for-all in which the only operative restraint on one's actions may be reluctance to absorb the other side's expected reply.

Events in Iraq, Lebanon, Yemen, the Strait of Hormuz at the entrance to the Persian Gulf, Bab al-Mandeb, at the entrance to the Red Sea off Yemen, the Golan Heights, between Syria and Israel, and Syria itself were all listed as posing at least a substantial threat of escalation; in some cases, a critical threat.

UK government view

On 28 May 2019 the UK government set out its concerns about the risk of conflict:

We are concerned by the risk of unintended escalation between the United States and Iran. That is why we are speaking to all parties and specifically advising Iran – using our diplomatic relationship – that escalation is not in their interest. We are also concerned by the potential of further tension as a result of the failure of the Joint Comprehensive Plan of Action. We are clear that maintaining this deal is important to our national security interests; the UK Government is working with our European partners to ensure it is upheld as long as Iran continues to meet its nuclear commitments in full.³⁹

Following the attacks on the tankers on 13 June, the Minister for the Middle East told MPs: “our aim is to de-escalate the situation and turn down the temperature”. Dr Murrison added he believed European allies shared that view and that it is “vital we keep to the JCPOA”.⁴⁰

³⁸ Ali Vaez, ‘Trump’s ‘Maximum Pressure’ Won’t Make Iran Yield’, *The Atlantic*, 12 May 2019

³⁹ [Written question - HL15855, 28 May 2019](#)

⁴⁰ [HC Deb 17 June 2019 c62](#)

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