

Iran and a conflict of laws

The US President brought sanctions against Iran into effect on 7 August, with more to come in November. UK and EU companies are warned that they need to comply with the bans on automotive, oil trading and other goods with Iran being introduced in two phases. The US Executive Order takes powers to enforce this against foreign companies by warning them that if they do not comply their assets and income in the USA can be distrained to pay fines and penalties, actions can be taken against their executives on landing in the USA, and they will find they cannot use US banks to facilitate their trade and business anywhere in the world. Many EU and UK companies have accepted this extra territorial assertion of power and are cutting their Iran trade in order to keep the far bigger US and global trade that could be damaged otherwise.

The EU acting for the member states argues against accepting these US sanctions. It has rushed out a reprise of the EU Blocking Statute of 1996 which was designed then to deal with US sanctions against Cuba, a legal instrument which was never used. It has added to this document provisions to cover trade with modern Iran, and seeks to impose a ban on EU companies complying with the US sanctions. Were this to be effective legally it would mean a double jeopardy for EU companies, facing legal actions against them and their US business if they bust the sanctions imposed by the US, and facing EU legal actions if they comply with the sanctions.

The form of the EU legal document is unclear. There is to be a committee of member states to supervise its actions. Member states themselves are invited to put in a penalties regime for companies breaking the Blocking Statute requirements. Bringing a case where a company simply decides against doing business in Iran could be difficult if the member states do put in place the necessary legal enforcement, though it would be easier if an EU company had broken an existing contract for fear of US retaliation.

This development of a further trade spat between the USA and the EU is unhelpful. Meanwhile we await the talks between the EU and the US over car tariffs and other matters.