

UNOFFICIAL ENGLISH TRANSLATION

EXPLANATORY MEMORANDUM

General explanation

Because of the nuclear weapon program (nuclear activities) of the Islamic Republic of Iran (hereinafter: Iran) as of 2006, sanctions apply against that country. In a series of Resolutions, including the United Nations Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008), 1929 (2010) and 2231 (2015), the UN Security Council has adopted several resolutions with the demand that Iran ceases the enrichment of uranium in view of the proliferation of nuclear weapons and other nuclear activities. Iran refused for years to meet the demands of the United Nations Security Council to cease the enrichment of uranium.

On July 20, 2015, the United Nations Security Council unanimously adopted resolution 2231 (2015). The resolution approved the agreement on Iran's nuclear program of July 14, 2015, after a long series of intensive diplomatic negotiations to get to a comprehensive agreement on the Iran's nuclear program, the Joint Comprehensive Plan of Action (hereinafter: JCPOA) that was signed by the United States of America, France, Germany, the United Kingdom, Russia, China, and Iran. This agreed and joint comprehensive action plan postulated the gradual easing of sanction measures against Iran if the Agreement were to be honored. The agreements in the Agreement are aimed at a drastic restriction of the Iran's nuclear program in combination with far-reaching verification mechanisms. In return, when Iran has verifiably implemented the agreements, the United Nations sanctions and the autonomous sanctions established by the European Union (EU) and the United States (US) will be lifted in phases. United Nations Security Council resolution 2231 (2015) stipulates that after the by the International Atomic Energy Agency (hereinafter: IAEA) verified implementation of the nuclear matters related commitments of Iran in the JCPOA, the provisions of United Nations Security Council resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015) must be terminated.

The existence of the JCPOA is under pressure since the withdrawal of the United States from the JCPOA on May 8, 2018. The withdrawal of the United States does not mean the end of the agreement. After all, the JCPOA is multi-laterally anchored in United Nations Security Council resolution 2231. The United States have one-sidedly reintroduced financial and trade sanctions against Iran. Until May 2019, Iran has complied with the agreements within the JCPOA. This can also be concluded from the consecutive reports of the IAEA. Exactly one year after the withdrawal of the United States from the JCPOA, Iran announced that it no longer honors the agreements from the Agreement. Despite the international pressure on the nuclear agreement, there are other concerns regarding Iran, such as the human rights situation in the country, but also the role of Iran in the region which is leading to (worsening) tensions.

On January 16, 2016, the UN lifted certain nuclear-related restrictive measures, such as those established by Resolution 2231 (2015) and within the European Union there are already measures in place to restrict the Iranian ballistic rocket program. There are trade restrictions, a weapon embargo in place on Iran, and sanctions applied for persons and entities.

The Sanctions Decree in question serves to implement Resolution 2231 and ensures that the targeted financial sanctions are maintained and will not be circumvented. In accordance with the international developments and in the interest of the international legal order, the government has decided to implement restrictive measures against Iran pursuant to Article 2 of the Sanctions State Ordinance 2006.

Financial consequences

There are no financial consequences for the Nation linked to the introduction of this Sanctions State Decree. In conclusion, it should be mentioned that because this State Decree serves to the immediate implementation of an international decree, the government has decided not to consult the *Raad van Advies* (Advisory Council). The possibility thereto is presented by the second paragraph of Article 2 of the Sanctions State Ordinance 2006.

Explanatory notes on individual articles

Article 1

This Article contains several necessary definitions. In Article 1 the term “consolidated 2231 list” is used. This term has been defined as the list that is kept by the United Nations Security Council. Considering the frequency with which the consolidated list can be amended, it has been dynamically completed so everyone must take account of the most recent versions, to safeguard that any possible changes in the consolidated list have immediate effect on the State Decree in question. The other definitions speak for themselves.

Article 2

Under Article 2, the funds and other assets of the persons mentioned in the consolidated 2231 list of persons, entities or institutions are frozen. The consolidated 2231 list contains the persons and entities that were designated by the United Nations Security Council and who have been involved or have supported Iran’s proliferation sensitive nuclear activities or the development by Iran of systems for the transfer of nuclear weapons by inter alia being involved in the acquisition of goods, equipment, materials and technology as also specified in Annex B of resolution 2231 (2015). It therefore concerns natural persons, enterprises and institutions that have already been mentioned in the Annexes of United Nations Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1929 (2010). Therefore, a reference is made to the consolidated 2231 list as used by the United Nations Security Council. On the consolidated 2231 list, natural persons, legal persons, entities and bodies can continuously be listed and delisted.

Article 3

Article 3 entrusts the Central Bank of Aruba (the Bank) with the digital and timely publication through the website of the Bank www.cbaruba.org. The intended freezing measures can thus be implemented in an efficient and effective manner. The consolidated 2231 list (the 2231 list) can also easily be consulted on the website of the United Nations (<http://www.un.org>). Besides, for example, the financial service providers, the Designated Non-Financial Businesses and Professions (DNFBP's) including lawyers, accountants, tax consultants, real estate agents, notaries, car dealers, and jewelers must be also continuously aware of this list.

Article 4

This Article requires the service providers not to provide services and perform transactions that could lead or could reasonably lead to it that a natural person, legal person, or other entity listed in the consolidated 2231 list gains access to the funds and other assets that were frozen pursuant to Article 2. This does not only concern services within the meaning of Article 1 of the State Decree in question, but also every actual act resulting in a fund or asset brought under the control of a designated person or entity.

Article 5

Under this Article the service providers must immediately take measures, in so far as they hold funds or assets of a natural person, legal person or other entity, mentioned in the consolidated 2231 list, so that these funds and assets cannot be transferred, converted, relocated, or made available in breach of the freezing measures to a natural person, legal person or other entity listed in the said list.

Article 6

A freezing measure can also concern a registered property because this could also be an asset within the meaning of the State Decree in question. A registered property is defined in Article 3.10 of the Civil Code of Aruba as a property whose transfer or establishment requires entry in the thereto intended public registers. In essence it concerns real estate, aircraft and ships, and the limited rights that can be established on these goods. Since freezing of such asset leads to the beneficiary no longer being able to dispose of it, it is desirable to make entry thereof on the public registers. It will thus be clear to everyone that these registered properties are frozen. This applies especially for service providers who due to their function are engaged in legal transactions of registered property (public notaries in particular) and who are therefore dependent on the public registers.

In connection with the foregoing, the Article imposes a duty of care on the respective keepers of the public registers – for real estate and the limited rights to be established thereon this is the property registrar, whereas for aircrafts and vessels these are the keepers of the vessel register and the aircraft register respectively – to make an entry of the

freezing in the public register in question. The duty of care means that the keepers of the public register must verify themselves whether a registered property has been frozen as a result of listing of the beneficiary in one of the freezing lists. The best course of action is to consult these lists.

Article 7

Lastly, Article 7 contains the entry into force provision. This State Decree enters into force on the day after the publication date of the Official Bulletin of Aruba given that international sanctions are implemented.

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