

Congressional Testimony

The Implications of U.S. Aircraft Sales to Iran

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Chairman Huizenga, Vice Chairman Mulvaney, Ranking Member Moore, members of the Committee, on behalf of the Foundation for Defense of Democracies and its Center on Sanctions and Illicit Finance, thank you for the opportunity to testify.

Executive Summary

As we approach the one-year anniversary of the announcement of the Joint Comprehensive Plan of Action (JCPOA), many of the concerns of those who opposed the deal have indeed come to pass: an increase in Iran's malign activities, an Obama administration reluctant to use non-nuclear sanctions to punish and deter these activities, and an Iranian regime for whom the JCPOA was not the end of negotiations but merely the beginning.

The JCPOA was objectively a very good deal for Tehran: It preserved essential elements of the country's nuclear infrastructure and placed only temporary, limited restrictions on its nuclear ambitions, which start expiring in 2023. In exchange, Iran got the complete dismantlement of many of the most impactful U.S. and international economic sanctions, which already has helped trigger an economic recovery.¹

In January, the accord proceeded as scheduled. Iran mothballed some of its nuclear infrastructure and got the coveted stamp of approval from the International Atomic Energy Agency. Following that, Washington and the Europeans terminated or suspended a slew of punishing economic sanctions and even agreed to hand over access to \$100 billion in blocked Iranian assets.²

Even this was not enough for the Islamic Republic. "On paper the United States allows foreign banks to deal with Iran, but in practice they create Iranophobia so no one does business with Iran," thundered Supreme Leader Ali Khamenei.³ Iran demanded greater sanctions relief or it would walk away from the nuclear deal.

The administration acquiesced to these demands. Secretary of State John Kerry rushed overseas on an international invest-in-Tehran "road show."⁴ Banks simply need to "do their normal due

¹ Mark Dubowitz, Annie Fixler & Rachel Ziemba, "Don't Buy the Spin: Iran is Getting Economic Relief," *Foundation for Defense of Democracies & Roubini Global Economics*, June 15, 2016.

(<http://www.defenddemocracy.org/media-hit/dubowitz-mark-dont-buy-the-spin-iran-is-getting-economic-relief/>)

² Adam Szubin, "Written Testimony," *Hearing before the Senate Committee on Banking, Housing, and Urban Affairs*, August 5, 2016. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0144.aspx>); Brian Murphy, "Iran claims \$100 billion now freed in major step as sanctions roll back," *The Washington Post*, February 1, 2016.

(https://www.washingtonpost.com/world/iran-claims-100-billion-now-freed-in-major-step-as-sanctions-roll-back/2016/02/01/edfc23ca-c8e5-11e5-a7b2-5a2f824b02c9_story.html); Mark Dubowitz, Annie Fixler, and Rachel Ziemba, "Iran's Mysteriously Shrinking Reserves: Estimating the Value of Tehran's Foreign Assets," *Foundation for Defense of Democracies and Roubini Global Economics*, September 2015.

(http://www.defenddemocracy.org/content/uploads/publications/FDDRoubini_Report_Irans_mysterious_shrinking_reserves.pdf); "Iran to have access to over \$100 billion when deal implemented: U.S. officials," *Reuters*, July 14, 2015. (<http://www.reuters.com/article/us-iran-nuclear-usa-details-idUSKCN0PO14D20150714>)

³ "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016.

(<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0XO0RK>)

⁴ David Brunnstrom, "Kerry seeks to soothe European bank nerves over Iran trade," *Reuters*, May 12, 2016.

(<http://www.reuters.com/article/us-iran-banks-kerry-idUSKCN0Y300J>); Felicia Schwartz, "Kerry Tries to Drum Up Some Business in Europe for Iran," *The Wall Street Journal*, May 10, 2016. (<http://www.wsj.com/articles/kerry-tries-to-drum-up-some-business-in-europe-for-iran-1462902185>)

diligence and know who they're dealing with," Kerry told reporters.⁵ But the banks know that there is no "normal due diligence" in a country as corrupt as the Islamic Republic.

In an attempt to assuage their concerns further, Kerry's staff briefed State Department reporters on a plan to issue a license to permit foreign banks to use dollars when processing transactions with their Iranian counterparts⁶ – a concession never explicitly negotiated as part of the nuclear deal. This prompted a backlash in Congress that had Treasury Department officials scrambling to issue guidance that Washington is not permitting Iranian access to the U.S. financial system, even as they left open the possibility of offshore dollar clearing.⁷

More recently, Boeing and Iran Air announced a deal worth an estimated \$25 billion to sell and lease aircraft. This represents a multi-billion dollar bet by President Barack Obama that the economic benefits from the JCPOA will moderate Iran's behavior before the nuclear restrictions start expiring.

Yet Boeing is signing a deal with an Iranian aviation company and an industry complicit in the regime's weapons proliferation and destabilizing adventurism. Boeing and those banking this deal face a due diligence nightmare. They cannot prevent their planes from being used by Iran's Islamic Revolutionary Guard Corps (IRGC), for example, for deadly airlifts to Syria's Bashar al-Assad and Lebanese Hezbollah.

This deal is unnecessary: Iranian citizens and foreign travelers to Iran have alternatives.

Over the past five years, Gulf and Turkish airlines were primarily responsible for the growth in the Iranian aviation market, with an increase in their routes by nearly 60 percent over the past three years.⁸ European airlines also announced a resumption of flights to Tehran following the lifting of sanctions.⁹

Iranian citizens need not rely on Iran Air or Mahan Air – companies racked with corruption and implicated in a range of illegal activities – but can look to more reliable foreign companies to

⁵ Josh Lederman, "US says Iran open for business, but Europe's banks disagree," *Associated Press*, May 12, 2016. (<http://bigstory.ap.org/article/73fd6c11e9b6474896cf59a4fc3ba108/us-says-banks-wont-be-punished-lawful-business-iran>)

⁶ "New U.S. sanctions concession to Iran may be in works: AP," *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>); Bradley Klapper and Matthew Lee, "Officials: US considers easing ban on dollars to help Iran," *Associated Press*, March 31, 2016. (<http://bigstory.ap.org/article/d527c4f64b464801a2ed4573a13b4627/officials-us-mulls-new-rules-dollars-help-iran>)

⁷ Karoun Demirjian, "Treasury sanctions chief warns even tightest U.S. policy can't keep every dollar out of Iran," *The Washington Post*, May 26, 2016. (<https://www.washingtonpost.com/news/powerpost/wp/2016/05/26/treasury-sanctions-chief-warns-even-tightest-u-s-policy-cant-keep-every-dollar-out-of-iran/>)

⁸ "Window on Iran's aviation market," *OAG*, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

⁹ "Iran: European airlines set to resume flights to Tehran," *Associated Press*, January 28, 2016. (<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, "British Airways to relaunch direct London to Iran flights in July," *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, "European airlines fly back into competitive Iran market," *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

meet their travel needs. Indeed, corruption plagues Iran's aviation industry; safety challenges reportedly have been the result of corruption and mismanagement, not U.S. sanctions. The Boeing deal may end up benefitting the still U.S.-sanctioned and IRGC-controlled Mahan Air, which has become the largest international carrier to and from Iran, as well as other sanctioned airlines supporting the IRGC and the Assad regime.

In addition to implicating U.S. companies in Iran's malign activities, the Boeing deal also undermines the Obama administration's much-touted economic "snapback" mechanism for enforcing the JCPOA. Iran targeted the Europeans to block any transatlantic re-imposition of sanctions by signing a similar deal with Boeing's competitor Airbus and with ATR, a joint venture between Airbus and Italy's Finmeccanica. French and Italian financial institutions and export credit agencies will finance these purchases, with a combined value of close to 30 billion dollars.¹⁰

From Iran's perspective, this is a smart strategy: Snapping back sanctions would cause American and European aviation companies and banks to lose billions of dollars in unpaid contracts. The aircraft companies and banks would surely lobby the White House and European capitals against restoring sanctions against Tehran, or at least seek reassurances that the aviation and financial sectors would be spared. In other words, with these deals, Iran can further exploit the tension between national security and Western commercial interests.

The Boeing deal comes at a time when the Obama administration has failed to push back against Iran's malign activities, including support for terrorism, human rights abuses, and other destabilizing activities in Syria, Iraq, Yemen, Lebanon, and other countries across the Middle East. It underscores the deterrence power of Iran's "nuclear snapback," wherein Tehran will threaten nuclear escalation if the world powers try to force it back into compliance with the agreement or impose sanctions against its non-nuclear malign activities.

The Boeing deal only serves to increase the Iranian regime's leverage over the nuclear deal while diminishing the American appetite for rigorous enforcement. Before the aviation deal is permitted to move ahead, Congress should maintain pressure on the Iranian regime to change its behavior by linking the sale to demonstrable changes in the behavior that prompted sanctions in the first place.

Specifically, I recommend that Congress consider taking the following steps:

1. Require presidential certification that commercial planes are only being used for civil aviation end-use.
2. Prohibit any U.S. financial institution, including the Export-Import Bank, from financing any trade with Tehran while Iran remains a state sponsor of terrorism.

¹⁰ Robert Wall, "Iran to Buy up to 40 ATR Turboprop Planes," *The Wall Street Journal*, February 1, 2016. (<http://www.wsj.com/articles/iran-to-buy-up-to-40-atr-turboprop-planes-1454330448>)

3. Protect the integrity of the U.S. dollar from Iranian illicit finance by codifying existing restrictions, reporting on financial institutions involved in dollarization, and linking the termination of these measures to the end of Iranian support for terrorism and missile development as well as compensation for victims of Iranian terrorism.
4. Reauthorize the Iran Sanctions Act, an important foundation of the sanctions architecture and legislation based on both Iran's nuclear program and its support for international terrorism.

If the deal is permitted to proceed without these requirements, the Obama administration will in effect make one of America's most respected companies and the banks that finance this deal accomplices to the world's leading state sponsor of terrorism.

Introduction

During last summer's congressional review period, Obama administration officials pledged that the United States would continue to enforce non-nuclear sanctions and oppose the full range of Iran's illicit and dangerous activities.

However, many of us raised concerns that Iran would view any imposition of sanctions as a violation of the deal and grounds to "snapback" its nuclear program,¹¹ and that those threats would in effect prevent Washington from imposing new non-nuclear sanctions. This is what I called Iran's "nuclear snapback."

Since the conclusion of the JCPOA, in fear of the nuclear snapback, the Obama administration has missed numerous opportunities to push back against Iran's malign activities, including support for terrorism, human rights abuses, and other destabilizing activities in Syria, Iraq, Yemen, Lebanon, and other countries across the Middle East. The administration has only issued a handful of new designations,¹² including an ineffectual targeting of Iran's missile procurement networks. Tehran can easily reconstitute these networks, and therefore the designations do not impose the kind of economic costs needed to change Tehran's calculus.

The administration also has failed to enforce human rights sanctions against Iran. Indeed, since the JCPOA was concluded last summer, the administration has designated no individuals or entities for human rights abuses, and only three designations since Hassan Rouhani took power in the summer of 2013.¹³

¹¹ Column Lynch, "Iran to United Nations; New Sanctions Could Kill Nuclear Deal," *Foreign Policy*, July 28, 2015. (<https://foreignpolicy.com/2015/07/28/john-kerry-obama-administration-terrorism-human-rights-iran-to-united-nations-new-sanctions-could-kill-nuclear-deal/>)

¹² U.S. Department of the Treasury, Office of Foreign Assets Control, "Counter Terrorism Designations; Non-proliferation Designations," March 24, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160324.aspx>); U.S. Department of the Treasury, Office of Foreign Assets Control, "Non-proliferation Designations," January 17, 2016. (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20160117.aspx>)

¹³ U.S. Department of the Treasury, Press Release, "Treasury Sanctions Iranian Official for Human Rights Abuses," May 23, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/j12411.aspx>); U.S. Department of the

Those of us who were critical of the deal also raised concerns that Iran would view the JCPOA not as the end of the negotiations, but as the beginning, and demand ever-greater sanctions relief, as we have indeed seen.¹⁴

We have witnessed the Iranian government's full-court press to persuade the United States to green-light Iran's access to U.S. dollar transactions,¹⁵ an action which would go beyond the sanctions relief promised by the nuclear agreement.¹⁶

Iranian Central Bank Governor Valiollah Seif has publicly criticized the U.S. for "not honor[ing its] obligations" and explicitly called for the U.S. to change its laws to allow Iran to access the U.S. financial system.¹⁷ Supreme Leader Ali Khamenei has argued that the United States has "removed the sanctions in paper only" and blames the U.S. for the fact that global banks are keeping Iran at arm's length.¹⁸

Statements by administration officials that it is America's responsibility to ensure that Iran "get[s] the benefits that they are supposed to get," according to Secretary Kerry,¹⁹ are very problematic. The administration is allowing Iran to hold the U.S. responsible for delivering financial and economic outcomes and for providing ever-greater sanctions relief in order to persuade Iran to keep to the JCPOA. This was a position that the Treasury Department rejected during the JCPOA negotiations. Now, however, the State Department is effectively acting as Iran's trade promotion and business development authority.

The proposed \$25-billion deal between Boeing and the Islamic Republic is an example of how the administration continues to undermine American leverage to address Iran's long rap sheet of illicit and nefarious activities. This business deal threatens to enhance Tehran's ability to engage

Treasury, Press Release, "Treasury Designates Additional Individuals and Entities Under Iran-related Authorities," December 30, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/jl9731.aspx>)

¹⁴ Guy Faulconbridge, "Iran calls on U.S. to reassure European banks over trade with Tehran," *Reuters*, February 4, 2016. (<http://www.reuters.com/article/us-iran-britain-trade-idUSKCN0VD2K2>); "Iran's Supreme Leader says U.S. lifted sanctions only on paper," *Reuters*, April 27, 2016. (<http://www.reuters.com/article/us-iran-economy-khamenei-idUSKCN0X00RK>); Robin Wright, "Iran's Javad Zarif on the Fraying Nuclear Deal, U.S. Relations, and Holocaust Cartoons," *The New Yorker*, April 25, 2016. (<http://www.newyorker.com/news/news-desk/irans-javad-zarif-on-the-fraying-nuclear-deal-u-s-relations-and-holocaust-cartoons>); Jay Solomon, Asa Fitch, and Benoit Faucon, "Iran's Central Bank Chief Warns Banking-Access Issues Jeopardize Nuclear Deal," *The Wall Street Journal*, April 15, 2016. (<http://www.wsj.com/articles/irans-central-bank-chief-warns-banking-access-issues-jeopardize-nuclear-deal-1460745930#:ZHcJ-dQfzyZaA>)

¹⁵ "New U.S. sanctions concession to Iran may be in works: AP," *Associated Press*, March 31, 2016. (<http://www.cbsnews.com/news/new-us-sanctions-concession-to-iran-may-be-in-works-ap/>)

¹⁶ U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day," issued January 16, 2016, updated March 24, 2016. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf)

¹⁷ Valiollah Seif, "A Conversation With Valiollah Seif," *Council on Foreign Relations*, April 15, 2016. (<http://www.cfr.org/global/conversation-valiollah-seif/p37733>)

¹⁸ Aresu Egbali and Margherita Stancati, "Iran's Supreme Leader Says Sanctions Still Affecting Country's Economy," *The Wall Street Journal*, March 20, 2016. (<http://www.wsj.com/articles/irans-supreme-leader-says-sanctions-still-affecting-countrys-economy-1458502695>)

¹⁹ John Kerry, "Remarks After Meeting Iranian Foreign Minister Zarif," *United Nations*, April 19, 2016. (<http://www.state.gov/secretary/remarks/2016/04/255977.htm>)

in dangerous conduct and to provide Iran with greater deterrence power to prevent Washington from combatting Iran's destabilizing behavior.

Boeing's Proposed Sale and Iran's Malign Activities

Last month, Boeing and Iran announced a preliminary agreement for the sale of 80 aircraft, valued at \$25 billion.²⁰ The announcement follows a similar multi-billion dollar deal with Airbus for 118 aircraft mere days after the U.S. and EU lifted sanctions,²¹ and an Iran Air announcement that it will be purchasing as many as 40 turboprops from French-Italian company ATR.²² Iran's transport minister has said that Iran's aviation industry needs 500 new planes over the next decade, and companies are lining up to meet this demand.²³

These sales are legal under U.S. and EU laws because the JCPOA lifted sanctions on Iran Air²⁴ and permitted the "sale of commercial passenger aircraft and related parts and services to Iran," provided they are "for exclusively civil aviation end-use."²⁵ Export licenses are still required for individual sales, but the Treasury Department issued a general license allowing companies to engage in preliminary discussions.²⁶

Ostensibly, these sales address safety issues that have plagued Iran's aviation industry. Tehran blames the United States for preventing it from purchasing the equipment to service its fleets, leading to numerous airplane crashes. Preliminary research by my FDD colleague Emanuele Ottolenghi, however, indicates that Iran's aviation safety challenges were the result of corruption and mismanagement, not U.S. sanctions. Between 2000 and 2009, five of the seven major crashes of civilian aircraft involved Russian (or Soviet) aircraft not subject to U.S. sanctions.²⁷ Since 2000, more than half of all commercial aviation crashes involved Russian (or Soviet) planes, indicating a more widespread problem than simply a lack of parts for Western aircraft.²⁸ A *Los Angeles Times* report from September 2009 quoted an industry expert accusing "politically motivated regulators of failing to adequately inspect and publicize aviation accidents,

²⁰ Jon Ostrower and Doug Cameron, "Proposed Boeing-Iran Air Deal Involves 80 Jets," *The Wall Street Journal*, June 23, 2016. (<http://www.wsj.com/articles/proposed-boeing-iran-air-deal-involves-80-jets-1466701529>)

²¹ Airbus, Press Release, "Iran selects Airbus for its civil aviation renewal," January 28, 2016.

(<http://www.airbus.com/presscentre/pressreleases/press-release-detail/detail/iran-deal/>)

²² Robert Wall, "Iran to Buy up to 40 ATR Turboprop Planes," *The Wall Street Journal*, February 1, 2016.

(<http://www.wsj.com/articles/iran-to-buy-up-to-40-atr-turboprop-planes-1454330448>)

²³ Fred Pleitgen and Jim Boulden, "Iran wants to buy 500 planes and resume flights to U.S.," *CNN*, January 25, 2016. (<http://money.cnn.com/2016/01/25/news/iran-planes-tourism-us-flights/>)

²⁴ Joint Comprehensive Plan of Action, Attachment 3, July 14, 2015. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_1_attachements_en.pdf)

²⁵ Joint Comprehensive Plan of Action, Annex II – Sanctions related commitments, July 14, 2015, section 5.1.1.

(http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_2_sanctions_related_commitments_en.pdf)

²⁶ U.S. Department of the Treasury, Office of Foreign Assets Control "General License I: Authorizing Certain Transactions Related to the Negotiation of, and Entry into, Contingent Contracts for Activities Eligible for Authorization Under the Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services," March 24, 2016.

(https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_gli.pdf)

²⁷ "TIMELINE - Recent major plane crashes involving Iran," *Reuters*, July 15, 2009.

(<http://in.reuters.com/article/idINIndia-41053520090715>)

²⁸ "List of Iranian Aviation Accidents and Incidents," *Wikipedia*, June 7, 2016.

(https://en.wikipedia.org/wiki/List_of_Iranian_Aviation_Accidents_and_Incidents)

and of bending rules to accommodate well-connected airlines.” The article cites a series of problems within the industry, including a lack of transparent investigations according to international standards and that “rules are bent to accommodate airlines with safety lapses.”²⁹

Iranian citizens and foreign travelers to Iran have alternatives: Over the past five years, Gulf and Turkish airlines were primarily responsible for the growth in the Iranian aviation market, according to a study by OAG, an air travel intelligence company.³⁰ The study notes that Gulf and Turkish carriers have increased their routes by nearly 60 percent over the past three years, operating mostly from their hubs to primary and secondary airports in Iran and serving both local demand and international travel. They together provided 44 percent of international capacity in 2015. These international airlines recognize that there is significant opportunity in the Iranian market to provide dependable, high-quality service.

After sanctions were lifted, European airlines also announced resumed service between Europe and Tehran.³¹ Air France resumed flights in April after a seven year hiatus; British Airways is re-launching daily flights between London and Tehran after a four year suspension; and Lufthansa and Alitalia never ceased service to Iran even during the height of sanctions. There are reportedly nearly 30 foreign carriers operating in Iran.

Iranian citizens need not rely on Iran Air or Mahan Air – companies racked with corruption and illegal activities – but can look to foreign companies to meet their travel needs.

Of greatest concern for the Boeing deal, however, given its role in supporting the IRGC and the Assad regime, is the still U.S.-sanctioned Mahan Air, which last surpassed Iran Air to become the largest carrier to and from Iran.

While Boeing’s sale to Iran Air is legal (with proper licensing), the sale is risky and unwise because Iran Air has a long history of illicit activities. In June 2010, the United Nations Security Council cautioned that Iran Air’s cargo division may be involved in sanctions evasion.³² Washington designated the airline a year later for providing material support and services to the IRGC and Ministry of Defense.³³ At the time, Treasury noted, “Rockets or missiles have been transported via Iran Air passenger aircraft, and IRGC officers occasionally take control over Iran Air flights carrying special IRGC-related cargo ... carried aboard a commercial Iran Air aircraft,

²⁹ Borzou Daragahi, “Iran’s aviation regulation seen as a factor in air crashes,” *Los Angeles Times*, September 15, 2009. (<http://articles.latimes.com/2009/sep/15/world/fg-iran-aviation15>)

³⁰ “Window on Iran’s aviation market,” OAG, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

³¹ “Iran: European airlines set to resume flights to Tehran,” *Associated Press*, January 28, 2016. (<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, “British Airways to relaunch direct London to Iran flights in July,” *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, “European airlines fly back into competitive Iran market,” *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

³² United Nations Security Council, Resolution 1929, June 9, 2010, page 7. (https://www.iaea.org/sites/default/files/unsc_res1929-2010.pdf)

³³ U.S. Department of the Treasury, “Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities,” June 23, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

including to Syria.”³⁴ Iran Air not only flaunted the UN global arms embargo, it violated civil aviation rules by allowing the Guard to “disguise and manifest such shipments as medicine and generic spare parts.”³⁵

As a result of the nuclear deal, the U.S. lifted sanctions against Iran Air, despite the fact that the original designations were not related to Iran’s nuclear program and despite the administration’s commitment to retain non-nuclear sanctions.

But when asked why sanctions were lifted, State Department Spokesman John Kirby did not argue that Iran Air’s behavior had changed,³⁶ nor that the IRGC is no longer using the airline to ship weapons to Syria. Instead, he said merely that the administration was comfortable with its decision, though he was “not at liberty to go into the reasons behind” the de-listing.³⁷

And it seems that Iran Air is not keeping out of trouble. Three times in June, Iran Air flew routes known to be used to resupply Syrian President Assad.³⁸ As recently as June 9, an Iran Air jet landed in Abadan, Iran, the logistical hub of the Revolutionary Guard’s airlifts to Assad and Hezbollah.³⁹ After a little over an hour on the tarmac, it continued to Syria. Iran Air regularly flies to Damascus with its planes’ transponders broadcasting an outdated Najaf-Tehran flight number, making it appear that the flights were between Iran and Iraq.⁴⁰ This is a familiar technique that Iran used in hiding the illicit behavior of the Islamic Republic of Iran Shipping Lines (IRISL) and National Iranian Tanker Company (NITC) when they, too, used to turn off transponders or change their naming and registration markings to avoid detection.⁴¹

Congress should require the administration to investigate these flights and remind Boeing, Airbus, and any banks financing these deals, that they run the risk that the IRGC may use any new planes sold to Iran Air to aid the Syrian war effort. If it is proven that the IRGC or other designated entities used Iran Air to ship weapons to Syria, Iran Air could face new sanctions. And any licenses for aircraft sales would be revoked, potentially leaving Boeing or financial institutions holding the tab.

³⁴ Ibid

³⁵ Ibid

³⁶ “Boeing’s historic deal with Iran rests on shaky foundations,” *Associated Press*, June 23, 2016.

(<http://www.foxnews.com/us/2016/06/23/boeing-historic-deal-with-iran-rests-on-shaky-foundations.html>)

³⁷ John Kirby, “Daily Press Briefing,” *U.S. Department of State*, June 23, 2016.

(<http://www.state.gov/r/pa/prs/dpb/2016/06/259015.htm>)

³⁸ Emanuele Ottolenghi, “The risks of the Iran-Boeing deal,” *The Hill*, June 21, 2016.

(<http://thehill.com/blogs/pundits-blog/international/284269-the-risks-of-the-iran-boeing-deal>)

³⁹ @eottolenghi, “Iran Air flying Abadan to Damascus. Less than 6 months after JCPOA implementation, Iran Air running #SyriaExpress,” *Twitter*, June 9, 2016. (<https://twitter.com/eottolenghi/status/741034437341786112>)

⁴⁰ “Flight IR-3486 from Al Najaf to Tehran,” *EasyFly Club*, accessed July 5, 2016. (<http://easyfly.club/flights/iran-air/1ad6/ir-3486>)

⁴¹ For example, “Global Advisory to the Maritime Industry Regarding the Islamic Republic of Iran Shipping Lines,” *Office of Foreign Assets Control*, July 19, 2012. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ofac_irisl_advisory_07192012.pdf); U.S. Department of the Treasury, Press Release, “Fact Sheet: Treasury Designates Iranian Entities Tied to the IRGC and IRISL,” December 21, 2010. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1010.aspx>); David Cohen, “Iran Sanctions: Ensuring Robust Enforcement, and Assessing Next Steps,” *Testimony before the Senate Committee on Banking, Housing, and Urban Affairs*, June 4, 2013. (http://www.banking.senate.gov/public/_cache/files/c6ae9124-e150-4bce-8f9d-b36d5359722f/23C6AE00CC53D93492511CC744028B5E.cohentestimony6413.pdf)

Even if Iran Air itself ceases its involvement in the IRGC's war effort and support for terrorism, Mahan Air and other Iranian airlines, Caspian, Meraj and Pouya (aka Yas Air), remain under sanctions for ferrying illicit cargo to the Assad regime, Iranian clients in the Levant, and/or supporting the Revolutionary Guard.⁴² Mahan Air has become the Revolutionary Guard's primary conduit for transporting weapons and military personnel to Syria.⁴³ These deliveries enable Assad and Hezbollah to continue their slaughter of hundreds of thousands of Syrians, emboldening the Islamic State and fueling a refugee crisis that is destabilizing Europe.

It is unlikely that Iran Air will retain all of the aircraft it purchases, and instead will transfer, resell, or lease them to sanctioned airlines. Iran Air does not have the capacity to absorb the large orders it is placing. Its fleet currently stands at only 36 aircraft,⁴⁴ but its orders from Boeing and Airbus top 200 planes. Even Iran Air's management claims that the company wants to "maintain ... current schedules" and modernize its existing systems for the next three years.⁴⁵ Even if Iran Air doubles the size of its fleet, that leaves 130 planes that the company may resell or lease to Mahan Air or the other sanctioned airlines.

Once Boeing delivers the planes to Iran Air, the company and the U.S. government have little recourse to prevent Iran Air from reselling the planes. Treasury can cancel the license, prohibiting any additional sales, and the U.S. government can designate the individual planes, but the May 2015 transfer of nine planes from an Iraqi airline to Mahan shows the limits of these actions. Even though Treasury designated the planes involved in that previous sanctions violation,⁴⁶ the aircraft are flying to major European destinations and receiving ground services.⁴⁷

If an illegal resale or lease takes place, the U.S. government may also be hamstrung not only by its concern that Iran will walk away from the nuclear deal in response to sanctions, but by Iranian threats to walk away from its debts to U.S. companies and banks. These threats and the lucrative terms of the sale are likely to motivate the company to oppose any return to sanctions, and any banks that finance the deal are likely to join forces with Boeing to protect their investments.

In previous testimonies, I warned that Iran will use the threat of a nuclear snapback to deter the use of both nuclear and non-nuclear sanctions and to divide the United States and Europe. Once

⁴² U.S. Department of the Treasury, Press Release, "Treasury Targets Networks Linked to Iran," August 29, 2014. (<https://www.treasury.gov/press-center/press-releases/Pages/jl2618.aspx>)

⁴³ U.S. Department of the Treasury, Press Release, "Treasury Designates Iranian Commercial Airline Linked to Iran's Support for Terrorism," October 12, 2011. (<https://www.treasury.gov/press-center/press-releases/Pages/tg1322.aspx>)

⁴⁴ "Profile," *Iran Air*, accessed July 5, 2016. (<http://www.iranair.it/english/profile.shtml>)

⁴⁵ "Bigger than Dubai? Iran is targeting more than fleet renewal after the lifting of aviation sanctions," *The Economist*, February 4, 2016. (<http://www.economist.com/blogs/gulliver/2016/02/bigger-dubai>)

⁴⁶ U.S. Department of Treasury, Press release, "Treasury Department targets those involved in Iranian scheme to purchase planes," May 21, 2015. (<https://www.treasury.gov/press-center/press-releases/Pages/jl10061.aspx>)

⁴⁷ Plane tracking data available upon request. Based on public information, FDD has identified the following ground services providers who are servicing Mahan Air: Aerotech FMS Pvt. Ltd. (New Delhi, India), Air China Cargo (China), AHS Group (Munich and Köln, Germany), Airport Handling (Milan, Italy), Aviator (London Gatwick, United Kingdom), DUS Airport Cargo (Dusseldorf, Germany), Havaş (Istanbul Ataturk and Ankara, Turkey), SAS Ground Services UK Ltd. (Manchester, United Kingdom), and Swissport International Ltd. (Moscow, Russia).

European companies are sufficiently invested in Iran's lucrative markets, any Iranian violations of the deal are likely to provoke disagreements between Washington and its European allies. Indeed, why would the Europeans agree to new sanctions when they have big money on the line? But now, if a major U.S. company and banks are also invested in Iran, Tehran will not even need the transatlantic divide. Business lobbies on both sides of the Atlantic will oppose any return to sanctions.

In backing the Boeing deal, the Obama administration is increasing the Iranian regime's leverage and diminishing its own power to enforce the nuclear deal. That, and the specter of one of America's most respected companies and its financial partners unwittingly abetting the leading state sponsor of terrorism, is why this Boeing deal should not be allowed to take off.

Financial Institutions Face Enormous Due Diligence Challenges

The deal between Boeing and Iran risks implicating major U.S. companies in the Islamic Republic's support for terrorism and regional adventurism. Boeing and any bank contemplating financing the deal will face enormous due diligence challenges to ensure proper end-use of these planes. Given Iran Air's continued resupply flights to Assad and Hezbollah operations in Syria and the still-designated Mahan Air's role as "IRGC Air," it is not surprising that major banks are not stepping forward yet to finance the deal.

And so Iran wants the United States to reassure and even force banks to reengage with it. Under the JCPOA in paragraph 29, the United States committed to "refrain[ing] from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations."⁴⁸ Iran is interpreting this to mean that the U.S. cannot implement terrorism or other non-nuclear sanctions and that Washington must strong-arm skittish multilateral companies and global banks to return to Iran.

A tough-minded American administration would argue that there is a big difference between not interfering with commercial relations and actively advocating for banks and companies to enter the Iranian market. Indeed, the burden ought to remain on Iran to stop using its aircraft for illicit purposes if they want access to new aircraft, and to address its pattern of illicit conduct and terror financing to convince the global financial system that it has turned a corner.

The deal is a microcosm of the illicit finance risks that remain regardless of the nuclear deal. Even as Iran has agreed to temporarily constrain some of its nuclear activities, it has not addressed the full range of nefarious conduct that prompted U.S. and international sanctions. Iran's illicit financial conduct continues. Even as the Financial Action Task Force suspended for one year its call for countries to impose mandatory countermeasures against Iran, the global anti-money laundering and counter terrorism financial standards body kept Iran on its "blacklist," along with North Korea, and noted that Iran continues to pose terrorist financing risks and is a threat to the international financial system.⁴⁹

⁴⁸ Joint Comprehensive Plan of Action, July 14, 2015, paragraph 29. (http://eeas.europa.eu/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)

⁴⁹ Financial Action Task Force, "Public Statement – 24 June 2016," June 24, 2016. (<http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2016.html>)

One of the primary due diligence challenges that companies and banks are facing is ensuring that their Iranian partners are not owned or controlled by designated entities. Given the pervasive influence of the IRGC throughout the Iranian economy, including in Iran's aircraft sector, this challenge is enormous.

In addition to implementing the regime's policies to support terrorism and destabilize its neighbors, the IRGC has become a dominant force in the Iranian economy, and Iran's "most powerful economic actor," according to the U.S. Treasury.⁵⁰ The IRGC has "displace[d] ... the legitimate Iranian private sector," created a preferential system "in favor of a select group of insiders," and "expanded its reach into critical sectors of Iran's economic infrastructure," according to the U.S. government.⁵¹

The IRGC controls at least 30 percent of the Iranian economy,⁵² is a major player in Iran's aircraft industry through Mahan Air and Iran's other designated airlines, and is heavily involved in Iran's financial sector and in the defense production, construction, and Iran's energy sectors, according to the U.S. government.⁵³ The IRGC's control over strategic sectors of the Iranian economy means that any foreign firms interested in doing business with Iran will have to do business with the Guard.⁵⁴

Even as banks and companies try to implement strict due diligence processes to protect themselves against unwittingly supporting Iran's illicit activities, the regime is engaged in a

⁵⁰ U.S. Department of the Treasury, Press Release, "Treasury Submits Report to Congress on NIOC and NITC," September 24, 2012. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1718.aspx>)

⁵¹ U.S. Department of State, Office of the Spokesperson, Media Note, "Joint Statement on Iran Sanctions," June 23, 2011. (<http://www.state.gov/r/pa/prs/ps/2011/06/166814.htm>); U.S. Department of State, Media Note, "Treasury Targets Iran's Islamic Revolutionary Guard Corps," February 10, 2010.

(<http://www.state.gov/r/pa/prs/ps/2010/02/136595.htm>); U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

⁵² Greg Bruno, Jayshree Bajoria, and Jonathan Masters, "Iran's Revolutionary Guard," *Council on Foreign Relations*, June 14, 2013. (<http://www.cfr.org/iran/irans-revolutionary-guards/p14324>); Emanuele Ottolenghi and Saeed Ghasseminejad, "Who Really Controls Iran's Economy?" *The National Interest*, May 20, 2015.

(<http://nationalinterest.org/feature/who-really-controls-irans-economy-12925>); Frederic Wehrey, Jerrold D. Green, Brian Nichiporuk, Alireza Nader, Lydia Hansell, Rasool Nafisi, and S. R. Bohandy, "The Rise of the Pasdaran: Assessing the Domestic Roles of Iran's Islamic Revolutionary Guards Corps," *The RAND Corporation*, 2009. (http://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG821.pdf); Mark Gregory, "Expanding Business Empire of Iran's Revolutionary Guards," *BBC* (UK), July 26, 2010. (<http://www.bbc.com/news/world-middle-east-10743580>)

⁵³ U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1217.aspx>)

⁵⁴ For an extensive analysis of the role of the IRGC in strategic sectors of the Iranian economy and how it will benefit from sanctions relief under the JCPOA, I recommend the testimony of my FDD colleague Emanuele Ottolenghi before the House Foreign Affairs Middle East and North Africa Subcommittee. Emanuele Ottolenghi, "The Iran Nuclear Deal and its Impact on Iran's Islamic Revolutionary Guards Corps," *Testimony before the House Foreign Affairs Middle East and North Africa Subcommittee*, September 17, 2015.

(<http://docs.house.gov/meetings/FA/FA13/20150917/103958/HHRG-114-FA13-Wstate-OttolenghiE-20150917.pdf>); In the coming weeks, FDD will also be publishing a comprehensive study building on this testimony and providing innovative policy ideas for Congress on ways to use economic pressure against the Revolutionary Guards.

robust effort to legitimize its financial sector without addressing its decades-long rap sheet of financial crimes. Iran's strategy is three-pronged, involving denial, deception, and new demands. Iran followed this same pattern during the nuclear negotiations: denying weaponization efforts, deceiving the international community about its illicit nuclear activities, and escalating its demands for more sanctions relief and fewer nuclear constraints. On the financial track, Tehran is following the same strategy. Iranian leaders are denying both their illicit financial conduct and the IRGC's pervasive control of the Iranian economy, they are attempting to deceive the international community about this ongoing illicit conduct, and now they are demanding new sanctions relief and concessions to legitimize their financial sector.

Dollarization and the Long-Term Implications of Aircraft Sales

The financing of Boeing's aircraft sales through access to the U.S. dollar is central to Iran's demands for economic legitimacy. Tehran wants U.S. banks to finance the Boeing deal and for the administration to permit the transaction to transit the U.S. financial system or take place through offshore dollar clearing facilities. Iran wants to get the planes now, pay later, borrow the money from Western lenders, and secure its access to dollarized transactions – a benefit never authorized under the terms of the nuclear deal.

Specific classes of dollarized transactions are already permitted. In general, U.S. banks are permitted "to process transfers of funds to or from Iran ... [if the] underlying transaction ... has been authorized by a specific or general license," according to Treasury's Iranian Transactions and Sanctions Regulations.⁵⁵ But Iran wants the U.S. government to specifically authorize payments for aircraft sales in dollars. With each class of transactions that are dollarized, Iran is slowly undermining the ban on Iranian access to the U.S. financial system.

In 2008, Treasury banned Iran's last access point to the U.S. financial system by prohibiting what are referred to as "U-turn" transactions, which are transactions between a foreign bank and an Iranian bank that briefly transit the U.S. financial system in order to dollarize the transaction.⁵⁶ At the time, Treasury's Office of Foreign Assets Control noted that the purpose of the action was "to further protect the U.S. financial system from the threat of illicit finance posed by Iran and its banks."⁵⁷

Since that time, Iran's illicit financial activities have continued. In November 2011, Treasury issued a finding under Section 311 of the USA PATRIOT Act that Iran (and its entire financial sector, including its central bank) was a "jurisdiction of primary money laundering concern."⁵⁸

⁵⁵ "Title 31: Money and Finance: Treasury, Part 560—Iranian Transactions and Sanctions Regulations," §560.516 Transfers of funds involving Iran, *Electronic Code of Federal Regulations*, May 5, 2016. <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=116314f3fa7cc31c414670ca6ab97006&mc=true&n=pt31.3.560&r=PART&ty=HTML>

⁵⁶ U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Strengthens Preventive Measures Against Iran," November 6, 2008. (<https://www.treasury.gov/press-center/press-releases/Pages/hp1258.aspx>)

⁵⁷ U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

⁵⁸ U.S. Department of the Treasury, Press Release, "Finding That the Islamic Republic of Iran is a Jurisdiction of Primary Money Laundering Concern," November 18, 2011. (<http://www.treasury.gov/press-center/press-releases/Documents/Iran311Finding.pdf>)

The entire country's financial system posed "illicit finance risks for the global financial system."⁵⁹

Now Iran wants direct – or, at a minimum, indirect – access to the U.S. dollar because the dollar is the preferred currency for global trade, and use of the world's most liquid and most dependable currency will legitimize its financial sector. But permitting Iran access to the U.S. dollar would contradict repeated administration promises to Congress, and goes beyond any commitments made to Iran under the JCPOA.⁶⁰

The administration may argue that the Boeing deal and additional sanctions relief will empower moderate forces in Iran so that they can push back against hardline elements who want to pursue policies antithetical to U.S. interests. President Obama, fearful that Rouhani and the nuclear deal he negotiated might not survive the next Iranian presidential election in 2017, has committed himself to Rouhani's re-election. This is an unwarranted fear: In the Islamic Republic's rigged election process, every Iranian president since the early 1980s, including the reformist Mohammad Khatami and the firebrand Mahmoud Ahmadinejad, served two terms. Nevertheless, to help Rouhani, Obama has now decided to encourage billions of dollars of transactions like the Boeing deal and to oppose any sanctions that limit Iranian economic growth, including those permitted under the JCPOA.

The analysis that President Rouhani represents a moderate wing fails to appreciate the Iranian political system and atmosphere. After Rouhani's ascension to power, he was hailed as a man of the system who nevertheless wanted to make fundamental changes that would gradually bring greater freedom to Iranian society and politics. This assessment ignores the evidence. Former CIA Director Leon Panetta explained that the intelligence community's assessment is the Iranian regime is not meaningfully divided into "moderate" and "hardline" camps.⁶¹ Or, as former Under Secretary of State and U.S. negotiator in the Iran talks Wendy Sherman noted, "There are hardliners in Iran, and then there are hard-hardliners in Iran. Rouhani is not a moderate, he is a hard-liner."⁶²

Last year, my colleagues at the Foundation for Defense of Democracies conducted an in-depth study of his writings, speeches, and autobiography. Their research revealed that his "politics aren't reformist"; his priority is to "ensure the regime's continuing dominion." He is "a founding father of Iran's theocracy and its nuclear-weapons program."⁶³ As just one example, Rouhani

⁵⁹ U.S. Department of the Treasury, Press Release, "Fact Sheet: New Sanctions on Iran," November 21, 2011. (<http://www.treasury.gov/press-center/press-releases/Pages/tg1367.aspx>)

⁶⁰ U.S. Department of the Treasury, "Frequently Asked Questions Relating to the Lifting of Certain U.S. Sanctions Under the Joint Comprehensive Plan of Action (JCPOA) on Implementation Day," issued January 16, 2016, updated March 24, 2016. (https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_faqs.pdf)

⁶¹ David Samuels, "The Aspiring Novelist Who Became Obama's Foreign-Policy Guru," *The New York Times Magazine*, May 5, 2016. (http://www.nytimes.com/2016/05/08/magazine/the-aspiring-novelist-who-became-obamas-foreign-policy-guru.html?_r=2)

⁶² Matthew Riley, "Lead U.S. negotiator of Iran deal Sherman analyzes the agreement," *The Duke Chronicle*, February 5, 2016. (<http://www.dukechronicle.com/article/2016/02/lead-u-s-negotiator-of-iran-deal-sherman-analyzes-the-agreement>)

⁶³ Reuel Marc Gerech and Ali Alfoneh, "Persian Truths and American Self-Deception: Hassan Rouhani, Muhammad-Javad Zarif, and Ali Khamenei in Their Own Words," *Foundation for Defense of Democracies*, March 24, 2015. (<http://www.defenddemocracy.org/media-hit/persian-truths-and-american-self-deception/>)

supported crushing student protests in 1999 and called for the execution of those agitating for greater freedom.⁶⁴

The administration might argue that the West needs to provide economic incentives for Tehran to comply with the nuclear deal and that providing additional sanctions relief will encourage Iran to moderate its behavior on a host of other, non-nuclear issues. The post-JCPOA record of hostage taking, terrorism, regional aggression, and illegal arms deals, as well as a financial sector that remains rotten to the core, contradicts this optimistic assessment.

The Islamic Republic continues to commit serious human rights abuses,⁶⁵ and Iran's support for Syrian President Assad reached new levels in the last year, including the provision of IRGC ground forces, weaponry, intelligence, telecommunications, and financial support.⁶⁶ The Syrian regime itself is "little more than a puppet" of the Iranian regime and the IRGC.⁶⁷ Since the announcement of the JCPOA, Iran has four times tested ballistic missiles capable of carrying nuclear warheads in violation of UN Security Council resolutions.⁶⁸

If the United States provides dollarized access now, and in the future Iran conducts another ballistic missile test or executes more dissidents or provides more weapons to the Assad regime in Syria, the next administration will not be able to revoke Iran's access to dollarized transactions. Tehran will argue, convincingly, that Washington provided this sanctions relief under the JCPOA, so it cannot re-impose this sanction for non-nuclear reasons later.⁶⁹ Iran will threaten to walk away from the deal and deploy its own "nuclear snapback." This will effectively paralyze America's Iran policy as even the minimalist instrument of coercion, the non-nuclear sanction, will be increasingly neutralized.

⁶⁴ Sohrab Ahmari, "Behind Iran's 'Moderate' New Leader," *The Wall Street Journal*, June 16, 2013.

(<http://www.wsj.com/articles/SB10001424127887323566804578549262039104552>); Hassan Rouhani, "Remarks before the Iranian Majlis," *Translation provided by BBC World Media Watch*, July 14, 1999. (<http://news.bbc.co.uk/2/hi/world/monitoring/394731.stm>)

⁶⁵ United Nations Human Rights Council, "Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran," March 10, 2016. (<http://shaheedoniran.org/wp-content/uploads/2016/03/SR-Report-HRC2016FF.pdf>); United Nations General Assembly, "Situation of human rights in the Islamic Republic of Iran," October 6, 2015. (<http://shaheedoniran.org/wp-content/uploads/2015/10/SR-Report-Iran-Oct2015.pdf>)

⁶⁶ Max Peck, "Doubling Down on Damascus: Iran's Military Surge to Save the Assad Regime," *Foundation for Defense of Democracies*, January 11, 2016. (http://www.defenddemocracy.org/content/uploads/documents/Doubling_Down_on_Damascus.pdf)

⁶⁷ Shiar Youssef, "Iran in Syria: From an Ally of the Regime to Occupying Force," *Naame Shaame*, 2nd Edition, April 2016, page 10. (<http://www.naameshaam.org/naame-shaam-releases-updated-report-on-irans-role-in-syria/>)

⁶⁸ Sam Wilkins, "Iran Tests New Precision-Guided Ballistic Missile," *Reuters*, October 11, 2015. (<http://www.reuters.com/article/2015/10/11/us-iran-military-missiles-idUSKCN0S505L20151011>); Bradley Klapper, "US official says Iran tested ballistic missile last month, at least 2nd time since nuke deal," *Associated Press*, December 8, 2015. (<http://www.usnews.com/news/politics/articles/2015/12/08/us-official-iran-tested-ballistic-missile-last-month>); Nasser Karimi, "Iran test-fires ballistic missile, latest after nuclear deal," *Associated Press*, May 9, 2016. (<http://www.bigstory.ap.org/article/5cb0901c025a4cfb93c4fb08558d68c0/iran-test-fires-ballistic-missile-latest-after-nuclear-deal>)

⁶⁹ Example derived from analysis of our colleague at FDD's Center on Sanctions and Illicit Finance, Eric Lorber. Eric B. Lorber, "FPI Conference Call on Implications of Granting Iran Access to U.S. Financial Market," *Foreign Policy Initiative*, April 7, 2016. (<http://www.foreignpolicyi.org/content/transcript-fpi-conference-call-implications-granting-iran-access-us-financial-market>)

On July 20, 2015, Iran informed the UN Security Council that it may “reconsider its commitments” under the agreement if “new sanctions” are imposed “irrespective of whether such new sanctions are introduced on nuclear related or other grounds.”⁷⁰ Iran will use this threat to deter the use of both nuclear and non-nuclear sanctions by dividing the United States and Europe. Would Europe agree to Washington’s plan to withdraw U.S. dollar access if, for example, Boeing or Airbus planes were used for supplying weapons to Assad? This is doubtful given that Tehran would threaten to return to its nuclear activities, including large-scale uranium enrichment, putting not just American and European investments but the entire nuclear deal in jeopardy.

Congress should reject all attempts to give Iran direct or indirect access to the U.S. dollar, including for the financing of the Boeing deal. Iran did not explicitly negotiate this concession as part of the JCPOA and should not now be given a unilateral concession of this magnitude – particularly given its continued record of illicit behavior.

Recommendations

If the Obama administration grants Iran access to the world’s most important currency, U.S. sanctions will be severely undermined. Tehran will receive yet another significant and unilateral concession. And Washington will have lost critical leverage to target Iran’s terror finance, missile activities, destabilizing regional aggression, systemic human rights abuses, and the financial and military backing of the Assad regime. The next president’s ability to target Iran’s malign activities with non-nuclear sanctions will be much more difficult if billions of dollarized transactions are green-lighted.

The same is true if the Boeing deal goes through. The next administration’s leverage and flexibility to combat Iran’s malign activities will be significantly hampered if, every step along the way, business and banks jump in to protect their \$25 billion investment. And once the deal is signed, initial planes are delivered, and the money changes hands, Iran will have considerable freedom to use the aircraft in illegal ways. As a result, Congress should block the deal until Iran stops using its aircraft for malign activities. If Iran wants to modernize its aging fleet and become a regional and global aviation hub, the regime must change its behavior and stop using its civilian aircraft to further its regional aggression.

Instead of bending to Iranian demands, Washington and its partners should be pushing Tehran to end its many illicit activities. The world needs to hold the Islamic Republic accountable. Legitimacy for Iran’s financial sector and aviation industry cannot be granted without a dramatic change in the Iranian regime’s respect for international norms and financial transparency. Congress can lead the charge, as it has done in the past, by increasing pressure on the regime to change its behavior.

⁷⁰ Column Lynch, “Iran to United Nations; New Sanctions Could Kill Nuclear Deal,” *Foreign Policy*, July 28, 2015. (<https://foreignpolicy.com/2015/07/28/john-kerry-obama-administration-terrorism-human-rights-iran-to-united-nations-new-sanctions-could-kill-nuclear-deal/>)

1. Require presidential certification that commercial planes are only being used for civil aviation end-use.

This committee is reviewing important legislation aimed at preventing Iran from misusing U.S.-made aircraft. Given Iran's history of sanctions evasion, support for terrorism, and aid to the Bashar Assad regime in Syria, Congress is right to be concerned.

Sales of new aircraft to Iran should only move forward once Iran has demonstrated that it will no longer use civilian aircraft for malign purposes and that none of the aircraft will end up in the hands of sanctioned entities. Before any sales are licensed, Congress should require the president to certify that none of Iran's commercial planes are being used for purposes other than exclusively civil aviation end-use. The certification should then include at least a five-year waiting period after which new planes should be sold only on a trial basis with only a small number of planes delivered per year with full payment made by Iran in cash at the time of delivery.

If any evidence surfaces that Iran Air has resold, leased, or transferred these planes to designated entities or that any Iranian airline is using commercial planes to support the war in Syria or for any other malign purposes, all licenses should be revoked and all deals automatically cancelled. In the interim, as discussed above, Turkish and Gulf airlines are increasing their domestic and international routes for Iranian citizens.⁷¹ European airlines are also re-opening routes between Europe and Tehran.⁷² All of these carriers remain better alternatives than Iranian airlines that are plagued with corruption and implicated in a range of malign activities – as long as the presidential certification cannot be made.

2. Prohibit any U.S. financial institution, including the Export-Import Bank, from financing any trade with Tehran while Iran remains a state sponsor of terrorism.

Iran remains the leading state sponsor of terrorism, according to the State Department's annual report, released last month.⁷³ Iran's terrorism financing poses a threat to the integrity of the U.S. and global financial system. Therefore, in addition to the certifications that Iran is not misusing its commercial aircraft, Congress should prohibit Treasury from licensing U.S. financial institutions to facilitate any trade (including the Boeing deal) with Iran while it remains a state sponsor of terrorism. No U.S. bank should be permitted to finance the Boeing deal, given the risks discussed above that any financing arrangement exposes American companies and banks to billions of dollars of unpaid contracts and makes them accomplices in a lobbying effort against snapback sanctions.

⁷¹ "Window on Iran's aviation market," *OAG*, 2016. (<http://www.oag.com/window-on-irans-aviation-market-0>)

⁷² "Iran: European airlines set to resume flights to Tehran," *Associated Press*, January 28, 2016.

(<http://www.foxnews.com/travel/2016/01/28/iran-european-airlines-set-to-resume-flights-to-tehran.html>); Lizzie Porter, "British Airways to relaunch direct London to Iran flights in July," *The Telegraph* (UK), February 3, 2016. (<http://www.telegraph.co.uk/travel/destinations/middle-east/iran/articles/British-Airways-to-relaunch-direct-London-to-Iran-flights-in-July/>); Gary Raynaldo, "European airlines fly back into competitive Iran market," *LinkedIn*, April 19, 2016. (<https://www.linkedin.com/pulse/european-airlines-fly-back-competitive-iran-market-gary-raynaldo>)

⁷³ Justin Siberell, "Special Briefing: Country Reports on Terrorism," *U.S. Department of State*, June 2, 2016. (<http://www.state.gov/r/pa/prs/ps/2016/06/258013.htm>)

Additionally, the Export-Import bank should not provide any financing for trade with Iran while the country remains a state sponsor of terrorism. The U.S. government should not be using U.S. taxpayer funds to guarantee trade with the leading state sponsor of terrorism. Congress should emphasize that it is prohibited for Ex-Im to provide any guarantees or credit for any trade with the government of Iran or any Iranian entity. The Foreign Assistance Act of 1961 prohibits Ex-Im bank from providing such financing, but the legislation contains a national security interest waiver.⁷⁴ Congress should consider ways to limit the president's ability to use this waiver.

3. Protect the integrity of the U.S. dollar from Iranian illicit finance.

After Treasury designated Iran as a jurisdiction of primary money laundering concern, Congress included a prohibition in Section 1245(c) of the National Defense Authorization Act of 2012 stipulating, "The President shall, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block and prohibit all transactions in all property and interests in property of an Iranian financial institution if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person."⁷⁵ Section 1245(b) also codified the Section 311 finding that Iran is a jurisdiction of primary money laundering concern.

Congress can strengthen and clarify this provision by stating that it is prohibited for any U.S. financial institution to process any transactions for Iranian entities, even when such "transfer was by order of a non-Iranian foreign bank from its own account in a domestic bank to an account held by a domestic bank for a non-Iranian foreign bank."⁷⁶ Congress should also state that it is prohibited for a U.S. financial institution to provide dollars for off-shore clearing facilities if any party to the transaction anywhere in the financial chain is an Iranian entity.

Congress should require the Treasury Department to report on all financial institutions involved in giving Iran direct or indirect access to the U.S. dollar with details on institutions, transactions, counterparties, and mechanisms. Congress furthermore should authorize mandatory sanctions on any offshore large value payment system that provides dollar-clearing services in any transactions involving an Iranian party. The termination of these prohibitions should be linked to a certification from the president that Iran is no longer involved in supporting terrorism and illicit missile development and that the Iranian regime has addressed its outstanding obligations to compensate victims of Iranian terrorism.

⁷⁴ Foreign Assistance Act of 1961, Pub. L. 87-195, codified as amended, U.S.C. § 620A.
(<https://www.usaid.gov/sites/default/files/documents/1868/faa.pdf>)

⁷⁵ National Defense Authorization Act for Fiscal Year 2012, Pub. L. 112-81, U.S.C. § 1245, page 351.
(https://www.treasury.gov/resource-center/sanctions/Programs/Documents/ndaa_publaw.pdf)

⁷⁶ U.S. Department of the Treasury, Office of Foreign Assets Control, "Iranian Transactions Regulations," *Federal Register*, November 10, 2008. (<https://www.gpo.gov/fdsys/pkg/FR-2008-11-10/pdf/E8-26642.pdf>)

4. Reauthorize the Iran Sanctions Act, an important foundation of the sanctions architecture

While the Obama administration has suspended sanctions on key segments of the Iranian economy according to the JCPOA, only Congress can formally lift many of these sanctions. The administration has also pledged to “snap” sanctions back into place if Tehran violates the terms of the agreement. At the end of this year, however, the Iran Sanctions Act (ISA) is set to expire unless lawmakers act to reauthorize it. ISA is a critical foundation of the Iran sanctions architecture and should be reauthorized. As Senator Robert Menendez (D-NJ) has noted, if ISA is not reauthorized, there will be nothing “to snapback to.”⁷⁷

Reauthorizing ISA would not violate the JCPOA, as no new sanctions would be imposed. Iran may voice objection to the reauthorization, perhaps even threatening to walk away from the agreement, but Congress should call Iran’s bluff and not allow the regime to have veto power over American laws. Furthermore, the justification for ISA is not only Iran’s nuclear program, but also its support for international terrorism. Indeed, when the bill (which at the time also authorized sanctions against Libya) was signed into law in 1996, President Bill Clinton stated that it would “help to deny those countries the money they need to finance international terrorism ... [and] limit the flow of resources necessary to obtain weapons of mass destruction.”⁷⁸

Conclusion

Even as the Obama administration is eager to provide Iran with economic inducements, Congress understands Iran’s record of terrorism financing, weapons proliferation, and regional aggression. Congress can defend both the sanctions architecture against a precipitous unwinding and U.S. companies and the U.S. financial system from unwittingly assisting Iran’s nefarious activities. The proposed deal between Boeing and Iran Air is a snapshot of the broader challenges and risks that companies and banks are facing, and the leverage that such business deals provide Iran. Congress should prevent responsible American companies and banks from unwittingly aiding the world’s leading state sponsor of terrorism.

Thank you for the opportunity to testify today. I look forward to your questions.

⁷⁷ Robert Menendez, Press Release, “Menendez Delivers Remarks on Iran Nuclear Deal at Seton Hall University’s School of Diplomacy and International Relations,” August 18, 2015. (<https://www.menendez.senate.gov/news-and-events/press/menendez-delivers-remarks-on-iran-nuclear-deal-at-seton-hall-universitys-school-of-diplomacy-and-international-relations>)

⁷⁸ Bill Clinton, “Remarks on Signing the Iran and Libya Sanctions Act of 1996 and an Exchange With Reporters,” *The White House*, August 5, 1996. (<http://www.presidency.ucsb.edu/ws/index.php?pid=53160&st=iran&st1>)