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What is This?
Easing sanctions on Iran might someday be necessary—but it won’t be easy

Navid Hassibi and Tom Sauer

Abstract
Reviewing decades of sanctions on Iran, the authors write that a diplomatic resolution should be the approach to resolving the standoff with Iran over its nuclear program. Any form of negotiated settlement will require sanctions relief, notably from the United States, the European Union, and the United Nations Security Council. But what, exactly, are the mechanics involved in removing these sanctions? The authors write that the most difficult sanctions to lift are US congressionally imposed measures. President Barack Obama, they write, must overcome the obstacles in his path should the time arrive to begin reversing sanctions.

Keywords
Barack Obama, Congress, economic sanctions, European Union, Iran, nuclear weapons, United Nations

Economic sanctions have been the main weapon of choice in countering what the West suspects to be Iran’s march toward developing a nuclear arsenal. But sanctions are no substitute for diplomacy. If a negotiated breakthrough is achieved, how will the United States lift at least some of those sanctions? It’s not too early to begin thinking about this issue—especially because it will involve delicate dealings between President Barack Obama’s administration and Congress.

Iran has been a notoriously difficult negotiating partner, repeatedly insisting that its nuclear ambitions stem from a desire to produce electricity and medical isotopes, not bombs. The United States and other world powers believe otherwise and have beseeched Tehran to cooperate, most recently at the February and April 2013 talks in Almaty, Kazakhstan, between Iran and the five permanent members of the United Nations Security Council plus Germany. Those talks were widely depicted as a failure, but reports indicate that, to date, they were some of the most detailed and substantive negotiations, which included intensive expert-level meetings in March 2013 in Istanbul.

The main stumbling blocks in Almaty were—and presumably will continue to be—sanctions and uranium enrichment. The United States and its allies want Iran to limit enrichment to below...
5 percent from the current 20 percent level, as well as to move enriched uranium abroad or convert it immediately to fuel rods used in commercial facilities. They also seek tough inspections, increased nuclear transparency, and significantly reduced activity or complete closure of the Fordo facility near Qom (Mousavian, 2013). The Iranian list of demands includes the US’s official recognition of Iran’s right to enrich uranium for civilian purposes under the Nuclear Non-Proliferation Treaty along with the lifting of sanctions (Mousavian, 2013).

Iran has faced sanctions since the early days of the Islamic Revolution that resulted from the 1979 US Embassy hostage crisis. Over the last decade, however, its nuclear activity has triggered a comprehensive set of economic, trade, personnel, and military sanctions. They are part of a dual-track approach of applying pressure and compelling Iran’s leaders to demonstrate to the international community that its program lives up to its stated peaceful intentions. Multilateral sanctions include those imposed by the Security Council. Meanwhile, unilateral sanctions are led by the United States and include Australia, Canada, India, Israel, Japan, Norway, South Korea, and Switzerland, all of which have worked to align their restrictive measures with those of the United States and the European Union.

Vice President Joe Biden indirectly hinted during the 49th Munich Security Conference in February 2013 that sanctions relief could be on the table if the Iranian government fully cooperated. “We have also made clear that Iran’s leaders need not sentence their people to economic deprivation and international isolation,” Biden said (Croft and MacDonald, 2013). Assuming a negotiated settlement is reached over the nuclear issue, what would the complexities of lifting these sanctions be? As one truism goes, sanctions are extremely difficult to enact, even more difficult to implement, and nearly impossible to remove. This is particularly true when considering that many US-imposed sanctions are acts of Congress.

The 2013 election of President Hassan Rouhani presents new opportunities for dialogue on resolving the nuclear issue, particularly when considering his former position as lead nuclear negotiator between 2003 and 2005, during which time Iran suspended its uranium enrichment activities. But it remains to be seen how the new leader will handle the nuclear question—and how the sanctions that are in place today might influence his thinking. He may be able to persuade Ayatollah Ali Khamenei, who possesses ultimate authority on Iran’s nuclear program, to adopt a more accommodating position, further underscoring the importance of sanctions relief in the overall equation. By reviewing the past and current Security Council, EU, and US sanctions against Iran—as well as the mechanics involved in removing these sanctions—it is clear that numerous obstacles lie ahead. The time is ripe for sanctions removal to become a greater priority for the nations that are working to deter that country’s nuclear capabilities.

**United Nations**

The Security Council passed a resolution in July 2006 formally demanding that Iran suspend all nuclear activities by the end of that summer. However, the Iranian government continued to enrich uranium (United Nations, 2006a). The Security
Council passed another resolution in December of that year aimed at blocking the sale and transfer of sensitive nuclear materials to and from Iran (United Nations, 2006b). These were the first UN-imposed economic sanctions. The Islamic Republic’s continued expansion of its uranium enrichment program led the Security Council to act once more by imposing arms and financial sanctions in March 2007 (United Nations, 2007). In early 2008, the permanent members of the Security Council—Russia, China, France, the United Kingdom, and the United States—and Germany drafted a fresh set of sanctions, passed as yet an additional resolution, which banned the trade of dual-use goods and imposed travel restrictions on certain Iranian citizens (United Nations, 2008).

In June 2010, the UN passed a resolution that banned the Islamic Republic from participating in any activities related to ballistic missiles. It also tightened the arms embargo and travel bans on individuals involved with the nuclear program, and froze the funds and assets of both the Islamic Revolutionary Guards Corps and the Islamic Republic of Iran Shipping Lines. While merely recommending inspections of Iranian cargo, the resolution baldly barred countries from servicing Iranian vessels involved in prohibited activities. But the list went on. The UN’s resolution also aimed to prevent financial transactions associated with sensitive nuclear work by prohibiting the opening of Iranian banks outside Iran, by prohibiting banks of member states from opening branches in Iran, and by preventing Iranian banks from working with the banks of member states if the Iranian banks were associated with the nuclear program (United Nations, 2010). Two final resolutions, passed in 2011 and 2012, extended the mandate of an expert panel that supports the UN Iran Sanctions Committee until July 2013.

Reversing Security Council resolutions that sanction Iran requires passing new resolutions that provide the legal framework for suspending and lifting the previously enacted resolutions (International Crisis Group, 2013). For a resolution to pass, at least nine votes are needed without a veto from the council’s permanent members.

**European Union**

The imposition of sanctions by the European Union requires the adoption of a common position, which defines the EU’s approach to a specific issue (European Commission, 2008). Common positions are adopted by member states through the EU Council and require a unanimous vote to pass. Once a common position is in place, the European Commission is required to propose a council regulation to authorize the implementation of the common position by members. At the council, economic sanctions require a qualified majority vote (a qualified majority being a voting system that enables certain resolutions to be passed without unanimity). In cases in which sanctions are targeted at individuals, groups, and entities not directly connected to the sanctioned country, the adoption of the regulation necessitates a unanimous vote and prior consultations with the European Parliament. It is also possible in certain circumstances to implement certain sanctions through legal instruments such as common foreign and security policy decisions.

Unlike the United States, the European Union had refrained from
imposing punitive measures outside of the scope of Security Council resolutions (Council of the European Union, 2007). Since 2010, however, the European Union has used the common position to impose a stringent set of sanctions directed at Iran’s energy and financial sectors, prohibiting the import of oil and blacklisting many Iranian financial institutions. Currently, the European Union’s sanctions against Iran are nearly as robust as those of the United States.

The most comprehensive EU sanctions regime went into effect in October 2010 (Council of the European Union, 2010). The regulation bans the sale of controlled dual-use items and technology, including military goods, and further bans European energy companies from making new investments in the Iranian oil and gas industries.

The EU Council approved an embargo on Iranian oil in January 2012 that was set to take effect in July 2012. By also deciding to cut off the Central Bank of Iran, the European Union aligned itself with a similar US policy adopted the previous month (EU, 2013). The actions the European Union took through this decision include: ceasing purchases of Iranian oil; banning insurance for shipping oil or other petrochemicals from Iran; stopping all trade with Iran in gold, precious metals, diamonds, and petrochemical products; freezing the assets of the Central Bank of Iran; and freezing the assets of Iranian companies associated with the transfer of arms to Syria or that support Iran’s national shipping line. Prior to this decision, the European Union was the top export market for Iranian oil, importing approximately 600,000 barrels per day, amounting to nearly a quarter of Iran’s oil exports (Fassihi and Biers, 2012). The European Union’s most economically troubled countries, such as Greece, Italy, and Spain, were among the top customers.

In October 2012, the EU announced a new package of sanctions against Iran. The measures prohibit any transactions with Iranian banks and financial institutions unless specifically authorized or exempted, such as for humanitarian purposes. The import, purchase, and transport of natural gas from Iran also was banned, as was the transfer of shipbuilding technology, oil storage capabilities, and the flagging and classification of Iranian oil tankers and cargo vessels (BBC, 2012).

Lifting EU-imposed sanctions requires the adoption of new council regulations and decisions that provide the legal framework for suspending or completely removing the sanctions. Typically reviewing its sanctions regime each year, the European Union makes foreign policy decisions by consensus; each member state must be in agreement over the suspension or removal of sanctions.

**United States**

The United States enforces sanctions on Iran through legislation passed by Congress, as well as by presidential executive order. Once sanctions are enacted into law, the Treasury and State Department are given the authority to adopt additional rules and other legal instruments.

Ten acts of Congress provide the statutory framework for the US sanctions regime imposed on Tehran (US Department of the Treasury, 2013a). Among the congressionally mandated sanctions are the cornerstones of the US sanctions regime: the Iran and Libya Sanctions Act of 1996; the Comprehensive Iran Sanctions, Accountability, and Divestment

The 1996 law is the core of the United States’ energy-related sanctions on Iran (Katzman, 2013). Since Iran is an energy-rich country, having the third-largest oil reserves next to Saudi Arabia and Canada, and being second to Russia in natural gas reserves, the law aims to deter and limit firms from investing in the purchase, development, and extraction of these resources. It imposes penalties against firms incorporated abroad, often in countries that are US allies. In response to Iran’s support of US-identified terrorist organizations such as Hezbollah and Hamas, the United States originally enacted the law to deny the Islamic Republic the critical resources it needed for its nuclear program (Katzman, 2013).

In 2010, a law amended the 1996 act by significantly expanding the energy-related activities that can be sanctioned and provided for additional types of sanctions that can be imposed on Iran (US Department of State, 2011). It addressed foreign financial institutions by including mandatory banking sanctions targeted at foreign banks that knowingly process Iranian transactions related to weapons of mass destruction (WMDs) and support for terrorism. Primarily targeting individuals sanctioned under UN resolutions, transactions with the Revolutionary Guards Corps or its affiliates, and transactions with Iranian-linked banks, the law also contains restrictive measures addressing other concerns, such as human rights violations in Iran.

In 2012, the United States passed the Defense Authorization Law, which placed even more severe sanctions on Iran: namely, foreign financial institutions that knowingly process significant financial transactions with the Central Bank of Iran or with certain other Iranian financial institutions risk being cut off from direct access to the US financial system (US Department of State, 2012a).

The Iran Threat Reduction and Syria Human Rights Act of 2012—aimed at protecting Syrian human rights—contains additional provisions that enable sanctions on activities related to Iran’s financial and energy sectors, proliferation of WMDs, support for terrorism, and human rights abuses (US Department of State, 2012b). The latest provision of this law, which went into effect in February 2013, tightened control of Turkey’s gold exports to Iran in exchange for natural gas imports and has prevented state-owned banks from processing third-country transactions with Iran. India is among the countries that used Turkish banks to pay for Iranian oil imports (Croft and MacDonald, 2013).

In January 2013, the defense authorization bill was signed into law including the Iran Freedom and Counter-Proliferation Act, which expanded existing sanctions against Iran by targeting foreign-owned and foreign-operated companies outside the United States.

The possible repeal or amendment of congressionally enacted sanctions must follow the legislative process that pertains to all bills. That is, to repeal or amend any of these statutes, a member of Congress would have to sponsor an entirely new bill. An amendment can be designed to remove sections of, or add to, an existing statute.
Two potential roadblocks exist when it comes to lifting legislated sanctions. One is that some of these laws also refer to non-nuclear issues, such as human rights and links to terrorism. For instance, the 2010 law states that sanctions can be lifted only once the Islamic Republic has released all political prisoners; ceased the mistreatment of Iranian citizens engaged in peaceful political activity; conducted a transparent investigation into the killings and abuse of peaceful political activists and prosecuted those responsible; and made progress toward establishing an independent judiciary. The president also must certify that the Iranian government has ended its support for acts of terrorism; that it no longer meets the standard for designation as a state sponsor of terrorism; and that it has halted the pursuit, acquisition, and development of nuclear, biological, chemical, and ballistic weapons. In other words, even if Washington and Tehran were to resolve their differences over the Iranian nuclear program, that would be far from sufficient to permit, statutorily, the lifting of sanctions. As some analysts have argued, the sanctions are designed to fail because these measures are aimed not at the nuclear program, but at the regime itself (Butt, 2013).

Another obstacle is the lack of political will on Capitol Hill that could threaten efforts to soften sanctions. The longstanding influence that certain lobbying entities such as the American Israel Public Affairs Committee (AIPAC) exert over Congress is a notable factor. More recent players in this arena are Iranian opposition groups such as the Mojahedin-e Khalgh Organization (MKO, also known as the MEK), whose State Department designation as a foreign terrorist organization was recently lifted, thus enabling it to raise funds and make campaign donations to American politicians (Mearsheimer and Walt, 2007; Mutter, 2012).

Because presidential executive orders cannot alter statutes, the president may have to privately pressure members of Congress, as well as resort to rousing public opinion by lambasting Congress for failing to act in the interests of national security. As has been seen in 2013 with gun control legislation, the president’s strong grassroots organization can be leveraged to contact members of Congress to express discontent. But it is unclear how effective such a campaign would be on Iran, given the greater public interest in domestic over foreign policy issues (Hartman, 2013).

Sanctions also can be instituted by executive orders that do not require congressional action. The process of repeal or amendment is much simpler, unless they are tied to legislated acts: The president merely needs to sign an order that takes precedence over any relevant previous ones. According to the Treasury Department, today 13 executive orders provide legal justification for sanctioning Iran. Many of these orders expand the sanctions passed by the legislature; in fact, the first sanctions on Iran were enacted through executive orders. In the aftermath of the 1979 hostage crisis, the Carter administration froze Iranian government assets in the United States and subsequently prohibited certain transactions with Iran, such as the sale of military equipment and civilian aircrafts and their spare parts.1 Undoing executive orders, which serve as the basis for provisions within legislated
statutes, or which are mandated through congressional action, would require passing or amending a new bill, rendering it a burdensome task.

Next steps

A peaceful resolution to the Iranian nuclear standoff will require a negotiated settlement, undoubtedly including some form of sanctions relief package. However, complexities exist in removing these restrictive measures when it comes to the sanctions imposed by the United States and the United Nations. In general, the simplest sanctions to remove are those that were not legislated into law and that do not require consensus. In cases in which legislation and consensus are required to reverse sanctions on Iran, the task becomes increasingly difficult.

Reversing EU sanctions policy also could prove challenging, as it requires consensus among member states. But since a peaceful resolution to the Iranian nuclear dispute would require a political solution, a consensus may be easier because of Europe’s economic woes and the potential benefits of resuming a trading relationship with Iran. Lifting Security Council resolutions that address Iran’s nuclear program would require at least nine votes and consensus among the five permanent members of the Security Council who have veto power. That could be difficult to achieve, unless the United States backed a particular political solution.

The most difficult sanctions to lift are those put in place by the US Congress. Legislative action would be required to loosen or repeal these sanctions, which may prove difficult due not only to the arduous process involved in passing a bill in both chambers of Congress, but also to special interests’ influence inside the Washington Beltway, as well as hyper-partisanship on contentious issues such as Iran. If this were to happen, President Obama could privately and publicly pressure Congress to take action in the interest of US national security. Furthermore, additional complications arise when considering certain provisions within the 2010 sanctions law that must be satisfied before relief could be permitted.

Recommendations

President Obama can provide significant sanctions relief without Congress by repealing a number of executive orders. For instance, he could unfreeze Iranian assets that were frozen in the aftermath of the hostage crisis in 1979, estimated by some to be between $8 billion and $12 billion. He also could allow business transactions between the two countries, including the sale of spare aircraft parts for Iran’s aging fleet of American-built airliners (Dreyfuss, 2009).

The president could instruct the Treasury Department’s Office of Foreign Assets Control (OFAC) and the State Department’s Office of Economic Sanctions Policy and Implementation to provide waivers and exemptions to companies and countries wishing to do business with Iran, something that would provide Tehran with significant economic relief. OFAC possesses the authority, by issuing licenses, to allow certain transactions that would otherwise be unlawful under its regulations if the president, through the Undersecretary of State for Arms Control,
determines that US national security or foreign policy justifies the transaction. These licenses would have to be renewed every six months (Federal Financial Institutions Examination Council, 2013). This tactic recently was deployed in the aftermath of the earthquake that struck Iran in August 2012. OFAC issued a time-limited 45-day general license, in place until mid-November 2012, authorizing the transfer of funds from US-based charity organizations to Iran to aid with relief efforts (US Department of the Treasury, 2012a, 2012b). The United States, again using a general license in May 2013, lifted sanctions on Iran’s consumer communications equipment and software (US Department of the Treasury, 2013b).

Finally, the president could instruct his administration to simply not enforce the sanctions laws. This tactic would be similar to Obama’s decision that his administration would curtail the deportation of undocumented immigrants. In fact, a plethora of laws in the United States are not actively enforced. However, constitutional experts consider this strategy debatable. In addition to these sanctions relief strategies, Obama can consult with and influence America’s international allies that have imposed their own sanctions against Iran to begin reversing and lifting them. He also can work to remove Security Council resolutions against Iran. These actions would provide Tehran with significant sanctions relief following a negotiated settlement to the nuclear dispute.

Ultimately, Obama may have no choice but to ignore some provisions of the law in the interest of national security. Otherwise, there may never be a peaceful resolution to the nuclear deadlock.

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**Notes**

1. Executive orders signed by the Carter administration: 12211 “Prohibiting Certain Transactions With Iran” (effective date: April 17, 1980); 12205 “Prohibiting Certain Transactions With Iran” (effective date: April 17, 1980); and 12170 “Blocking Iranian Government Property” (effective date: November 14, 1979).

2. The 1981 Algiers Accords ending the hostage crisis returned only a fraction of Iran’s frozen assets.

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Author biographies

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