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THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE
America's Pro-Israel Lobby

MEMO

August 11, 2015

Without this Deal: Why Sanctions Will Remain Effective

Proponents of the nuclear deal with Iran argue that sanctions will collapse—and that pressure on Iran will evaporate—if Congress rejects this deal. In reality, this is not the case. With no deal, U.S. law mandates the continuation of strong unilateral sanctions, while the international sanctions regime's future is, at this point, unknown. Preservation of most U.S. sanctions, and possibly those of others, will produce a far better outcome than what this deal would provide—the immediate lifting of U.S. secondary sanctions and the bulk of international sanctions with no assurance of long-term Iranian compliance.

Even if European and other governments lift their sanctions, many international companies and banks will continue to be deterred from establishing commercial ties with Iran in order to maintain access to the U.S. market.

Regardless of Congress' decision, the entire current sanctions regime will remain in place at least until the Joint Comprehensive Plan of Action's (JCPOA) "Implementation Day," some six to 12 months from now. Should Congress reject this deal, the United States will have ample time to work with its partners to develop a new diplomatic approach to reach a better agreement.

Without this Deal: U.S. Sanctions Remain in Place.

- The Iran Nuclear Agreement Review Act prohibits the president from waiving congressionally-mandated sanctions if Congress rejects this deal (see summary below).

- Existing congressionally-mandated sanctions penalize those who engage with Iran:
    - People who violate U.S. sanctions may face up to 20 years imprisonment and significant fines.
    - Banks that violate U.S. law may lose access to the U.S. financial system, a devastating penalty for any international financial institution.
    - Companies may face penalties that include lost access to the U.S. marketplace, a ban on U.S. government contracts, and sanctions targeting corporate officers.

Without this Deal: U.S. Sanctions Remain Powerful.

- Those who might consider reopening commercial ties with Iran will likely be deterred by U.S. sanctions. When oil companies and banks previously confronted the choice between doing business with the $17.4 trillion U.S. economy or the $400 billion Iranian economy, most chose to stay out of Iran to avoid isolating themselves from the U.S. market.

- Prior to 2010, Europe and Asia had almost no significant sanctions on Iran, and virtually every major bank and energy firm either refrained from entering Iran or pulled out as a result of congressionally-mandated U.S. sanctions.

- In considering future trade and investments, international firms will weigh whether this administration and/or future administrations will enforce Iran sanctions. Since 2009, the U.S. government has fined banks billions of dollars for violations of sanctions that took place years prior. This history puts companies on notice that a future administration could penalize them for current violations, which is likely to engender great caution on their part before risking investment in Iran.

- If Congress rejects this deal, individual U.S. state measures targeting companies conducting business in the Iranian energy sector will remain in place. International companies will have to weigh whether to seek the benefits of doing business with Iran or to retain state business and the investments of some of the world's largest pension funds.

Without this Deal: The President Can Deny Iran Access to its Foreign Held Oil Revenues.

- If Congress rejects this deal, the president will need to decide whether to continue with the de-designations of sanctioned Iranian banks, a necessary step for banks to transfer funds to Iran without violating existing sanctions. If designations stay in place, the funds will remain frozen and persist as a point of leverage to pressure Iran to return to the negotiating table.

- Even if the president chooses to de-designate Iranian banks, international financial institutions are unlikely to quickly resume their ties with Iranian banks. They would reasonably fear opening themselves up to multi-billion dollar fines by a future administration and potentially losing access to the U.S. market.

- So long as Iranian banks remain under sanctions, other nations have little incentive to return frozen Iranian funds. For example, China has a captive buyer in Iran. Since Iran cannot now spend its oil revenue on anything but Chinese products, China will likely not act to relinquish this advantage.

Without this Deal: Unilateral U.S. Sanctions Have Proven to be Effective.

- The administration has consistently opposed legislation to impose sanctions on Iran using the same arguments it uses today. In 2010, Treasury Secretary Timothy Geithner told Congress that unilateral sanctions on the Central Bank of Iran would "undermine" international pressure on Iran. Rather than motivating countries to join the United States in increasing pressure on Iran, those nations were presumed "more likely to resent our actions and resist following our lead..." U.S. allies echoed this warning. However, such predictions proved incorrect when foreign governments, companies, and banks went along with U.S. restrictions.

- The administration now credits the same sanctions it opposed as the very tools that drove Iran to negotiations. In fact, maintaining sanctions is the best way to pressure Iran to return to the table.

- If the United States rejects the deal and Iran walks away before "Implementation Day," when the IAEA verifies Iran has complied with nuclear-related matters of the JCPOA, then the international sanctions regime will remain intact. If Iran does not walk away but subsequently does not uphold its commitments, or if it walks away from the deal after "Implementation Day," sanctions can "snap back" to some degree – and U.S. sanctions will be in effect to bolster them.

Without this Deal: Sufficient Time Exists for Congress and the Administration to Take Action.

- Iran probably will adhere to the proposed deal at least until "Implementation Day" because only then can it gain access to its frozen escrow accounts. This date is likely six to 12 months away. If Congress rejects the deal and the president nevertheless proceeds with de-designating Iranian banks, the period before Implementation Day provides time to pursue alternatives.

- Congress could take up new legislation making it difficult for Iran to access overseas funds. For example, the repatriation of funds through any Iranian financial institution, regardless of designation, can be made a sanctionable act.

- The United States will gain time to develop a new diplomatic approach to get to a better deal before Iran can "take the money and run."

Existing congressionally-mandated sanctions include:

Energy Sector

- Investments in Iran's energy sector.
- Transport of crude oil from Iran.
- Provision of goods, services or technology in support of Iran's energy sector.
- Export of refined petroleum products to Iran.
- Development or purchase of petrochemical products from Iran.
- Underwriting services, insurance, or reinsurance for the National Iranian Oil Company or the National Iranian Tanker Company.

Financial/Trade

- Transactions with the Central Bank of Iran.
- Purchases, subscriptions, or facilitation of the issuance of Iranian sovereign debt.
- Financial transactions to facilitate any banned activity. For example, banks cannot process transactions that involve the Iranian energy sector.
- Exports to or imports from Iran of precious metals, graphite, raw or semi-finished metals (such as aluminum and steel), coal, and software for integrating industrial processes.
- Export of U.S. aircraft, spare parts, and foreign aircraft with significant U.S. components.
- Imports of Iranian pistachios, caviar, and carpets.

Transport

- Transactions with Iran's shipping and shipbuilding sectors and port operators, including for the National Iranian Tanker Company.

Other

- Material support for Iran's Revolutionary Guard Corps (IRGC). The IRGC controls significant sectors of the Iranian economy and an estimated 40% of the entire economy.
- Joint ventures relating to the mining, production, or transport of uranium.