

Invitation to sign: Note on the United States' Claim to activate the snapback mechanism under Security Council Resolution 2231

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On 20 August 2020, the United States attempted to launch the mechanism often referred to as the 'snapback' mechanism provided for by the Iran nuclear agreement, the JCPOA of 2015. The United States has done so through a 'notification' addressed to the United Nations Security Council, of the 'significant non-performance' by Iran 'of its commitments under the JCPOA', based on paragraph 11 of United Nations Security Council Resolution 2231. The United States claims that pursuant to this notification, effected by one of the JCPOA participants identified in paragraph 10 of resolution 2231, the process set forth in paragraphs 11 and 12 of that resolution leading to the re-imposition of specified measures terminated under paragraph 7(a) has been initiated – and will be effective on 20 September 2020.

A short note (memorandum) has been drafted to address the issue of the validity of the United States' claim to initiate the 'snapback' mechanism, from the viewpoint of international law. This note has been drafted as an independent, non-partisan assessment of relevant rules of international law. It is intended to be a contribution of the community of international law scholars to the clarification of an issue of importance for the UN and international law at large. The underlying question addressed by the note is whether the United States qualifies as one of the JCPOA participants identified in paragraph 10 of resolution 2231, as it claims to be.

The full text of the note can be found [here](#).

Its main conclusion is that the legal position expressed by the remaining JCPOA participant States, that the United States is not entitled to initiate the 'snapback' mechanism since it is no longer a JCPOA participant, is legally correct. It shows that the US claims rest on an understanding of the term 'JCPOA participant' that is supported neither by textual interpretation, nor by contextual interpretation, nor by the subsequent practice of the remaining JCPOA participant States. The consequence is that the United States' attempted 'notification' of 20 August 2020 is incapable of having any legal effect under international law, and consequently cannot bring into effect the 'snapback' procedure foreseen under paragraph 11 of Security Council Resolution 2231.

As of 2 September 2020, the note has been co-signed by:

Professor Masahiko Asada, Professor of International Law, Graduate School of Law, Kyoto University, Japan

Professor Ida Caracciolo, Professor of International Law, Università degli Studi della Campania Luigi Vanvitelli, Italy

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Professor Kaj Hobér, Professor of International Investment and Trade Law, Uppsala University, Sweden

Dr. Alexandra Hofer, Assistant Professor in Public International Law, Utrecht University, the Netherlands

Professor Yann Kerbrat, Professeur of Public International Law, University Paris 1 Panthéon-Sorbonne, Director of the *Institut de recherche en droit international et européen de la Sorbonne* (IREDIÉS), France

Professor Robert Kolb, Professor of Public International Law, University of Geneva, Switzerland

Professor Said Mahmoudi, Professor of International Law, University of Stockholm, Sweden

Professor Makane Moïse Mbengue, Professor and Director of the Department of Public International Law and International Organization, University of Geneva, Switzerland

Dr. Alexander Orakhelashvili, Reader in International Law at Birmingham Law School, United Kingdom

Professor Bimal N. Patel, Director-General, Raksha Shakti University, India, Member of the National Security Advisory Board of India

Professor Tom Ruys, Professor of International Law, Ghent University, Belgium

Professor Marco Sassòli, Professor of International Law, University of Geneva, Switzerland

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Dr. Pouria Askary, Assistant Professor of International Law, Allameh Tabataba'i University, Iran

Professor Kevin Jon Heller, Professor of International Law and Security, University of Copenhagen, Denmark/Professor of Law, Australian National University, Australia

Dr. Mohammad Habibi Mojandeh, Associate Professor of International Law, Mofid University, Qom, Iran

Academics in the field of international law are invited to add their names to this note, by communicating with the editors of this blog (editorial-team@voelkerrechtsblog.org). If readers prefer to make comments or suggestions, they may also submit them to this blog.

