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By Richard Nephew

MARCH 2015



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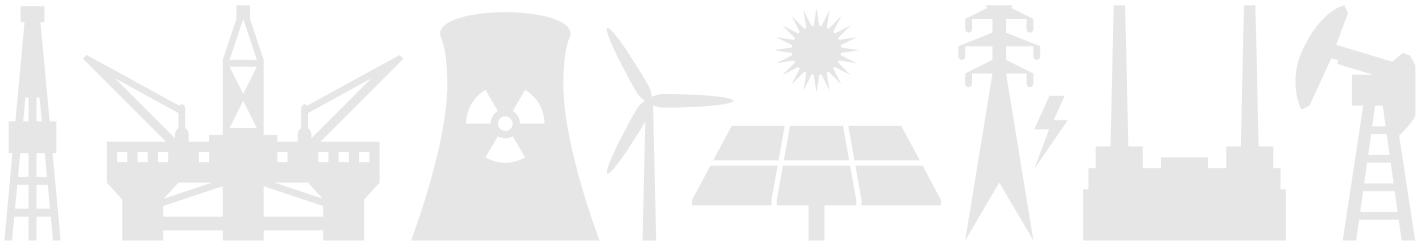


ISSUE BRIEF: A SANCTIONS APPROACH TO “PLAN B” FOR THE IRAN NUCLEAR PROBLEM

By Richard Nephew*

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This policy paper represents the research and views of the author. It does not necessarily represent the views of the Center on Global Energy Policy.

This paper describes the current sanctions picture with respect to Iran as well as outlines potential options for future sanctions action. It is not, nor should it be misconstrued as, legal advice.

The paper may be subject to further revision.

EXECUTIVE SUMMARY

Sanctions will not solve the Iranian nuclear problem. However, sanctions have—and still may—contribute to a solution if judiciously, strategically, and appropriately applied. This issue brief examines the role played by sanctions in creating the economic conditions necessary to compel Iran to seek negotiations on its nuclear program. It reviews the logic of sanctions and how they can be best calibrated to achieve desired effects, drawing on lessons from past sanctions experience. It then offers recommendations on how a “Plan B” sanctions approach could be crafted.

In short, the paper finds:

- The best way to design new sanctions against Iran is to ensure that they meet three basic criteria:
 1. Structured to maximize the right pain on Iran;
 2. Enforceable but impactful even with less than perfect compliance; and,
 3. Designed to engender multilateral support.
- Sanctions and sanctions-related steps do exist that generally meet these criteria. They are:
 1. Reduce and eventually cut off all purchases of any Iranian oil or oil-related products.
 2. Prohibit any purchases of any Iranian non-oil exports.
 3. Permit continued humanitarian transfers to Iran as well as the export to Iran of finished consumer goods, information technology, and luxury items.
 4. Prohibit the export to Iran of any goods not explicitly permitted within the categories above and regardless as to which sector of Iran’s economy it is destined.
 5. Prohibit cargo carriers providing service to Iran for the export of its goods
- US success in implementing sanctions along these lines will depend greatly on partner support, which will be risked if the sanctions path is embarked upon without adequate testing of a realistic and reasonable comprehensive solution via negotiations. Permitting the ongoing process to play out is essential.
- The Administration and Congress ought to begin contingency planning for new sanctions along these lines now, but without crossing the line into formal drafting of bills or similar steps that would undermine negotiations (aside from steps such as removing restrictions on the export of US crude oil, which could assuage concerns about future market impact). A quiet, internal process ought to be initiated along these lines. The focus ought to be on the substance of sanctions, the efficacy of a common US strategy, and the imperative of stopping Iran from acquiring a nuclear weapon rather than on meaningless displays of tough talk or snapping up headlines.

INTRODUCTION

US efforts to resolve international concerns with Iran’s nuclear program over the past ten years have focused on the concept of a “dual track” policy. In this policy, negotiations with Iran have been the primary track, with sanctions and other forms of pressure serving as the second track, in support of the first.

From one perspective, the pressure track has been very successful in catalyzing the current negotiating process. The Iranians argue to the contrary, but sanctions brought them to the negotiating table with the United States and its partners in the P5+1 (which also includes China, France, Germany, Russia, and the United Kingdom, as coordinated by the European Union) or—at a minimum—created the economic situation necessary to have brought President Rouhani to office, along with officials interested in pursuing a deal. It is otherwise difficult to understand the Iranian government’s decision—and Supreme Leader’s acquiescence—to start the diplomatic process now underway after years of Iranian statements that they would never negotiate on their nuclear program. But sanctions have yet to compel Iran to accept the compromises necessary to secure an agreement. Some have suggested that this means the pressure we have mounted has been insufficient and, indeed, that with more pressure, Iran would not only accept the current P5+1 approach but also further and deeper restrictions on its nuclear program. Others question whether any amount of pressure would ever be enough to prompt Iranian capitulation. This author joins those skeptical that enhanced pressure could achieve such a result.

As noted in a previous policy brief, the history of Iran’s nuclear program is one of an escalating spiral of move-countermove. Though it is certainly true that one of the outcomes of this spiral has been a badly mauled Iranian economy, the Iranian nuclear program has been a beneficiary of more time to march forward in a drive to create a nuclear *fait accompli*. Having finally achieved a

situation in which both sides agree that further escalation is in neither side’s interest, an ideal policy outcome would therefore be for a mutually agreeable, comprehensive arrangement to be reached now.

It is possible, however, that no such outcome will be forthcoming, even if talks are permitted to come to their natural end rather than be curtailed by jingoism from Washington. In that circumstance, the President will have to decide how he wishes to continue US efforts to prevent Iran from acquiring a nuclear weapon. The US “Plan B” could go in a number of different directions—from covert action against Iran’s nuclear program to efforts that seek to marginalize and box in Iran throughout the region to sanctions—and probably will include a mix of many different tools. But, as both the President and the Congress have indicated, strengthened and expanded sanctions will play a major role in the US response.

Given that Iran’s nuclear program has already advanced significantly toward the kind of size and scope necessary to stage a weapons-focused breakout, the package will have to be implemented quickly, efficiently, and with international support. Designing the sanctions package for “Plan B” is therefore of the utmost importance.

This briefing begins with a review of the existing range of US and multilateral sanctions presently in place against Iran. It then outlines what the goals of a “Plan B” sanctions campaign ought to be and the criteria with which the campaign should be designed, identifying core Iranian vulnerabilities along the way. It concludes with a list of potential sanctions options, and specific suggestions about how the provisions ought to be developed, sold to partners, and enforced.*

*It is also worth noting that these Plan B measures could also form the basis of a ready-to-use set of sanctions to be deployed in the event of a future Iranian attempt at breakout.

REVIEW OF CURRENT US AND MULTILATERAL SANCTIONS

The United States and its international partners have made Iran a global economic pariah through a steady campaign to isolate and close off Iran’s avenues for economic opportunity.

The United States began this effort through its own unilateral embargo, which has been both strengthened and eased repeatedly since 1979. In the mid-1990s, the US national embargo grew to include all trade with Iran except for limited humanitarian goods, essentially cutting off the Iranian and US economies from that point forward. This isolated Iran from the United States, but not the rest of the world, with which Iran had decent trade ties that improved throughout the 1990s. Fearing the empowerment of an Iran still committed to sponsorship of terrorism and also pursuing weapons of mass destruction, the US campaign to isolate Iran from the broader international community began in earnest in 1996, with the passage of what was then called the Iran–Libya Sanctions Act or ILSA. This law, among other things, made it sanctionable in the United States for any foreign company to provide assistance to Iran in the development of its oil and gas sector. Coming as it did at roughly the same time as the Helms-Burton act against Cuba, it prompted outrage from US international partners as an extraterritorial application of US law. Europe was particularly aggrieved, and in 1996, the EU passed legislation that forbade European companies from complying with the sanctions laws passed by non-European jurisdictions.¹ The Clinton Administration, seeing the risks that would be created to its larger foreign policy interests, reached an accommodation with the Europeans in May 1998, when then-Secretary of State Madeline Albright issued a statement on the Administration’s decision to waive the application of sanctions on Total (France), Gazprom (Russia), and Petronas (Malaysia) for investment in Iran’s oil fields, citing the cooperation that the United States was receiving from the three countries in dealing with the challenges from Iran in a different way. This approach was, in effect, supported by the Bush Administration through its inaction against ILSA violators throughout the president’s two terms.

Sanctions against Iran remained largely static between

1996 and 2006. Measures were imposed against Iranian individuals and entities—the term of art is that they were “designated” for sanctions—for a variety of ills, including proliferation and support for terrorism. But there was no systemic attempt to use sanctions as a major tool of policy to deal with the proliferation problem in Iran until 2006, when US efforts changed the situation in two significant ways.

1. First, the United States worked with its partners in the P5+1 to adopt the first in what became four UN Security Council resolutions (UNSCRs) to impose sanctions against Iran. This first resolution, UNSCR 1737, created the foundation upon which future UN sanctions would be built.
2. Second, and perhaps most important in the long term, the United States undertook a campaign of unilateral designations and sanctions measures, using UNSCR 1737’s implementation as a justification and impetus to persuade other jurisdictions to take their own actions. The United States argued that the measures it was taking were necessary in order to achieve the stated purposes of UNSCR 1737 and pointed to a number of provisions in UNSCR 1737 that suggested that UN member states had a responsibility to impose further measures to that end.

This effort resulted in approximately six years of activist US sanctions policy, accompanied by the steps taken by the European Union, Japan, South Korea, Canada, and Australia, among others. All manner of designations and sanctions actions were undertaken on the basis of reinforcing the UN sanctions structure, including:

- Asset freezes against and prohibitions on transactions with most of Iran’s state-owned banks;
- Asset freezes against and prohibitions on transactions with Iran’s state-owned airlines, shipping companies, and economic service suppliers (such as insurance);

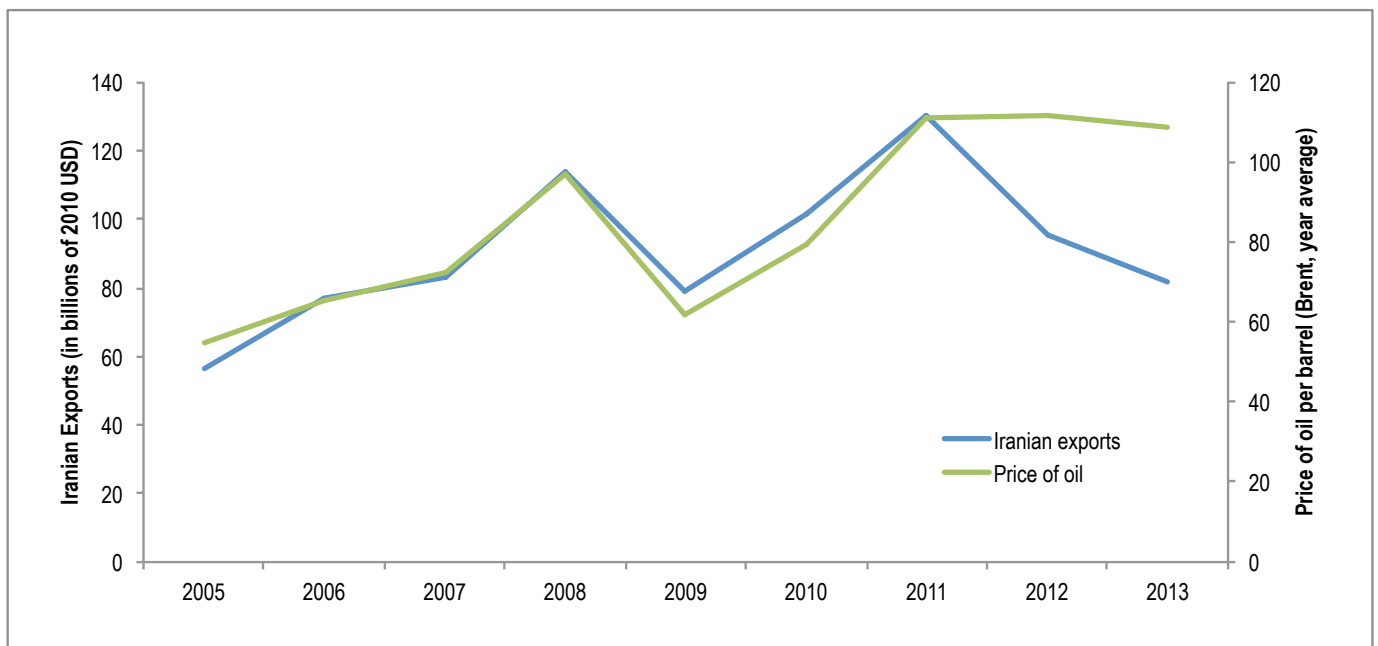
- Prohibitions on trade with Iran in refined petroleum, petrochemicals, and other export revenue-generating industries; and,
- Severing of other economic ties, such as export credits and investment, that created access to Iran to the international economy and normalcy for trade with Iran.

Each of these steps contributed to rising pressure on the Iranian government to seek a diplomatic solution to international concerns with its nuclear program. However, perhaps no measure had as powerful a systemic impact as the threat to apply “secondary” sanctions against those who conduct transactions for or with those Iranian individuals and entities that the United States had designated itself. First codified in the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) and updated several times since, this secondary sanctions framework created

the disincentive structure that has been credited in confronting international business with a stark choice: you can either do business in the United States or you can do business in Iran, but not both. Faced with such a choice, most major businesses and financial institutions chose to cut their ties with Iran rather than risk their access to the United States.

Despite this success, by the end of 2011, Iran’s international trade was still growing. This was due almost entirely to its oil industry. Indeed, an analysis of Iran’s economy prior to the imposition of oil sanctions in December 2011 shows that throughout the US sanctions campaign, Iran continued to reap the benefits of relatively high oil prices and the global need for the commodity. The downward blip in Iranian export data in 2008–2009 corresponds almost exactly with the drop in oil prices around the time of the 2008 financial crisis, and as oil prices returned, so too did Iranian export earnings.

Figure 1: Comparison of Iranian exports and the price of oil from 2005-2013



Source: Data from the International Monetary Fund, extracted on February 23, 2015.

Until late 2011, the United States and its partners had steered clear of targeting Iran’s oil exports. They were judged to be, first, too important to the global economy and, second, too difficult to target with sanctions to be part of the overall sanctions effort. Instead, the United States sought to reduce Iranian oil exports through “bank shots,” such as the targeting of Iran’s banks, financial ties, and foreign investment. Surprisingly, given the actual impact, the sanctions imposed against Iran’s Central Bank of Iran (CBI) in December 2011’s National Defense Authorization Act of 2012 (NDAA) were more of the same. These sanctions sought to isolate the CBI for, in the words of Senator Bob Menendez (one of the principal architects of the sanctions): “[complicity] in Iran’s nuclear venture, financing the Iranian effort to acquire the knowledge, materials, and facilities to enrich uranium and to ultimately develop weapons of mass destruction; assisting the Iranian government in the evasion of multilateral sanctions; and engaging in deceptive financial practices and illicit transactions.”

Iran’s oil sales were naturally an intended target of the measure, but there was shared interest among all parties, including the measure’s supporters in Congress, that the sanctions not spook global oil markets. The history of the provision and surrounding debate demonstrates that, from the bill’s first drafting in early November 2011 to its final form in December, there were several attempts made to soften the blow to Iran’s oil exports and to give the Obama Administration the ability to control how much of an impact sanctions should have on global oil markets.

This underscores what was, at the time, tremendous uncertainty about whether and how best to target Iran’s oil sales within the confines of what the international community would support and what the oil market could bear. Some sanctions proponents argued that, instead of using the CBI sanctions measure, the focus of sanctions on Iran’s oil sector ought to be targeted on transactions that support the Iranian Revolutionary Guard Corps (IRGC)² or on reducing the price that Iran was able to command for its oil exports.³ In the end, the language of the NDAA was such that it did not directly require the reduction in oil purchases from Iran by its current customers. Instead, it simply laid out a choice: such purchases could be made, but without reductions, the bank facilitating the purchases would be subject to a cut-

off of financial ties with the United States (and, over time, the scope of who could be subject to sanctions and what kinds of transactions could lead to sanctions has been broadened to more directly target oil purchasers). Europe’s own decision to impose an oil import ban on Iran helped to demonstrate to Iran’s other trading partners that reducing imports was achievable and would not be undercut by competitors (which continues to be a major issue in East Asia’s stance on Iran oil imports).

This measure proved to be very effective: as noted in our previous issue brief **“Implications of New Oil Sanctions on Iran,”** the result is that, from 2012–2013, Iran’s economy cratered. According to the World Bank, Iran experienced a GDP contraction of 5.8 percent during those years, and by a further 1.7 percent in 2013–2014.⁴ Unemployment hovered around 13 percent according to official statistics—with suspicion abounding that it was higher than 20 percent—and overall economic participation figures remained around 37 percent.⁵ Inflation reached 30–40 percent, again according to official statistics.⁶

However, this was not the only set of sanctions imposed on Iran from 2012–2013. During this period, the United States and its partners added new measures that stigmatized business with Iran, particularly if it involved any companies associated with the IRGC, and began to target other Iranian export sectors, such as the automotive industry, and means of supporting the Iranian currency (the rial), including forbidding Iran from procuring gold and US dollars. These measures served to put international business and Iranian policymakers on notice that the sanctions program would no longer target core aspects of Iran’s economy and government revenue, but would more generally undermine the Iranian economy. In truth, they were intended not only to blunt Iran’s nuclear drive, but also to demonstrate the lengths to which the United States was prepared to go to harm Iran’s economy in service of this objective.

The complex interconnections of international sanctions are difficult to lay out graphically, but the following table describes the overall picture of US sanctions on Iran, divided between those that are “primary” in nature (affecting only US persons) and those that are “secondary” in nature (affecting foreign persons’ access to the United States):

US Primary Sanctions

US persons are generally prohibited from engaging in trade with Iran across any sectors except for those that have been opened as part of a General License or if specifically authorized via a Specific License issued by the Office of Foreign Assets Control (OFAC) at the Department of the Treasury. Those sectors that are subject to a General License include trade in food, agriculture, medicine, medical devices, and personal information technology. More information on the US licensing process can be found on OFAC’s website at: <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>.

US Secondary Sanctions

Foreign entities and people can be subject to US sanctions across a range of possible options if they conduct transactions with Iran as outlined below.

The result of this sanctions buildup is a structure of interlocking pieces that, collectively, have isolated Iran as a general matter from the international economy and undermined its ability to develop normally.

<p>Energy Exports <u>from</u> Iran</p>	<p>It is sanctionable to purchase Iranian petroleum products or to conduct transactions that facilitate the purchase of Iranian petroleum products. Sanctions are excepted for those who purchase crude oil in state jurisdictions that the United States determines have reduced their overall purchases of crude oil over the past 180 days, though this provision has been suspended per the JPOA; so long as countries maintain and do not exceed their December 2013–January 2014 oil purchase levels, sanctions will not be imposed.</p> <p>It is not sanctionable to purchase natural gas from Iran. It is, however, sanctionable to facilitate Iran’s development of its natural gas infrastructure. It is similarly sanctionable to facilitate Iran’s development of its broader oil and gas infrastructure, or to provide technical services in support of it.</p>
<p>Energy Exports <u>to</u> Iran</p>	<p>It is sanctionable to export to Iran any refined petroleum product. This includes gasoline, diesel, jet fuel, and other related products.</p>
<p>Transportation</p>	<p>It is sanctionable to conduct transactions on the behalf of the Islamic Republic of Iran Shipping Lines (IRISL), Iran Air, or other designated Iranian transportation firms or port operators (such as Tidewater, sanctioned in June 2011). It is similarly sanctionable to assist Iran in the development of its ports, though exceptions may apply in specific cases.</p>
<p>Financial</p>	<p>It is sanctionable to conduct financial transactions on behalf of a whole range of Iranian financial institutions and other entities, or to provide dollars to Iran. It is also sanctionable to make available gold and precious metals to Iran, though this measure has been suspended as part of the JPOA.</p> <p>A variety of other financial services with Iran are also subject to sanctions, the most important of which is the provision of insurance. However, sanctions on these services have been suspended if the transactions are necessary to support other aspects of the JPOA.</p> <p>It is also sanctionable to facilitate the transactions of the Central Bank of Iran, unless these transactions are conducted in jurisdictions in which oil reductions took place and for which exceptions have been granted, or if necessary to support the repatriation of Iranian assets as required under the JPOA</p>
<p>Industrial</p>	<p>It is sanctionable to provide to Iran any assistance with the development of its petrochemical industry. It is similarly sanctionable to purchase Iranian petrochemicals as a general matter, though these sanctions have been suspended by the United States as part of the JPOA.</p> <p>It is sanctionable to provide Iran with any assistance for the development of its automotive industry. However, as with the petrochemical sector, these sanctions have been suspended by the United States as part of the JPOA.</p>
<p>Proliferation</p>	<p>It is sanctionable to provide Iran with assistance in the development of its nuclear program, its ballistic missile program, or with activities that could support Iranian chemical and biological weapons’ capability. This includes transactions with a number of specific individuals and entities, as well as through the provision of technology.</p>

IRANIAN VULNERABILITIES AND GOALS OF A “PLAN B” SANCTIONS CAMPAIGN

As people contemplate a renewed international sanctions campaign against Iran, logical questions to ask are: What’s left? And, if that all didn’t work, why would more sanctions work now?

As noted above, if negotiations fail, the decision to restart the sanctions campaign is fraught with risk but probably inevitable. In the event that talks ended, Iran would doubtless expand its nuclear program, albeit perhaps in more defensible ways than immediately producing highly enriched uranium. It is reasonable to expect that Iran would start some of the thousands of centrifuges presently in stand-by mode as well as restart the construction of the Arak heavy water research reactor, end the extra transparency steps created through the Joint Plan of Action (JPOA) and generally seek to return to the status quo ante. The President would need to respond in turn and in kind by seeking to expand the US sanctions regime against Iran. President Obama has already made clear that this would be part of his response to an Iranian rejection of a comprehensive solution to the nuclear issue, and certainly the US Congress would be prepared to act independently to ensure that this is the case.

The issue, therefore, is not whether more sanctions would result from a collapse in the talks, but rather what they would look like and how can they be shaped to be most effective in creating costs on Iran and, ideally, steering them back to the negotiating table.

The present sanctions bills being debated in Congress show a distressing desire to simply “do more of the same” against Iran by focusing on seeking further reductions of Iran’s oil exports and imposing sanctions on support for “strategic sectors” of the Iranian economy. There are also provisions for expanding the number of Iranian individuals subject to US sanctions, though from a strategic standpoint, such measures probably would have little value in the context of an overall damaged Iranian economy.

Given that Iran’s economy is subject to some of the most intensive and extensive sanctions measures ever devised,

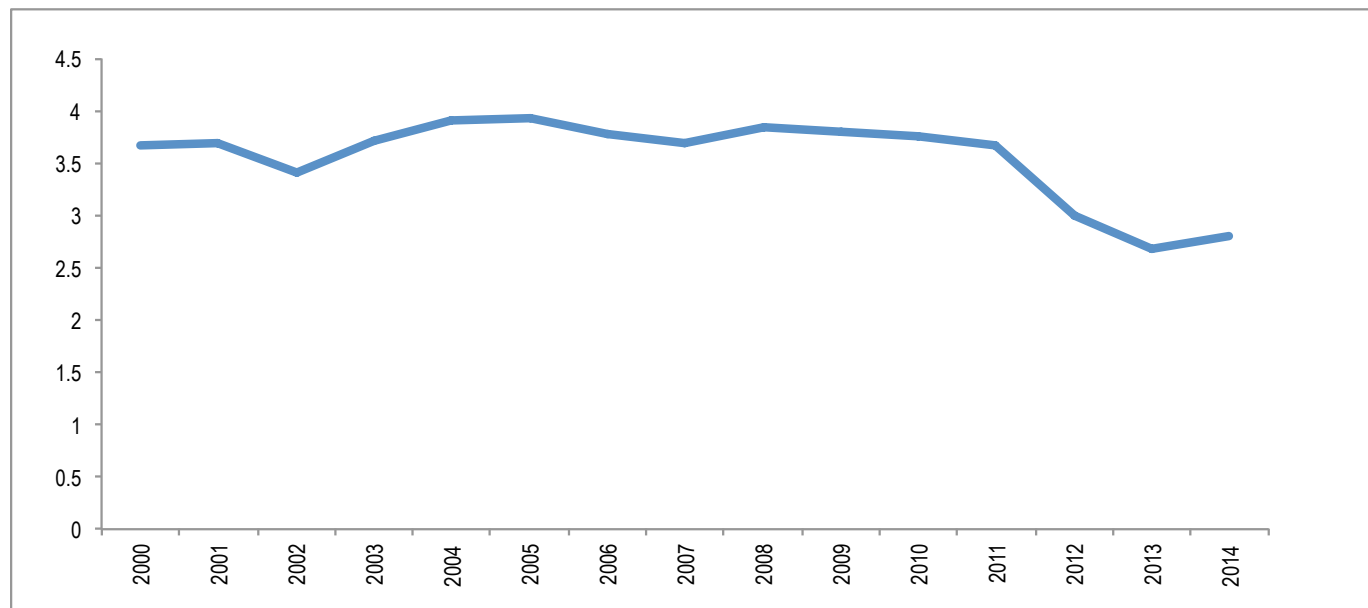
with overlapping authorities contributing to the spider web–like feel of the Iran sanctions program built by the United States, it is perhaps not surprising that there is little new in present sanctions bills. There are no easy, open targets for additional sanctions pressure: indeed, as outlined in our last policy briefing on the subject, even the previously successful oil reduction effort cannot be guaranteed to have the same impact today as it once did because the primary damage of the oil measures has already been inflicted. That said, Iran continues to have interests that can be damaged with more sanctions.

Any future sanctions effort should be designed with the following three concepts in mind:

1. Structured to maximize the right pain on Iran;
2. Enforceable but impactful even with less than perfect compliance; and,
3. Designed to engender multilateral support.

Arguably, it is these three principles that made the 2012–2013 sanctions period as successful as it was and far more successful than similar sanctions drives over the preceding twenty years. Take, for example, the sanctions on Iran’s oil and gas sector since 1996. As noted above, they fall into three rough categories:

- Denial of assistance and support for domestic industry;
- Prohibition on Iranian imports of refined petroleum; and,
- Sanctions threatened on those who import Iranian petroleum products.

Figure 2: Iranian crude oil production (Millions of barrels per day)

Source: US Energy Information Administration.

The first set of measures arguably contributed to Iran’s flatlining oil production from 2000 until sanctions forced Iran to scale back production in 2012–2014. But, these measures did not force Iran to seek a negotiated outcome to its nuclear program in a serious fashion. While they were in place, Iran’s economy continued to grow and Iran resisted talks and serious progress in resolving the nuclear issue. The second set of measures certainly imposed costs on Iran, forcing it to convert petrochemical plants into gasoline refineries of overall poor quality, creating pollution and economic dislocation in the process. However, these measures too failed to bring Iran to the table in a serious fashion. Only when Iran lost access to its vast oil revenues as a result of US efforts from 2012–2013—and at a time when the Iranian government was seeking to reform its national subsidy programs, which was a cash-intensive enterprise—did Iran sue for a negotiated outcome and engage in the current diplomatic process.

Of course, such an articulation of the value of the oil sanctions imposed by the United States is reductionist to the extreme, leaving aside such critical elements as Iran’s own internal politics and the return to office of a relatively pragmatic group of technocrats under President Rouhani; the mounting accumulation of pain caused by decades

of sanctions and economic mismanagement (most pronounced under the Ahmadinejad administration, which squandered a fortune in oil sales at high prices over most of his term); and the growing chorus of international voices urging Iran to seek a deal with the West. Moreover, this argument leaves aside entirely the idea that Western accommodations also were necessary in order for negotiations to start in earnest, beginning with recognition on the part of the United States that a long-term deal might involve Iranian uranium enrichment at home.

These important caveats aside, the 2012–2013 pressure campaign highlights that it is possible to impose sanctions that meet the standards outlined above:

1. **Right pain:** The sanctions isolated a particular vulnerability of Iran that deprived it of access to government revenues at a time when the government needed them.
2. **“Good enough” compliance:** Sanctions created pressure on Iran even when smuggling took place and when there was considerable month-to-month variation in purchase levels by Iran’s customers, due to the scale of the damage being imposed overall.

3. **Respectful of partners’ interests:** The United States was able to communicate to its partners that it could respect their national energy interests by working with them to identify particular oil purchase targets, and then granting them exceptions to US sanctions when met.

These three principles work and can be used again to frame a renewed sanctions campaign, assuming that the decision is reached to reinvigorate the process if the talks collapse.

SUGGESTED STEPS TO INCREASE THE PRESSURE

Below are five sanctions proposals that are offered with these principles in mind. They are intended to be part of an integrated approach, combining sanctions steps as well as sanctions to be avoided. They also generally describe targets for sanctions, not necessarily the best tools to achieve them or the consequences that would befall violators, which—to some extent—are beside the point so long as they are severe enough to deter trespassers. This assessment assumes that the United States would continue to engage in its usual practice of combining multiple different sanctions options to enforce the steps described below. In other words, the United States would put at risk banks that finance transactions, insurers who indemnify the cargoes, exporters who sell the goods, and service providers who grease the path for the sanctioned goods to get from place to place. Further, unless indicated otherwise, each of the below options are for the US application of secondary sanctions against Iran. Naturally, a core US diplomatic goal would be to persuade as many countries as possible to enact similar provisions. However, failing that, use of secondary pressure from the United States may have the desired effect, albeit with increasingly poor results the more the United States is seen as the less reasonable party in the dispute. The options are:

1. Reduce and eventually cut off all purchases of any Iranian oil or oil-related products.

This measure is very similar to what is proposed in the current text of S. 269, which would involve an initial 30 percent reduction, followed by purchases limited to a de minimis level, without further clarification. However, here we suggest going for deeper, clearer purchase levels by establishing a requirement for a 50 percent reduction in Iranian oil purchases by the first year after sanctions are imposed. The requirement would be to go to zero purchases the year after that, creating a two-year horizon for Iranian oil sales.

As noted in the previous policy briefing, this would not be sufficient to change Iran’s calculus, but it is an important step to be taken to support that endeavor.

2. Prohibit any purchases of any Iranian non-oil exports.

At present, the secondary sanctions regime against Iran is focused on a few identified industries. This was intentional, reflecting a desire to demonstrate proportionality behind US sanctions and to try to maintain a tie between the sanctions imposed and Iran’s nuclear program. However, as this assessment starts with an assumption that talks to persuade Iran to address concerns with its nuclear program have failed, this tie would be less important for a future sanctions campaign. Implementation of such a prohibition would be challenging to say the least, if one assumes the objective is to create an export vacuum and that anything less than perfect success is unacceptable. This assessment rejects such an objective. The goal is to drive Iran from the international market in anything beyond a smuggling capacity and to force it to use the most inconvenient, difficult, and expensive options to try to export its goods. Smuggling simply cannot provide the kind of foreign exchange that a country of 70 million people would require to continue importing the goods it desires.

3. Permit continued humanitarian transfers to Iran as well as the export to Iran of finished consumer goods, information technology, and luxury items.

It remains a core US interest to keep food, medicine, medical devices, and similar items flowing into Iran. This should include keeping active the humanitarian channel established in the Joint Plan of Action. There is nothing about the channel that exceeds what Congress already permitted in various sanctions laws; therefore, it cannot be argued that the channel grants Iran undue relief. To the contrary, so long as the target of pressure is the Iranian government, it is in the US national interest to make clear that the Iranian people are innocent bystanders.

That said, it is also not in the US interest to deny Iran the ability to waste its precious store of foreign currency on nonessential goods. To the contrary, the United States should make sure that Iran’s elites can continue to purchase as many high-end cars as cargo container ships can carry and that normal consumer goods continue to be exported to Iran. Denying access to foreign-made refrigerators will not bring Iran to its knees, but permitting them to use precious hard currency on such items ties this up as a resource and ensures that Iran must prioritize among its various needs. Iran would probably sensibly prohibit such imports, but it should be the Iranians’ decision, and to them should fall the consequences of it.

4. Prohibit the export to Iran of any goods not explicitly permitted within the categories above and regardless as to which sector of Iran’s economy it is destined.

Identifying strategic sectors of Iran’s economy for sanctions made sense in a previous iteration of the sanctions effort as noted above, but in this circumstance, the objectives of US pressure would be different. In this circumstance, the US goal would be to undermine Iran’s ability to develop all of its indigenous industry and to displace what is presently a significant import requirement. Eliminating wealth generation for Iran would also both ease the complication of enforcing the export prohibition and ensure that Iran’s foreign exchange is dedicated solely to providing for immediate humanitarian needs.

5. Prohibit cargo carriers providing service to Iran for the export of its goods.

Mindful of the previous sanctions proposals, the United States should not seek a blanket prohibition on cargo carriers from journeying to Iran or, indeed, from carrying nonsanctioned cargo to it. Doing so would jeopardize humanitarian imports unnecessarily and to the US detriment. Instead, the approach ought to focus on a common-sense method: permit cargo

carriers to travel to Iran, offload their legitimate cargo, and then inspect them visually upon departure to verify that they are not carrying new cargo of any significance. If they are detected doing so, sanctions inquiries can then be undertaken with their home governments and the operating companies. For those companies that violate this prohibition, there would need to be a severe penalty. One such penalty could be to prohibit the company operating the ship to conduct business at US ports for a year and to make a threat of secondary consequences for foreign port operators that open their waters to ships from that company in the future. Such a threat would require captains and ship owners more generally to decide that the risk of detection is slight—by engaging in only light smuggling—or to forego the trade altogether. Past history suggests that, when faced with such a decision, most major companies elect to forego the trade.

Taken in combination, these measures would create an Iran that is far poorer nationally but still technically capable of feeding its people and averting a humanitarian crisis. Moreover, these measures would create a somewhat more reasonable enforcement standard than concepts of quarantine that have been advanced by some, while offering a far more aggressive sanctions approach than what is presently on the table in the Senate.

But how do these measures stack up against the three criteria established earlier?

1. **Right Pain:** Iran would find that it is unable to acquire the hard currency that it needs to maintain a sense of economic normalcy while, at the same time, trade goods continued to flow into Iran for anyone capable of buying them.
2. **“Good enough” compliance:** 100 percent compliance for a massive sanctions project as envisioned here would not be achievable—but the scope and scale of the effort would be such that even substantial leakage would be tolerable. If, for example, we take Iran’s export statistics for the past eleven months as a baseline—\$46 billion according to Iranian customs data⁷—then it would not be unreasonable for

even 10–20 percent of that amount to be considered “leakage” and still not jeopardize the disproportionate impact of such measures.

3. **Respectful of partners’ interests:** There would doubtless be international partners that would lose as a result of this effort, and the US government’s sanctions team would need to work exceptionally hard to assuage international concerns. That said, the primary economic consequences of these six measures were calculated to fall on Iran:
 - a. Given current lower prices, there is less disincentive on economic grounds to walk away from Iran. The United States could strengthen its economic arguments by removing restrictions on the export of US oil and condensates. As the Center on Global Energy Policy demonstrated with its January 2015 report “**Navigating the US Oil Export Debate,**” this policy is no longer sensible in light of changes to the international oil market and US interest in it, and its presence undermines good arguments that present international oil supply is more than sufficient to compensate for the loss of Iranian exports.
 - b. By permitting continued exports to Iran of most goods still permitted under sanctions, manufacturers in Iran’s present trading partners would not bear an immediate cost from loss of Iran as a customer, at least until Iran itself decides to walk away from the business; and,
 - c. By prohibiting Iranian exports more generally, some of Iran’s trading partners would lose a valuable supply of some cheap goods—such as cement, one of Iran’s most valuable commodities at present—but hardly those for which Iran is the sole international source.

WOULD PARTNERS REALLY SUPPORT SUCH AN EFFORT?

This last segment of analysis bears more elaboration, as it implicitly argues that partners will support a strategy of sanctions retrenchment so long as the economics work properly for them. This is a gross oversimplification that requires further consideration.

As noted above, it is by no means certain that US partners will view the United States to be the more reasonable party in the event that talks collapse. The United States controls significant economic cards, but this should not be mistaken for control over global responses to a breakdown in the process. Doubtless, core US allies would support the US effort to restart the sanctions track. But the degree to which they join it will be dependent on both what pressure the United States is prepared to bring to bear on them and their own willingness to embark on the second track of the strategy. Enthusiasm would be increased if Iran were successfully portrayed as unable to come to a reasonable deal; conversely, the pressure track would experience new bumps if the United States took the blame.

Either way, it will take persuasion from Washington to get partners on board. Crafting smarter sanctions would help, but part of the impetus will have to come from a realistic sense of the consequences from having failed to join the United States in this endeavor and a clear sense from the United States as to the intended end game of the sanctions. Clarity from Washington in the aftermath of failed talks will be essential in any event, but particularly if countries are going to be asked to forego their economic interests in the furtherance of the cause.

Moreover, some countries may play spoiler roles. Russia is already poised to do so, having worked with Iran on an “oil for goods” arrangement that, while not yet in operation, could provide Iran with access to new revenues. Russia’s own economic position has deteriorated since the deal was first considered in January 2014, and details about what would be involved have been scant, confusing, and contradictory. But particularly if talks end with some question as to who is to blame, the Russians and Iranians would probably pursue some kind of economic arrangement as a way of punishing Washington and

seeking to avoid use of the international economy. China and India, despite the existence of reasonable alternative sources of oil in the present price environment, may simply decide to keep with their purchases of Iranian oil as a way of maintaining diversity. And, of course, Iran should be expected to offer discounts and other incentives to keep customers coming back.

Altogether, it should not be assumed that, with a sour end to the ongoing negotiations, partners will see Washington’s suggested path forward as the most sensible and appropriate response. The international community wishes to see an end to the Iran nuclear issue, and the Iranian narrative of excessive demands from the United States will be well-butressed by the expansive pressure agenda outlined by Israeli Prime Minister Netanyahu in his speech to Congress on March 3, as well the Iranian concern that any deal reached with the United States may have limited currency (reinforced by the now infamous letter of forty-seven senators).

One way to help manage this would be to develop sanctions triggers that keep the onus on Iran rather than on the United States. The present concept is one of a time-bound set of triggers linked to Iranian failure to comply with deadlines rather than Iranian nuclear steps. This ought to be changed. A sensible link for any future sanctions would be to link them to any Iranian nuclear steps that go beyond the commitments reached in the Joint Plan of Action. No new US nuclear-related sanctions would be therefore contemplated until Iran takes the first move. This is essential for demonstrating, once again, that the United States is not gleefully imposing sanctions but rather responding to Iranian bad acts.

WOULD MORE SANCTIONS WORK?

Having outlined a possible new sanctions campaign, the question remains: would they work?

This remains an open topic for debate. Certainly, Iran continues to have vulnerabilities, as outlined above. Iran remains a relatively large economy that still conducts international trade that can be hindered. Taking away the value of Iran’s total non-oil exports from the first eleven months of this Iranian fiscal year—valued at \$48 billion by Iranian customs—would be of a similar magnitude as the oil sanctions from 2012–2013, in which \$54 billion in Iranian export revenue was erased. Iran’s large and sophisticated population has access to international media and therefore cannot be shielded from the realities of Iranian economic life and their cause. Iranian President Rouhani’s own admission that Iran’s economy will not get better unless sanctions are overturned or overcome would be played back to him by his political opponents in the event a deal is not reached, if for no other reason than to criticize his lack of fortitude in the face of international hostility and the resulting appearance of weakness it has created. On this basis, there is some basis to assert that, with more sanctions, the pressure will grow on Rouhani and the broader political establishment to come to an accord with the P5+1.

However, as noted previously, there is no guarantee of this outcome. From an analytical perspective, it may be just as likely that more sanctions pressure could spur Iran’s decision to pursue in earnest a nuclear weapon as it could spur Iran to capitulate. But certainly, it is also possible that sanctions will not work and that by doubling down on the sanctions track, the negotiating track will be foreclosed. In this circumstance, then—even if not immediately—Plan B would require developing a strategy intended to prosecute a military campaign against Iran intended to remove its immediate nuclear option. The Obama Administration has made clear that this is not a long-term solution to the problem and, indeed, could exacerbate the long-term strategic issues with Iran by incentivizing its acquisition of nuclear weapons as a deterrent. A renewed sanctions effort could therefore backfire catastrophically,

particularly one as intense as described above. This does not argue in favor of a smaller-scale approach to sanctions. If Iran was unwilling to make adequate concessions on its nuclear program facing the pressure applied to date, would the loss of a few additional billion per year in export revenue send the signal sought? Likely not. What instead ought to be the lesson of the past several years is that: first, Iran’s resistance to sanctions pressure and overall economic resilience are quite substantial and that an equally substantial effort would need to be brought to bear; and, second, that all of the pressure in the world may not force Iran to change its nuclear posture in a manner sufficient to placate P5+1 concerns.

WHERE SHOULD WE GO FROM HERE?

Ideally, the Administration and Congress should set aside their differences of opinion on whether new sanctions are justified, appropriate, and useful at this juncture and instead focus on how best to design new sanctions, should the ongoing talks fail. Again ideally, the talks would be sufficiently supported by all sides of our political process so that if sanctions are to be entered into again, it is with reluctance and sobriety on their chances of success but also with determination to be successful in reinforcing with Iran the consequences of failing to reach a comprehensive solution.

The current atmosphere in Washington is far from ideal. However, it should still be possible for the Administration and Congress to begin preparing for the possible future contingency that talks are unsuccessful and that Iran cannot make the decisions that it needs to make to achieve a comprehensive solution. Contingency planning would therefore be entered into by the parties with a common agreement that, in exchange for confidentiality on all sides, there be a well-reasoned, judicious examination of the various sanctions options available to the United States at this juncture. For the Administration, this would require bringing into the conversation experts on Iran’s economy, vulnerabilities, and political psychology, and an appreciation that the kind of sanctions to be embarked upon in this next phase would likely go beyond present partner comfort zones. For Congress, this would require being prepared to consider carefully objections raised by the Administration to particular sanctions options not as weak-kneed subservience to international partnership but rather as well-founded concern with the risks that particular ideas might bring.

There is a model that both the Administration and Congress can look back to for cooperation on just such contingency planning, notwithstanding differences on timing of sanctions and their scope: the 2009–2010 negotiations on the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA). Though sometimes fraught with controversy and disagreement, the CISADA negotiations between Congress and the Administration demonstrated appreciation and

understanding on the part of both branches to their respective strategic, tactical, and political needs. In the end, a bill that substantially tightened sanctions while taking place in an organized and effective manner was drafted, developed, agreed, passed, and signed into law on a timeline that did not undermine ongoing diplomatic efforts—this time, with members of the UN Security Council on a new sanctions resolution (1929)—and which instead made them more effective, inspiring similar actions to reinforce the UNSC by the European Union, Japan, Korea, Australia, Canada, and many other international partners. A similarly carefully orchestrated effort is probably beyond the hopes of imagination in today’s partisan Washington, but it would be in the best interest of the United States in confronting this challenge.

CONCLUSION

Acknowledging the complications of a renewed sanctions campaign may smack of defeatism to some. However, these complications are important considerations as policymakers debate whether the deal presently being negotiated between the P5+1 and Iran is worth concluding. Effective, targeted sanctions with systemic impact have had the desired effect of bringing Iran to the table. It is theoretically possible that, faced with regime survival through what would become in effect economic warfare, the Iranian government would be forced to make more severe accommodations to the international community on its nuclear program.

However, this exercise reveals a still more important reality: that entering into the sanctions pressure track again in full is dangerous. It simply may not work because Iran is unwilling to bend under sanctions pressure. For this reason, it is far more in the US interest to avoid having to go back down this road and to solve this problem with a reasonable, serious, and sensible negotiated outcome out of the ongoing process. If, however, more sanctions must be attempted, then we must be in the effort in order to achieve a dramatic turnaround, and this demands an even more aggressive sanctions approach than we have had in years past.

The problem is that, with the end of talks, so too opportunities for de-escalation: both sides would increasingly find themselves forced to respond to more hawkish elements of their own governments by reaffirming that they took a tough approach to the talks and are prepared to impose costs on the other side for their failure. This problem would probably get worse as time goes on and both sides get entrenched in their positions. We may find that the return to the sanctions path is far easier than finding new off-ramps to a diplomatic outcome.

NOTES

1. European Council regulation 2271/96 of 22 November 1996.
2. Testimony of Mark Dubowitz, Foundation for the Defense of Democracies, to the House Subcommittee on National Security, Homeland Defense, and Foreign Operations on November 15, 2011.
3. Clawson, Patrick, and Simon Henderson. November 29, 2011. “Impact of Sanctioning Iran’s Central Bank.” Found at: <http://www.washingtoninstitute.org/policy-analysis/view/impact-of-sanctioning-irans-central-bank>.
4. World Bank Iran Overview, dated September 30, 2014, downloaded on February 17, 2015.
5. IMF Article IV Staff Report, April 2014.
6. IMF Article IV Staff Report, April 2014.
7. Islamic Republic of Iran Customs Administration website. Data extracted on March 12, 2015 from: <http://www.irica.gov.ir/Portal/Home/ShowPage.aspx?Object=News&CategoryID=68bde3d2-c2d5-411f-a8b8-2b50ce202c04&WebPartID=eaeb88ea-5520-4088-b6a2-b921d138ecad&ID=03053f97-2650-48dc-a60f-f2019b229bee>.

