

Senate Committee on Foreign Relations

The JCPOA Negotiations and United States' Policy on Iran Moving Forward

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Introduction

Chairman Menendez, Ranking Member Risch, members of the committee, on behalf of the Foundation for Defense of Democracies, thank you for the opportunity to testify. I am honored to present my analysis and recommendations and those of my colleagues from FDD's Iran team.

After a year of talks in Vienna, the negotiations between the Biden administration and the regime in Iran have stalled over an Iranian demand that Washington remove Tehran's Islamic Revolutionary Guard Corps (IRGC) from the U.S. Foreign Terrorist Organization (FTO) list. If the talks get back on track and an agreement emerges, President Joe Biden will have fulfilled his campaign promise to take America back into a new version of the 2015 nuclear deal — albeit a shorter and weaker version of the already fatally flawed accord negotiated by President Barack Obama's administration and abandoned in 2018 by President Donald Trump. The new deal aims to place Iran's nuclear program "back in the box it was in," as Secretary of State Antony Blinken put it on March 27.¹

However, if the new accord resembles the July 2015 agreement, formally known as the Joint Comprehensive Plan of Action (JCPOA), it will achieve precisely the opposite result: Iran's nuclear program will leap forward like a jack-in-the-box. The new agreement will create patient pathways to nuclear weapons as key restrictions on Iran's nuclear program sunset and the program reaches a near-zero breakout time — that is, the amount of time needed to produce enough fissile material for a single atomic bomb. Thus, merely by complying with the deal, Iran can receive hundreds of billions of dollars in sanctions relief and achieve a threshold nuclear capability — that is, the point at which it could dash for a bomb without any country capable of stopping it.²

Specifically, according to estimates by FDD's Saeed Ghasseminejad, an expert on the Iranian economy, Tehran will receive a financial package worth up to \$275 billion within a 12-month period.³ Over the next five years, Iran could receive as much as \$800 billion in sanctions relief.

Advocates for the agreement argue that it would increase Iran's breakout time from three weeks — where it is today — to up to six months. (Israeli intelligence estimates that the breakout time will be between four and six months.)⁴ But the breakout time drops precipitously over the duration of the deal as Iran is able to manufacture and install advanced centrifuges. Tehran's breakout time will plummet to near zero by 2029, as even Obama himself has acknowledged. By "year 13, 14, 15" of the JCPOA, Iran will "have advanced centrifuges that can enrich uranium

¹ Matthew Lee, "Blinken reassures allies ahead of possible Iran deal," *Associated Press*, March 27, 2022. (<https://apnews.com/article/middle-east-iran-israel-antony-blinken-nuclear-weapons-921c10306aa4add89d137a896bfd6e3>)

² Andrea Stricker and Anthony Ruggiero, "Iran Approaches the Nuclear Threshold," *Foundation for Defense of Democracies*, March 3, 2022. (<https://www.fdd.org/analysis/2022/03/03/iran-approaches-the-nuclear-threshold>)

³ Saeed Ghasseminejad, "How A Revised Nuclear Deal Would Affect Iran's Non-Oil Exports," *Iran International*, May 14, 2022. (<https://www.iranintl.com/en/202205141986>)

⁴ Barak Ravid, "Israel puts Iran nuclear breakout time at 4–6 months with deal," *Axios*, February 9, 2022. (<https://www.axios.com/israel-iran-nuclear-breakout-time-vienna-talks-3a6835f7-842a-409b-adc7-cb6abdf20eb5.html>)

fairly rapidly, and at that time the breakout times would have shrunk almost down to zero,” he said in April 2015.⁵ ***By 2031, a ban on Iran’s production of weapons-grade uranium will be gone.***

As a result, for an increase in breakout time that lasts only a few years, the United States will pay a high price that will have severe consequences.

As a precondition to concluding the deal, Tehran is demanding the delisting of the IRGC as an FTO. Some 70 terrorist groups are currently on the FTO list, including al-Qaeda, ISIS, and the Iranian proxies Hizballah and Hamas.⁶ There is a reason that Iranian negotiators were so adamant about having this terror designation removed. The designation imposes severe penalties on anyone, including those outside the United States, who provide material support to an FTO, with the scope of criminal and civil liabilities much greater than those imposed by other sanctions, including those already on the IRGC. The FTO designation also makes it much easier for victims of current and future Iranian terrorism, including the thousands of Americans murdered and maimed by the IRGC, to recover the more than \$50 billion currently owed to them due to court judgments.

The IRGC will be the beneficiary of hundreds of billions of dollars in sanctions relief, further financing the IRGC’s regional aggression. Indeed, as U.S. negotiators were offering proposals in Vienna, the IRGC and Iran-backed proxies stepped up their attacks against U.S. partners in the region and against the U.S. regional force presence in Iraq and Syria.⁷ In Iran’s fifth major military operation using ballistic missiles from its own territory, the IRGC in March launched about a dozen ballistic missiles into Iraqi Kurdistan near the U.S. consulate in Erbil, allegedly targeting an Israeli facility.⁸

Elsewhere in the region, the IRGC-backed Houthi terrorists in Yemen — whom the Biden administration removed from the FTO list in February 2021 in the hope that they would deescalate their aggression — replied to Washington’s unilateral delisting by escalating their attacks on civilian population centers in Saudi Arabia and the United Arab Emirates. Earlier this

⁵ “Obama: Iran Will Face Longer ‘Breakout Time,’ Though Not Indefinitely,” *National Public Radio*, August 11, 2015. (<https://www.npr.org/sections/parallels/2015/08/11/431652556/obama-iran-will-face-longer-breakout-time-though-not-indefinitely>)

⁶ U.S. Department of State, Bureau of Counterterrorism, “Foreign Terrorist Organizations,” accessed May 3, 2022. (<https://www.state.gov/foreign-terrorist-organizations>)

⁷ Liz Sly, “Iran’s role in attack on U.S. troops in Syria signals new escalation,” *The Washington Post*, October 26, 2021. (https://www.washingtonpost.com/world/iran-militias-tanf-us-forces/2021/10/26/8c75ad98-35c1-11ec-9662-399cfa75efee_story.html); Idrees Ali and Phil Stewart, “U.S. troops come under fire in Syria after strikes against Iran-backed militias,” *Reuters*, June 28, 2021. (<https://www.reuters.com/world/middle-east/us-says-its-strikes-iran-backed-militia-iraq-syria-were-necessary-2021-06-28>); Jeff Seldin, “US-Led Coalition Responds to New Round of Attacks in Syria, Iraq,” *Voice of America*, January 25, 2022. (<https://www.voanews.com/a/us-coalition-responds-to-new-round-of-attacks-in-syria-iraq/6384297.html>)

⁸ For an assessment of the strike in relation to Iranian security policy as well as possible Israeli angles, see: Behnam Ben Taleblu, “Strikes on Iraq Reveal Iran’s Embrace of Missile Operations,” *The National Interest*, March 27, 2022. (<https://nationalinterest.org/feature/strikes-iraq-reveal-iran%E2%80%99s-embrace-missile-operations-201431>); Jonathan Schanzer, “The Covert War Between Israel and Iran Rises to the Surface,” *Mosaic*, March 17, 2022. (<https://mosaicmagazine.com/observation/politics-current-affairs/2022/03/the-covert-war-between-israel-and-iran-rises-to-the-surface>)

year, a Houthi assault employing ballistic missiles — made possible by Iranian material and technical support — attempted to target the United Arab Emirates and a facility used by U.S. servicemembers.

The Iranian strategy in Vienna may succeed: Wield the threat of nuclear and regional escalation to extort hundreds of billions of dollars in sanctions relief and win tacit permission to forge ahead with nuclear weapons research and development.⁹ Russia, a key broker of the agreement, has acknowledged that Iran received unanticipated concessions from the United States. “Iran got much more than it could expect,” said Vladimir Putin’s man in Vienna, Russian negotiator Mikhail Ulyanov, on March 5.¹⁰

This should not be surprising. During the 2020 election, then-candidate Biden promised to abandon his predecessor’s pressure campaign against Iran.¹¹ In response, Tehran massively expanded its nuclear capabilities. Most of the regime’s escalation — including the most dangerous steps of enriching uranium to 20 percent purity and then to 60 percent — occurred after President Biden’s election and the abandonment of his predecessor’s maximum pressure campaign.¹² (See Exhibit A.) The Jewish Institute for National Security of America (JINSA) has documented a measurable 100 percent increase in Iran’s malign acts since President Biden took office compared to the two-year period after President Trump left the JCPOA.¹³

This is worth emphasizing: Iran significantly escalated its nuclear program and regional aggression after President Biden made it clear he would stop applying American pressure on the regime.

Without U.S. pressure, and under the terms of any new deal, Iran will move forward aggressively to a lethal end state. While advocates for the deal argue that it is either this deal or war, the reality is that it will be this deal *and* war. And when that war comes, Iran will be a much more formidable enemy, with an industrial-size nuclear program and with nuclear facilities spread around the country in multiple locations, buried and hardened underground. It will have a near-zero nuclear breakout capability, a clandestine sneak-out capability enabled by advanced

⁹ For an assessment of Iran’s approach to nuclear and regional escalation, see: Behnam Ben Taleblu, “Making sense of Iranian escalation,” *FDD’s Long War Journal*, May 20, 2019.

(<https://www.longwarjournal.org/archives/2019/05/making-sense-of-iranian-escalation.php>); Behnam Ben Taleblu “Making sense of Iran’s nuclear moves,” *The Hill*, October 8, 2019.

(<https://thehill.com/opinion/international/464601-making-sense-of-irans-nuclear-moves>); Behnam Ben Taleblu and Andrea Stricker, “From ‘Maximum Pressure’ to ‘Minimal Resistance,’” *The Dispatch*, December 8, 2021. (<https://thedispatch.com/p/from-maximum-pressure-to-minimal>)

¹⁰ “Iran got much more than it could expect in Vienna talks: Russian negotiator,” *Islamic Republic News Agency* (Iran), March 5, 2022. (<https://en.irna.ir/news/84672291/Iran-got-much-more-than-it-could-expect-in-Vienna-talks-Russian>)

¹¹ Joe Biden, “There’s a smarter way to be tough on Iran,” *CNN*, September 13, 2020.

(<https://www.cnn.com/2020/09/13/opinions/smarter-way-to-be-tough-on-iran-joe-biden/index.html>)

¹² Behnam Ben Taleblu and Andrea Stricker, “From ‘Maximum Pressure’ to ‘Minimal Resistance,’” *The Dispatch*, September 8, 2021. (<https://thedispatch.com/p/from-maximum-pressure-to-minimal>)

¹³ @jinsadc, “When considering the full-range of Iran’s projectile strikes, naval harassment, cyber activity, kidnapping, and weapons tests, JINSA’s data shows that Iran’s aggression has increased by 100% since Biden took office, compared to the period after Trump left the JCPOA,” *Twitter*, April 28, 2022.

(<https://twitter.com/jinsadc/status/1519672759508418561>); “Iran Projectile Tracker,” *Jewish Institute for National Security of America*, accessed May 3, 2022. (<https://jinsa.org/iran-projectile-tracker>)

Exhibit A

Political Timeline



May 2018
U.S. leaves JCPOA

May 2019
Iran announces plan to incrementally breach JCPOA



Nov. 2020
Joe Biden elected president promising to return to JCPOA

Dec. 2020
Iran's Guardian Council approves new law calling for major nuclear advances

Jan. 2021
Biden inaugurated

Feb. 2021
Biden rescinds Trump's snapback of UN Iran sanctions under JCPOA implementing resolution 2231



April-June 2021
P5+1 (U.S., France, Germany, UK, Russia, & China) hold six rounds of indirect nuclear talks with Rouhani government

June 2021
Ultra-hardliner Ebrahim Raisi selected to be president of Iran; nuclear talks stall



Nov.-Dec. 2021
P5+1 & Raisi government restart nuclear talks

Nuclear Timeline

MAY 2019
Iran installs a greater number of IR-6 centrifuges than JCPOA permits. IR-6 is one of Iran's fastest machines

JULY 2019
Iran breaches JCPOA caps on uranium enrichment level & size of enriched uranium stockpile

SEPT. 2019
Iran begins enriching uranium using an array of advanced centrifuges at Natanz Pilot Fuel Enrichment Plant (PFEP)

NOV. 2019
Iran breaches JCPOA heavy-water cap, restarts enrichment at underground Fordow plant. International Atomic Energy Agency (IAEA) reports discovery of undeclared uranium at warehouse in Tehran, which Iran apparently sanitized. Total enriched uranium stockpile is >370 kilograms

MAR. 2020
IAEA reports Iran blocked access to two suspect sites and apparently sanitized them

NOV. 2020
Iran's enriched uranium stockpile grows to >2,400 kilograms. Iran begins enriching uranium in advanced IR-2m centrifuges at Natanz Fuel Enrichment Plant (FEP)

JAN. 2021
At Fordow, Iran starts enriching uranium to 20 percent purity, or 90 percent of the effort necessary to reach weapons-grade uranium (WGU)

FEB. 2021
Iran stops implementing Additional Protocol & JCPOA monitoring measures, which give the IAEA greater insight into Tehran's nuclear activities. Absent these, IAEA access & monitoring at nuclear sites are restricted. Tehran threatens to destroy IAEA data & makes 3.6 grams of uranium metal (used in nuclear weapon cores). IAEA detects undeclared uranium at two sites

APR. 2021
At Natanz PFEP, Iran begins using advanced centrifuges to enrich uranium to 60 percent purity, or 99 percent of the effort necessary to reach WGU. At Natanz FEP, Iran uses 1,044 IR-2m centrifuges and 348 IR-4s to enrich uranium up to 5 percent purity

MAY 2021
Iran's enriched uranium stockpile grows to >3,200 kilograms. IAEA must estimate stockpile due to Tehran's reductions in agency monitoring

JUNE 2021
Despite a temporary political arrangement it reached with the IAEA in February, Iran refuses to confirm that it continues to collect and hold in its custody IAEA monitoring and surveillance data at sites Tehran has barred the agency from visiting

AUG. 2021
Iran produces 200 grams of uranium metal enriched up to 20 percent

NOV. 2021
IAEA reports no progress in safeguards investigation into undeclared uranium & activities at three Iranian sites and concerns about activities at a fourth site. Independent estimates find Iran has enough enriched uranium to make WGU for four nuclear weapons within six months and could make WGU for one weapon in three weeks

DEC. 2021
Iran starts enriching 20 percent uranium using a cascade of IR-6 centrifuges at Fordow plant, providing fast route to WGU production at a highly fortified facility

centrifuges, and nuclear warhead-capable intercontinental ballistic missiles (ICBM) holding American cities hostage.

With sanctions relief from the JCPOA, Iran's economy will be increasingly fortified against sanctions, and the regime will have hundreds of billions of dollars to establish a lethal conventional military and an even more dangerous regional posture through well-funded proxies. The new agreement increases prospects for military conflict, since it weakens significant economic and political leverage that Washington could exercise to change Tehran's behavior peacefully.

And it is an open question whether the United States or Israel after 2031, when most of the nuclear restrictions expire, will have the capability to deal with a breakout or sneak-out to the bomb once the Iranian program involves widely dispersed enrichment facilities, buried deep underground, and encased in thick concrete. At that point, American and Israeli weaponry may be unable to inflict sufficient damage, and Tehran will have achieved "threshold nuclear capability."

As Obama himself once argued, "no deal is better than a bad deal."¹⁴ The prospective new deal is a bad deal. It undermines U.S. leadership and deterrence precisely as the Biden administration contends with a war in Ukraine, a rising China, a resumption of long-range missile testing by North Korea, and diminished American credibility following the chaotic withdrawal from Afghanistan.

On April 14, 1984, then-Secretary of State George P. Shultz told an audience at Kansas State University, "Negotiations are a euphemism for capitulation if the shadow of power is not cast across the bargaining table."¹⁵ Unfortunately, in the nuclear talks in Vienna, President Biden has cast a shadow of weakness over the bargaining table. The primary victim will be American national security,¹⁶ the Iranian people, and the people of the Middle East, who will now face an even more lethal and repressive regime in Tehran.

The Fatally Flawed JCPOA: Paving the Pathway to Nuclear Weapons¹⁷

The Biden team has acknowledged that the JCPOA does not stop Iran's progress toward a nuclear arsenal, because key restrictions on the program sunset over time, allowing Iran to build up an industrial-size nuclear capability with multiple pathways to nuclear weapons. And the

¹⁴ President Barack Obama, Office of the Press Secretary, The White House, "Remarks by the President in a Conversation with the Saban Forum," *Remarks to the Brookings Institution's Saban Forum*, December 7, 2013.

(<https://obamawhitehouse.archives.gov/the-press-office/2013/12/07/remarks-president-conversation-saban-forum>)
¹⁵ George P. Shultz, "Moral Principles and Strategic Interests: The Worldwide Movement to Democracy," *Lecture at Kansas State University*, April 14, 1986. (<https://www.k-state.edu/landon/speakers/george-shultz/transcript.html>)

¹⁶ Mark Dubowitz and Bradley Bowman, "Biden's Weakness Puts Strong Iran Deal Out of Reach," *RealClearDefense*, February 17, 2022.

(https://www.realcleardefense.com/articles/2022/02/17/bidens_weakness_puts_strong_iran_deal_out_of_reach_817318.html)

¹⁷ A modified version of this section previously appeared in an FDD op-ed: Jacob Nagel and Mark Dubowitz, "Biden Must Learn From the JCPOA's Mistakes," *Newsweek*, February 4, 2022.

(<https://www.newsweek.com/biden-must-learn-jcpoas-mistakes-opinion-1675972>)

agreement does not address Tehran's IRGC-backed cruise and ballistic missile programs, evolving drone and cyber capabilities, support for terrorism, or regional aggression.

The Biden administration claims to have a plan to address the JCPOA's gaps: Washington's next step, Secretary Blinken said last year, would be to seek a "longer and stronger agreement" with Iran if Tehran came back into compliance with its nuclear obligations under the JCPOA.¹⁸ This statement is tantamount to an acknowledgment of the deal's flaws. And for the Biden team, many of whom were involved in the JCPOA negotiations, the new agreement would constitute a significant departure from the Obama administration's 2015 claims that the accord permanently "cuts off"¹⁹ or "blocks"²⁰ Tehran's pathways to a nuclear weapon.

The 2015 JCPOA, however, not only kept much of Iran's nuclear program intact, but permitted the program to expand over time as a result of sunsets in the agreement. (See Exhibit B.) The deal enabled Tehran not only to develop a bomb as enrichment restrictions sunset, but also to build industrial-size enrichment capabilities and develop an easier clandestine route to a bomb.²¹ It enabled Iran's immediate work on research and development for advanced centrifuges, which are more powerful and therefore easier to hide because fewer are needed to produce weapons-grade uranium.

In comparison with the permanent restrictions that several UN Security Council resolutions placed on Iran, the Islamic Republic under the JCPOA had more freedom to develop ballistic missiles. Tehran also had more latitude to proliferate and procure conventional weapons, as the UN conventional arms and missile embargoes were scheduled to lapse in five and eight years, respectively. All this in return for the lifting of sanctions to allow hundreds of billions of dollars to flow into the coffers of the mullahs.

Now, seven years later, the conventional arms embargo is already gone;²² the missile embargo will sunset next year; key restrictions on the production of advanced centrifuges begin disappearing in 2024; and all enrichment restrictions, including the ban on weapons-grade uranium enrichment, will be gone by 2031.

¹⁸ "New U.S. secretary of state stands by demand Iran return to nuclear deal before U.S. does," *Reuters*, January 27, 2021. (<https://www.reuters.com/article/us-usa-iran-blinken-idUSKBN29W2XF>)

¹⁹ President Barack Obama, The White House, "Remarks by the President on the Iran Nuclear Deal," *Address at American University*, August 5, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/08/05/remarks-president-iran-nuclear-deal>)

²⁰ The White House, "The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon," accessed May 3, 2022. (<https://obamawhitehouse.archives.gov/issues/foreign-policy/iran-deal>)

²¹ Behnam Ben Taleblu and Andrea Stricker, "Key Sunsets Under the JCPOA and UNSC Resolution 2231," *Foundation for Defense of Democracies*, February 4, 2021. (<https://www.fdd.org/analysis/2021/02/19/key-sunsets-under-the-jcpoa-and-uns-res-2231>)

²² For an analysis of how Tehran might exploit the lapse of the arms embargo, see: Behnam Ben Taleblu, "The U.S. Is Right to Push to Extend the U.N. Arms Embargo on Iran," *Newsweek*, June 19, 2020. (<https://www.newsweek.com/us-right-push-extend-un-arms-embargo-iran-opinion-1512028>)

Exhibit B



KEY SUNSETS UNDER THE JCPOA & UNSC RESOLUTION 2231



2020

- » UN arms embargo ended
- » Select UN-sponsored visa bans lifted



2023

- » U.S. and EU/UK sanctions on select proliferation-linked entities lapses
- » UN-sponsored ban on imports/exports of missile-related equipment and technology expires
- » UN prohibition on Iranian ballistic missile launches ends
- » UN-sponsored asset freezes terminate



2024

- » Advanced centrifuge restrictions begin to sunset



2025

- » Past UNSC resolutions related to Iran's nuclear program terminate
- » UN procurement channel for nuclear-related imports ends
- » "Snapback" mechanism to restore international sanctions on Iran expires



2027

- » Restrictions on mass deployment of centrifuges, including advanced centrifuges, begin to sunset



2029

- » Remaining restrictions on advanced centrifuge deployments lifted

2031

- » No cap on enrichment purity level
- » No cap on enriched uranium stockpile
- » Enrichment permitted at Fordow Fuel Enrichment Plant
- » New enrichment plants permitted
- » Plutonium reprocessing prohibition lifted
- » Heavy water reactors permitted
- » No cap on heavy water production/domestic stockpiling



Let me underscore this point: Under a new deal, in less than nine years, a ban on Iran’s production of weapons-grade uranium will be gone. This fact alone should cause each member of this committee to oppose the new agreement.

What is equally concerning is that the 2015 agreement has no mechanism to force the Iranians to renegotiate and reach the “longer and stronger” deal that the Biden administration now acknowledges must come before Tehran is a turn of the screw away from developing nuclear weapons. In 2025, the JCPOA’s snapback mechanism, which gives the United States and any other party to the deal the unilateral right to restore UN sanctions on Iran, will expire. Gone will be any multilateral leverage, as China and Russia are unlikely to agree to re-impose sanctions.

Based on his actions to date, President Biden is unwilling to use American power to achieve a longer and stronger deal. Iran’s supreme leader, Ayatollah Ali Khamenei, sees the Biden administration’s unwillingness to confront his regime as a vulnerability to exploit.²³ This perception of American weakness is what motivated Tehran to ask for the delisting of the IRGC as an FTO, a demand that has nothing to do with nuclear issues, even though the parties had reportedly reached a deal.²⁴

Based on this perception of U.S. weakness, Tehran will do what it has done for decades: Escalate its nuclear program under the deal as restrictions sunset, intensify its aggression using its new financial windfall, and potentially develop ICBMs capable of carrying nuclear payloads that would threaten American and European cities. The supreme leader will back down — as he advised his predecessor, Ayatollah Ruhollah Khomeini, to do during the Iran-Iraq War due to their fear of American intervention — only if presented with no other alternative.²⁵

Iran’s Violations of Key Nuclear Commitments

Since the JCPOA’s finalization in 2015, Tehran has repeatedly violated its letter and spirit by escalating the regime’s nuclear activities and reducing International Atomic Energy Agency (IAEA) monitoring of Iran’s nuclear program. Even before the Trump administration’s withdrawal from the JCPOA in May 2018, Iran remained in noncompliance not only with the accord, but also with the Non-Proliferation Treaty (NPT), the Comprehensive Safeguards Agreement (CSA), and the Additional Protocol (AP).

JCPOA Violations

The JCPOA’s weak verification measures enabled Iran’s misconduct. While President Obama repeatedly asserted that Washington could “snap back” sanctions on Iran if the clerical regime

²³ Mardo Soghom, “Iran’s Khamenei Quotes US State Department Saying Sanctions Failed,” *Iran International*, January 30, 2022. (<https://www.iranintl.com/en/202201308992>)

²⁴ “Iran urges definite delisting of IRGC; US says many sanctions to remain,” *Press TV* (Iran), March 27, 2022. (<https://www.presstv.ir/Detail/2022/03/27/679226/Iran-IRGC-US>)

²⁵ Behnam Ben Taleblu, “Opinion: Why The Iran-Iraq War Matters For The Success Of Maximum Pressure,” *Radio Farda*, September 20, 2020. (<https://en.radiofarda.com/a/opinion-why-the-iran-iraq-war-matters-for-the-success-of-maximum-pressure/30848279.html>)

violated the JCPOA,²⁶ he failed to note that the deal allowed for an Iranian nuclear snapback as well. In other words, as Supreme Leader Khamenei himself wrote in an October 2015 letter to Iranian President Hassan Rouhani, Tehran could resume its nuclear activities at any time if the United States re-imposed any sanctions — including sanctions unrelated to Tehran’s nuclear program.²⁷ The text of the JCPOA appears to support Khamenei’s position, stating that the United States and the European Union “will refrain from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations with Iran inconsistent with their commitments not to undermine the successful implementation of this JCPOA.”²⁸

The JCPOA compounds U.S. concessions by effectively permitting incremental violations of the accord. The pact states that a party to the deal could cease implementation of its JCPOA commitments if another party engages in “significant nonperformance” of the agreement.²⁹ Yet the JCPOA fails to define the word “significant,” suggesting that Iran could get away with smaller violations. Between 2015 and 2018, Tehran engaged in minor breaches of the deal, apparently testing the JCPOA’s boundaries. In 2018 and 2019, Iran engaged in strategic restraint, waiting to gauge the impact of President Trump’s May 2018 withdrawal. In 2019 and 2020, Tehran increased violations incrementally.

Since Biden’s election, the regime has committed major violations, including the enrichment of uranium to 20 percent and then 60 percent purity, which is itself technically usable in a nuclear weapon.³⁰ Notably, Iran’s most serious violations occurred only after President Biden’s election. President Biden — like President Obama before him — failed to impose meaningful new sanctions in response or censure Tehran at the IAEA Board of Governors.

IAEA Investigation

These developments come in the wake of a significant concession at the outset of the JCPOA’s finalization in 2015. In order to ensure the deal’s implementation, the Obama administration and the IAEA’s 35-member Board of Governors voted in December 2015 to remove from its agenda the agency’s longstanding investigation of the possible military dimensions (PMD) of Iran’s nuclear program. The board took this step even though Tehran continued to refuse to provide the

²⁶ President Barack Obama, The White House, “Remarks by the President on the Iran Nuclear Deal,” *Address at American University*, August 5, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/08/05/remarks-president-iran-nuclear-deal>)

²⁷ Islamic Republic of Iran Office of the Supreme Leader, “Ayatollah Khamenei: Sanctions Snapback Means JCPOA Violation,” October 21, 2015. (<https://www.leader.ir/en/content/13791/Ayatollah-Khamenei-sends-a-letter-to-President-Hassan-Rouhani-about-the-JCPOA>)

²⁸ Joint Comprehensive Plan of Action, Vienna, July 14, 2015, paragraph 29. (<https://2009-2017.state.gov/documents/organization/245317.pdf>)

²⁹ *Ibid.*, paragraph 36.

³⁰ Behnam Ben Taleblu and Andrea Stricker, “Exploiting America’s Declining Pressure: Iran’s Nuclear Escalation Over Time,” *Foundation for Defense of Democracies*, December 16, 2021. (<https://www.fdd.org/analysis/2021/12/16/exploiting-americas-declining-pressure-irans-nuclear-escalation-over-time>)

IAEA with answers to a series of unresolved questions on the topic.³¹ As a result, to this day, the IAEA cannot credibly state whether Iran has implemented Section T of Annex I of the JCPOA, which imposes constraints on Iranian nuclear weaponization activities.

Further details of Iran's nuclear mendacity emerged when Israel disclosed in 2018 that the Mossad had exfiltrated an archive from a Tehran warehouse documenting Iran's nuclear activities. The archive's files, dating to the late 1990s, filled in many details about Iran's past work on nuclear weapons and showed it was far more extensive than previously known.³² According to arms control experts at Harvard University, the documents suggest that the IAEA Board of Governors halted its 2015 investigation prematurely. As the scholars assert, "the program revealed by the archive was more advanced and substantial than previously known," indicating that Tehran "had made considerable progress on nearly every aspect of developing and manufacturing nuclear weapons."³³ Consequently, the Harvard report continues, the archive's disclosures "reset the factual basis for further interactions with Iran about its nuclear program."³⁴

The nuclear archive shows that Iran may have hidden and camouflaged continued nuclear weapons-related activities, and that there may be numerous unvisited sites, people, and equipment associated with Tehran's nuclear program. In order to provide space for nuclear talks aimed at reviving the JCPOA, the Biden administration has not pushed for censure of Iran by the IAEA Board of Governors.

Tehran's covert nuclear weapons development constitutes an apparent violation of the NPT, CSA, and AP, and the JCPOA fails to address these violations.³⁵ Several IAEA discoveries from the archive exemplify this failure. In 2018, the IAEA sought access to another warehouse in Tehran, allegedly a location where Iran housed nuclear-related equipment and material. Iran attempted to sanitize the site prior to permitting IAEA access. Nevertheless, the IAEA detected traces of man-made uranium particles.³⁶

³¹ David Albright, Andrea Stricker, and Serena Kelleher-Vergantini, "Analysis of the IAEA's Report on the PMD of Iran's Nuclear Program," *Institute for Science and International Security*, December 8, 2015. (https://isis-online.org/uploads/isis-reports/documents/ISIS_Analysis_of_the_IAEA_PMD_Report_December_8_2015_Final.pdf)

³² David Albright with Sarah Burkhard and the Good ISIS team, *Iran's Perilous Pursuit of Nuclear Weapons* (Washington, DC: Institute for Science and International Security Press, 2021).

³³ Aaron Arnold, Matthew Bunn, Caitlin Chase, Steven E. Miller, Rolf Mowatt-Larssen, and William H. Tobey, "The Iran Nuclear Archive: Impressions and Implications," *Belfer Center for Science and International Affairs at the Harvard University Kennedy School of Government*, April 2019, page 7. (<https://www.belfercenter.org/sites/default/files/files/publication/The%20Iran%20Nuclear%20Archive.pdf>)

³⁴ *Ibid.*, page 13.

³⁵ Tzvi Kahn, "Politics vs. Protocol: Iran's Nuclear Archive and the IAEA's Responsibilities," *Foundation for Defense of Democracies*, August 19, 2019. (<https://www.fdd.org/analysis/2019/08/19/politics-vs-protocol>)

³⁶ "TV: IAEA finds traces of radioactive material at Iran site flagged by Netanyahu," *The Times of Israel* (Israel), July 11, 2019. (<https://www.timesofisrael.com/tv-iaea-finds-traces-of-radioactive-material-at-iran-site-named-by-netanyahu/>); Francois Murphy, "Exclusive: U.N. nuclear watchdog inspects Iran 'warehouse' Netanyahu pointed to – sources," *Reuters*, April 4, 2019. (<https://www.reuters.com/article/us-iran-nuclear-inspection-exclusive/exclusive-u-n-nuclear-watchdog-inspects-iran-warehouse-netanyahu-pointed-to-sources-idUSKCN1RG2B9>); Laurence Norman, "U.N. Watchdog Inspects a Site Flagged as Suspicious by Israelis—but Possibly Too Late," *The Wall Street Journal*, April 4, 2019. (<https://www.wsj.com/articles/u-n-watchdog-inspects-a-site-flagged-as-suspicious-by-israelis-but-possibly-too-late-11554422394>)

In 2019 and 2020, the IAEA sought access to two additional sites, and Iran denied access. Following an IAEA Board of Governors censure in June 2020, Tehran allowed the IAEA to inspect the sites. The agency again detected the presence of man-made uranium. The IAEA also had questions about a fourth site but did not seek access, since Iran had razed the site years ago.

The regime has refused to cooperate with the IAEA or explain the presence of undeclared nuclear material and related activities. In essence, the JCPOA permitted Iran to quietly retain all its past nuclear weapons-related information — and, potentially, to continue key nuclear activities. The deal also did not require Tehran to cooperate with the IAEA or fulfill the commitments of its safeguards agreements.

If the nuclear work described in the archive continues today, Iran may have violated Section T of Annex I of the JCPOA. At the very least, the regime’s preservation of the archive is inconsistent with its JCPOA commitment “that under no circumstances will Iran ever seek, develop or acquire any nuclear weapons.”³⁷ The archive also contradicts a 2007 U.S. National Intelligence Estimate judging “with high confidence” that Iran “halted its nuclear weapons program” in 2003.³⁸ The archive files suggest Iran’s nuclear weapons program continued, albeit in a more circumscribed and diffuse manner.

Ultimately, from 2015 to 2018, the JCPOA enabled the Islamist regime to dictate the terms of the agreement at Washington’s expense. By contrast, the Trump administration responded to the regime’s intransigence by abandoning the JCPOA and re-imposing U.S. sanctions, effectively weakening the regime, undermining its strategy, and giving Washington the upper hand in prospective negotiations. The Biden administration, however, has reportedly agreed to lift most U.S. sanctions on Iran as part of a weaker version of the old deal.³⁹ In so doing, Biden may erase U.S. leverage at the bargaining table that could have resulted in a better agreement.

The Biden Administration’s False Narrative

As FDD’s nuclear expert Andrea Stricker has noted,⁴⁰ the Biden administration continues to issue misleading statements about the 2015 deal.⁴¹ For example, State Department Spokesperson Ned Price claimed in February that the JCPOA gave Iran a one-year breakout time.⁴² In reality, as the Institute for Science and International Security assesses that “if Iran were to re-install [its]

³⁷ Joint Comprehensive Plan of Action, Vienna, July 14, 2015, page 2. (<https://2009-2017.state.gov/documents/organization/245317.pdf>)

³⁸ Office of the Director of National Intelligence, National Intelligence Council, “Iran: Nuclear Intentions and Capabilities,” November 2007, page 6. (https://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/20071203_release.pdf)

³⁹ Gabriel Noronha, “This Isn’t Obama’s Iran Deal. It’s Much, Much Worse.” *Tablet*, March 7, 2022. (<https://www.tabletmag.com/sections/news/articles/this-isnt-obamas-iran-deal-its-much-worse>)

⁴⁰ @StrickerNonpro, “Administration spokespeople & those advocating for the #JCPOA often repeat the claim that the deal puts Iran’s nuclear program ‘in a box.’ Let us assess their claims vs. reality,” *Twitter*, March 23, 2022. (<https://twitter.com/StrickerNonpro/status/1506730359660056576>)

⁴¹ *Ibid.*

⁴² State Department Spokesperson Ned Price, U.S. Department of State, “Department Press Briefing – February 2, 2022,” *Remarks to the Press*, February 2, 2022. (<https://www.state.gov/briefings/department-press-briefing-february-2-2022>)

advanced IR-2m centrifuges during a breakout,” it would need only “seven months” to produce a nuclear weapon.⁴³

Similarly, in January, Price said that under the JCPOA, Iran is “verifiably and permanently barred from obtaining a nuclear weapon.” The parties to the JCPOA, he claimed, seek to “arrive once again at a formula by which Iran is permanently and verifiably prevented from obtaining a nuclear weapon.”⁴⁴ But the JCPOA’s own provisions contradict this assertion. The JCPOA lifts key prohibitions in the next several years, giving Iran a glide path to unconstrained uranium enrichment, including to weapons-grade. Indeed, this is why Secretary Blinken has acknowledged the need for a “longer and stronger” agreement.⁴⁵

In May 2021, State Department spokesman Price also contended that the JCPOA imposes the “most stringent verification and monitoring regime ever negotiated.”⁴⁶ Yet Iran has refused to grant the IAEA access to key sites or permit it to go to military facilities where the regime may be undertaking activities related to the development of a nuclear weapon.

The New Deal: Empowering and Enriching a Rogue Regime

The new deal is looking to be far worse than the original: The agreement legitimizes all of Iran’s nuclear advances, permits the regime to retain and expand its nuclear and missile capabilities, and enables Tehran to build a deadly conventional military. This “JCPOA-minus” will leave Tehran less than six months from nuclear breakout, with that breakout time dropping sharply in a few years.⁴⁷ Fueling all this will be hundreds of billions of dollars in sanctions relief that will fortify Iran’s economy, strengthen the regime, and allow Tehran to expand support for its terrorist proxies.

As FDD’s Saeed Ghasseminejad notes,⁴⁸ the sanctions-relief package envisioned under the new deal would give Iran immediate access to an estimated \$86.1 billion to \$130.5 billion in foreign

⁴³ David Albright, Houston Wood, and Andrea Stricker, “Breakout Timelines Under the Joint Comprehensive Plan of Action,” *Institute for Science and International Security*, August 18, 2015, page 1. (https://isis-online.org/uploads/isis-reports/documents/Iranian_Breakout_Timelines_and_Issues_18Aug2015_final.pdf)

⁴⁴ State Department Spokesperson Ned Price, U.S. Department of State, “Department Press Briefing – January 12, 2022,” *Remarks to the Press*, January 12, 2022. (<https://www.state.gov/briefings/department-press-briefing-january-12-2022>)

⁴⁵ “New U.S. secretary of state stands by demand Iran return to nuclear deal before U.S. does,” *Reuters*, (<https://www.reuters.com/article/us-usa-iran-blinken/new-u-s-secretary-of-state-stands-by-demand-iran-return-to-nuclear-deal-before-u-s-does-idUSKBN29W2XF>)

⁴⁶ State Department Spokesperson Ned Price, U.S. Department of State, Ned Price, “Department Press Briefing – May 10, 2021,” *Remarks to the Press*, May 10, 2021. (<https://www.state.gov/briefings/department-press-briefing-may-10-2021>)

⁴⁷ Barak Ravid, “Israel puts Iran nuclear breakout time at 4–6 months with deal,” *Axios*, February 9, 2022. (<https://www.axios.com/israel-iran-nuclear-breakout-time-vienna-talks-3a6835f7-842a-409b-adc7-cb6abdf20eb5.html>)

⁴⁸ Parts of this section previously appeared as FDD policy briefs, cited below.

assets that are currently frozen,⁴⁹ an estimated \$12 billion annually in reduced import costs,⁵⁰ an estimated \$73 billion annually from the removal of oil sanctions, and more than \$50 billion annually in other export earnings.⁵¹

The estimate of frozen foreign assets stems from reports by the Central Bank of Iran (CBI), which finances the IRGC. While the CBI's data warrant some skepticism due to its lack of transparency, the bank reported having \$117 billion in net foreign assets as of December 2021, while the Iranian financial system — that is, the CBI plus all other Iranian financial institutions — had \$166 billion in net foreign assets. The CBI further reported that it had \$161.9 billion in gross foreign assets and \$44.4 billion in foreign liabilities.⁵²

In October 2021, the International Monetary Fund (IMF) estimated that Iran had \$31.4 billion in readily available and controlled external assets. By subtracting that figure from the \$161.9 billion in gross foreign assets, one can estimate that sanctions relief will grant Tehran access to an additional \$130.5 billion in gross foreign assets. Depending on the terms of the CBI's \$44.4 billion in foreign liabilities, some of that \$130.5 billion may be needed to retire those liabilities. However, the remaining \$86.1 billion are not tied to any foreign liability. In other words, the CBI will gain access to at least \$86.1 billion in net foreign assets and potentially as much as \$130.5 billion in gross foreign assets.⁵³

In April 2021, Mohammad Shariatmadari, the regime's labor minister, said sanctions had increased the cost of imports by 20 percent. If that figure held constant for the Persian calendar year 1400 (April 2021 to March 2022), during which the Islamic Republic imported an estimated \$50.8 billion worth of goods and services, then sanctions cost the regime almost \$10 billion in additional import costs that year. Assessments of the increased cost by other Iranian officials and media sources have varied widely, between 8 and 30 percent.⁵⁴

This relief would come as Iran's oil exports to China increase dramatically in violation of U.S. sanctions, with Beijing reducing its purchases of Russian oil as a result of the Ukraine conflict. According to *The Wall Street Journal*, commodities data provider Kpler said Iran's oil exports rose to 870,000 barrels per day during the first three months of 2022, up 30 percent from an

⁴⁹ Saeed Ghasseminejad, "The New Nuclear Deal Would Allow Tehran to Access Up to \$131 Billion of Its Foreign Assets," *Foundation for Defense of Democracies*, March 9, 2022. (<https://www.fdd.org/analysis/2022/03/09/new-nuclear-deal-tehran-131-billion-foreign-assets>)

⁵⁰ Saeed Ghasseminejad, "Tehran to Pocket Billions From Lower Import Costs if Sanctions Are Lifted," *Foundation for Defense of Democracies*, March 24, 2022. (<https://www.fdd.org/analysis/2022/03/24/tehran-to-pocket-billions-if-sanctions-lifted>)

⁵¹ Saeed Ghasseminejad, "Iran Likely to Gain More Than \$70 Billion From the Removal of Oil Sanctions," *Foundation for Defense of Democracies*, April 13, 2022. (<https://www.fdd.org/analysis/2022/04/13/iran-gain-70-billion-removal-of-oil-sanctions>)

⁵² Saeed Ghasseminejad, "The New Nuclear Deal Would Allow Tehran to Access Up to \$131 Billion of Its Foreign Assets," *Foundation for Defense of Democracies*, March 24, 2022. (<https://www.fdd.org/analysis/2022/03/24/tehran-to-pocket-billions-if-sanctions-lifted>)

⁵³ Ibid.

⁵⁴ Saeed Ghasseminejad, "Tehran to Pocket Billions From Lower Import Costs if Sanctions Are Lifted," *Foundation for Defense of Democracies*, March 24, 2022. (<https://www.fdd.org/analysis/2022/03/24/tehran-to-pocket-billions-if-sanctions-lifted>)

average of 668,000 barrels per day in 2021,⁵⁵ and up 77 percent from an average of 385,000 barrels per day under the height of the Trump administration’s “maximum pressure” on Iran. Since entering office, the Biden administration has largely failed to enforce U.S. sanctions on Chinese oil imports.⁵⁶

Likewise, over the past year, Iranian non-oil exports increased to \$48 billion from \$35 billion the year before — driven mostly by the inflationary forces that have dominated 2021 and 2022. If the United States lifts sanctions pursuant to a revised nuclear deal, Tehran’s non-oil exports could reach \$55 billion to \$60 billion in the first year of the deal.

By increasing Iran’s oil and non-oil exports, lowering the cost of imports, and granting Iran renewed access to its foreign currency reserves, a revived JCPOA may provide Tehran with a financial package worth up to \$275 billion within a 12-month period.⁵⁷ Over the next five years, Iran could receive as much as \$800 billion in sanctions relief.

Non-oil sanctions are much more difficult to enforce than oil sanctions, particularly against a country like Iran, which has massive land and sea borders with several countries, many of which are keen to close their eyes to Tehran’s sanctions busting activities. But Washington could have successfully enforced the non-oil sanctions if it had decided to allocate the required resources and political capital to pressure neighboring countries and hunt down sanctions busters.

Sanctions relief will fund Tehran’s regional aggression against Israel, Saudi Arabia, the United Arab Emirates, Yemen, and Bahrain, all of which face the threat of Iran-backed terrorism as well as Iranian missiles and drones. This massive financial concession of more than \$800 billion over five years also is an insult to the families of American soldiers killed and injured by Iran-backed terrorists. In January, more than 1,000 military veterans and family members of those killed or injured in Iran-backed attacks signed a letter urging President Biden not to give the clerical regime this money, particularly when U.S. victims are owed over \$50 billion in damages for Iranian-sponsored terrorist attacks in Iraq, Afghanistan, Lebanon, and elsewhere.⁵⁸

Tehran’s latest proposed budget bill, introduced in December, provides insight into the Islamic Republic’s priorities. Under the new financial plan, the IRGC’s budget as a whole will receive a 240 percent increase year-over-year.⁵⁹ In particular, the IRGC’s Shahid Ebrahimi program, whose stated mission is to “strengthen security infrastructure,” a euphemism for the regime’s

⁵⁵ Benoit Faucon, “Iran Ramps Up Oil Exports as China Pulls Back on Russian Crude,” *The Wall Street Journal*, April 28, 2022. (<https://www.wsj.com/articles/iran-ramps-up-oil-exports-as-china-pulls-back-on-russian-oil-11651142115>)

⁵⁶ Claire Jungman and Daniel Roth, “January 2022 Iran Tanker Tracking,” *United Against Nuclear Iran*, February 1, 2022. (<https://www.unitedagainstanucleariran.com/blog/january-2022-iran-tanker-tracking>)

⁵⁷ Saeed Ghasseminejad, “How A Revised Nuclear Deal Would Affect Iran’s Non-Oil Exports,” *Iran International*, May 14, 2022. (<https://www.iranintl.com/en/202205141986>)

⁵⁸ Dan De Luce, “Veterans, families urge administration not to release billions in frozen funds to Iran until terrorism cases are settled,” *NBC News*, January 13, 2022. (<https://www.nbcnews.com/politics/national-security/us-veterans-families-urge-biden-admin-not-release-billions-frozen-fund-rcna12163>)

⁵⁹ Agnes Helou, “Iran more than doubles Revolutionary Guard’s budget in FY22 bill,” *Defense News*, December 16, 2021. (<https://www.defensenews.com/global/mideast-africa/2021/12/16/iran-more-than-doubles-revolutionary-guards-budget-in-fy22-bill>); “Raisi signals priorities in draft budget with 240% hike in IRGC funding,” *Al-Mashareq*, December 14, 2021. (https://almashareq.com/en_GB/articles/cnmi_am/features/2021/12/14/feature-01)

repression of dissidents, will receive a 386 percent increase in funding compared to last year.⁶⁰ Likewise, Iran's Ministry of Intelligence, which also targets Tehran's opponents, will receive a 29.8 percent increase. As former State Department official Gabriel Noronha points out, that ministry masterminded the attempted kidnapping and rendition of Masih Alinejad, a prominent Iranian journalist and activist, on U.S. soil.⁶¹ These budgetary figures stand in contrast to allocations for the country's genuine needs, such as resolving Iran's water crisis, which receive considerably less funding.⁶²

The new budget marks a continuation of the regime's increased military spending in 2021. According to the Stockholm International Peace Research Institute, "In 2021 Iran's military budget increased for the first time in four years, to \$24.6 billion. Funding for the Islamic Revolutionary Guard Corps continued to grow in 2021—by 14 per cent compared with 2020—and accounted for 34 per cent of Iran's total military spending."⁶³

Lifting the IRGC's Designation as an FTO

Despite news reports that President Biden has refused to agree to Iranian demands to remove the IRGC from Washington's FTO list — a dangerous move that would undermine U.S. interests and empower the world's leading state sponsor of terrorism — the possibility of such removal still exists.

*The IRGC's Record of Terrorism*⁶⁴

Tehran's record of terrorism is a bloody one. As FDD's Richard Goldberg and Saeed Ghasseminejad note, the Department of State, in its latest annual country report on terrorism, describes Iran's wide range of terror-related activities. Hizballah, a designated FTO since 1997, is Iran's "primary terrorist proxy group."⁶⁵ The Islamic Republic also provides support to major Palestinian terrorist groups, including Hamas, Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command. In Iraq, Tehran works through a series of militia

⁶⁰ "Iran's Budget: 'Security and Order' Gets Six Times More Funding than 'Water Resources,'" *Iran Open Data*, March 15, 2022. (<https://iranopendata.org/en/pages/iran-s-budget-security-and-order-gets-six-times-more-funding-than-water-resources>)

⁶¹ @GLNoronha, "(3) The new Iranian budget increases funding to the regime's brutal Ministry of Intelligence (MOIS) by 29.8%. As the Department of Justice has said in public filings, the MOIS was behind the attempted kidnapping & rendition of US citizen @AlinejadMasih from her Brooklyn home." *Twitter*, March 23, 2022. (<https://twitter.com/GLNoronha/status/1506737571480621064>)

⁶² Hannah Somerville, "Budget Ploughs Six Times More Into 'Public Order and Security' Than Water," *IranWire*, March 15, 2022. (<https://iranwire.com/en/economy/71471>)

⁶³ "World military expenditure passes \$2 trillion for first time," *Stockholm International Peace Research Institute*, April 25, 2022. (<https://www.sipri.org/media/press-release/2022/world-military-expenditure-passes-2-trillion-first-time>). See also: Bradley Bowman and Ryan Brobst, "Iran Increases Funding for the Islamic Revolutionary Guard Corps," *Foundation for Defense of Democracies*, April 29, 2022. (<https://www.fdd.org/analysis/2022/04/29/iran-increases-funding-islamic-revolutionary-guard-corps>)

⁶⁴ A modified version of this section previously appeared in an FDD research memo: Richard Goldberg and Saeed Ghasseminejad, "Biden, Congress Should Defend Terrorism Sanctions Imposed on Iran," *Foundation for Defense of Democracies*, January 25, 2021. (<https://www.fdd.org/2021/01/25/biden-congress-should-defend-terrorism-sanctions-imposed-on-iran>)

⁶⁵ U.S. Department of State, Bureau of Counterterrorism, "Country Reports on Terrorism 2020: Iran," December 16, 2021. (<https://www.state.gov/reports/country-reports-on-terrorism-2020/iran>)

groups, political fronts, and even quasi-social and religious organizations to exert pressure on Washington, influence the Iraqi state, circumvent sanctions, and more.⁶⁶

According to the State Department, Iran uses the Quds Force, the IRGC's foreign operations arm, "to provide support to terrorist organizations, provide cover for associated covert operations, and create instability in the region."⁶⁷ The Quds Force moves weapons to Hizballah through Iraq and Syria⁶⁸ while providing arms and training for Yemen-based terrorist attacks by the Houthis. The 2022 Worldwide Threat Assessment by the Defense Intelligence Agency (DIA) notes that within the past year, Tehran provided the Houthis with the Shahed-136, one of the Islamic Republic's most advanced kamikaze drones, bolstering the terrorist group's long-range strike capabilities.⁶⁹

Iran has plotted attacks against dissidents on European soil, including in Denmark, France, the Netherlands, Belgium, and Albania.⁷⁰ In late April, media outlets reported that a Quds Force operative plotted to assassinate an Israeli national who worked at the Israeli consulate in Istanbul, an American general in Germany, and a French journalist.⁷¹ The specific identities of the targets remain unknown. According to reports, the Israeli Mossad intelligence agency prevented the assassinations.⁷²

Over the years, Iran has sponsored several high-profile terrorist attacks targeting Americans and Jews. According to the U.S. Department of Defense, the IRGC is responsible for the murder of at

⁶⁶ See, for example: Behnam Ben Taleblu, "Countering Iranian Proxies in Iraq," *Testimony Before the House Foreign Affairs Committee Subcommittee on Terrorism, Nonproliferation and Trade*, September 26, 2018. (<https://docs.house.gov/meetings/FA/FA18/20180926/108719/HHRG-115-FA18-Wstate-TalebluB-20180926.pdf>); Nakissa Jahanbani, "Beyond Soleimani: Implications for Iran's Proxy Network in Iraq and Syria," *Combating Terrorism Center*, January 10, 2020. (<https://ctc.usma.edu/beyond-soleimani-implications-irans-proxy-network-iraq-syria>); Behnam Ben Taleblu, "New Leader Takes Helm of Iranian Proxy Forces in Iraq," *Foundation for Defense of Democracies*, February 26, 2020. (<https://www.fdd.org/analysis/2020/02/26/new-leader-takes-helm-of-iranian-proxy-forces-in-iraq>); Mark Dubowitz and Behnam Ben Taleblu, "March 30, 2020 | Policy Brief Treasury Sanctions Quds Force Fronts in Iraq," *Foundation for Defense of Democracies*, March 30, 2020. (<https://www.fdd.org/analysis/2020/03/30/treasury%20sanctions-quds%20force-fronts-in-iraq%20>)

⁶⁷ U.S. Department of State, Bureau of Counterterrorism, "Country Reports on Terrorism 2020: Iran," December 16, 2021. (<https://www.state.gov/reports/country-reports-on-terrorism-2020/iran>)

⁶⁸ See: David Adesnik and Behnam Ben Taleblu, "Burning Bridge: The Iranian Land Corridor to the Mediterranean," *Foundation for Defense of Democracies*, June 2019. (<https://www.fdd.org/wp-content/uploads/2019/06/fdd-report-burning-bridge.pdf>)

⁶⁹ Lieutenant General Scott Berrier, "Statement for the Record: Worldwide Threat Assessment," *Testimony Before the Senate Armed Services Committee*, April 2022, page 27. (<https://www.armed-services.senate.gov/imo/media/doc/Berrier%20Statement%20to%20SASC.pdf>)

⁷⁰ Toby Dershowitz and Dylan Gresik, "Iranian intelligence plot reaches US soil — and should complicate negotiations," *The Hill*, August 13, 2021. (<https://thehill.com/opinion/international/567715-iranian-intelligence-plot-reaches-us-soil-and-should-complicate>)

⁷¹ Maryam Sinaee, "Exclusive: IRGC Operative Admits To Assassination Plots In Europe," *Iran International*, April 30, 2022. (<https://www.iranintl.com/en/202204301212>)

⁷² Jonathan Lis and Ben Samuels, "Mossad Foils Iranian Plot to Assassinate Israeli Consulate Worker, U.S. General," *Haaretz* (Israel), April 30, 2022. (<https://www.haaretz.com/israel-news/mossad-foils-iranian-plot-to-assassinate-israeli-consulate-worker-u-s-general-1.10771547>)

least 603 U.S. troops in Iraq.⁷³ Other attacks include the bombing of the U.S. embassy and Marine barracks in Beirut (1983), the Israeli embassy in Buenos Aires (1992), a Jewish community center in Buenos Aires (1994), and the Khobar Towers in Saudi Arabia (1996).

One of the masterminds of the 1994 attack, Mohsen Rezaei, is a current vice president of Iran and a former commander-in-chief of the IRGC. A member of the ultra-hardline cabinet of President Ebrahim Raisi, Rezaei will reportedly receive sanctions relief under the new deal.⁷⁴ Nearly 40 percent of Raisi's cabinet is subject to some form of sanctions by the United States, European Union, United Kingdom, United Nations, or Interpol.⁷⁵

Iran also cooperates with al-Qaeda. "Iran has allowed [al-Qaeda] facilitators to operate a core facilitation pipeline through Iran since at least 2009, enabling [al-Qaeda] to move funds and fighters to South Asia and Syria, among other locales," a State Department report assessing Iran's 2020 terrorist record states.⁷⁶ The Treasury Department has previously sanctioned a number of Iranians for this al-Qaeda facilitation.⁷⁷ According to the DIA, the terrorist group's "Iran-based senior leaders oversee its global network and issue guidance" to al-Qaeda affiliates "on media releases and strategy."⁷⁸

In 2011, the IRGC plotted an attack on U.S. soil by planning to assassinate the Saudi ambassador to the United States, Adel al-Jubeir, at a popular restaurant in Washington, DC. Then-Attorney General Eric Holder declared that the plot was "directed and approved by elements of the Iranian government and, specifically, senior members of the Quds Force."⁷⁹ An Iranian agent pleaded guilty to the crime and received a sentence of 25 years in prison.⁸⁰

Iran has also threatened former Secretary of State Mike Pompeo, former Special Representative for Iran Brian Hook, and former National Security Adviser John Bolton.⁸¹ The DIA reports that

⁷³ Kyle Rempfer, "Iran killed more US troops in Iraq than previously known, Pentagon says," *Military Times*, April 4, 2019. (<https://www.militarytimes.com/news/your-military/2019/04/04/iran-killed-more-us-troops-in-iraq-than-previously-known-pentagon-says>)

⁷⁴ Gabriel Noronha, "This Isn't Obama's Iran Deal. It's Much, Much Worse." *Tablet*, March 7, 2022. (<https://www.tabletmag.com/sections/news/articles/this-isnt-obamas-iran-deal-its-much-much-worse>)

⁷⁵ Behnam Ben Taleblu, "The Sanctioned Cabinet of Ebrahim Raisi," *Foundation for Defense of Democracies*, September 30, 2021. (<https://www.fdd.org/analysis/2021/09/30/the-sanctioned-cabinet-of-ebrahim-raisi>)

⁷⁶ U.S. Department of State, Bureau of Counterterrorism, "Country Reports on Terrorism 2020: Iran," December 16, 2021. (<https://www.state.gov/reports/country-reports-on-terrorism-2020/iran>)

⁷⁷ U.S. Department of the Treasury, Press Release, "Treasury Designates Three Senior Al-Qaida Members," July 20, 2016. (<https://home.treasury.gov/news/press-releases/jl0523>); U.S. Department of the Treasury, Press Release, "Treasury Targets Al Qaida Operatives in Iran," January 16, 2009. (<https://home.treasury.gov/news/press-releases/hp1360>)

⁷⁸ Lieutenant General Scott Berrier, "Statement for the Record: Worldwide Threat Assessment," *Testimony Before the Senate Armed Services Committee*, April 2022, page 36. (<https://www.armed-services.senate.gov/imo/media/doc/Berrier%20Statement%20to%20SASC.pdf>)

⁷⁹ Robert Tait, "Iran Assassination Plot Raises Questions," *Radio Free Europe/Radio Liberty*, October 12, 2011. (<https://www.rferl.org/a/iran-assassination-plot-raises-questions/24357565.html>)

⁸⁰ Mark Dubowitz and Ray Takeyh, "Labeling Iran's Revolutionary Guard," *Foreign Affairs*, March 6, 2017. (<https://www.foreignaffairs.com/articles/iran/2017-03-06/labeling-irans-revolutionary-guard>)

⁸¹ Margaret Brennan, "U.S. intelligence shows Iran threats on U.S. soil, but Blinken and Schiff say this shouldn't derail new nuclear deal," *CBS News*, March 12, 2022. (<https://www.cbsnews.com/news/iran-threats-pompeo->

Iranian officials “probably are planning covert actions against U.S. officials to retaliate” for America’s killing of IRGC Quds Force commander Qassem Soleimani in 2020.⁸² In 2019, the regime also sanctioned and threatened me and FDD. In 2020, Tehran sanctioned FDD’s Richard Goldberg, a former White House official and congressional staffer. In 2022, it sanctioned FDD’s Matthew Pottinger, a former deputy national security advisor, and FDD’s Reuel Marc Gerecht, a former CIA Middle East operations officer.

The IRGC has cooperated with Damascus and Moscow to launch a devastating campaign in Syria, which has featured Syrian use of chemical weapons and led to the deaths of hundreds of thousands of Syrians and the displacement of millions more.

The IRGC also helps run Iran’s nuclear program. As Olli Heinonen, a former deputy director general for safeguards at the IAEA, put it, the “IRGC has played a pivotal role in Iran’s nuclear program,” and the organization “plays that role still today.”⁸³ Mohsen Fakhrizadeh, the founding father of Iran’s nuclear program, previously served as an IRGC officer.⁸⁴ Israel killed him in 2020. Since 2021, the regime has tasked the IRGC with securing Iran’s nuclear facilities and protecting its personnel.⁸⁵

Implications of the IRGC’s Designations as an FTO and as a Specially Designated Global Terrorist (SDGT)

As FDD’s Matthew Zweig explains,⁸⁶ the executive branch employs two primary designations to target terrorist groups: the SDGT and the FTO, both of which President Trump used to designate the IRGC in 2017 and 2019, respectively. Taken together, these two designations pack a powerful one-two punch. Rescinding either one of them would significantly undermine Washington’s ability to combat the IRGC.

Congress formally established the FTO list in 1996, giving the secretary of state the authority to designate as FTOs those whose terroristic activities threaten “the security of United States

[nuclear-deal](#)); Tom Rogan, “Iran plotting assassination of John Bolton, others, even while Biden negotiates nuclear deal,” *Washington Examiner*, March 7, 2022. (<https://www.washingtonexaminer.com/restoring-america/courage-strength-optimism/iran-plotting-assassination-of-john-bolton-others-even-while-biden-negotiates-nuclear-deal>)

⁸² Lieutenant General Scott Berrier, “Statement for the Record: Worldwide Threat Assessment,” *Testimony Before the Senate Armed Services Committee*, April 2022, page 24. (<https://www.armed-services.senate.gov/imo/media/doc/Berrier%20Statement%20to%20SASC.pdf>)

⁸³ @OlliHeinonen, “If the US joins the deal, it will be part of the policy. What is in the deal, is not that easy to amend as the history shows. It is also not only about the Quds Force of the IRGC. The IRGC has played a pivotal role in Iran’s nuclear program. And plays that role still today. 1/7,” *Twitter*, April 29, 2022. (<https://twitter.com/OlliHeinonen/status/1520207640126791681>)

⁸⁴ David Albright with Sarah Burkhard and the Good ISIS team, *Iran’s Perilous Pursuit of Nuclear Weapons* (Washington, DC: Institute for Science and International Security Press, 2021), page 18.

⁸⁵ Kitaneh Fitzpatrick, “The IRGC’s recently-acquired responsibility for securing nuclear sites may change the Iran-Israel escalation pattern and intra-regime dynamics,” *American Enterprise Institute’s Critical Threats Project*, July 19, 2021. (<https://www.criticalthreats.org/analysis/The-IRGC%E2%80%99s-recently-acquired-responsibility-for-securing-nuclear-sites-may-change-the-Iran-Israel-escalation-pattern-and-intra-regime-dynamics>)

⁸⁶ Matthew Zweig, “Foreign Terrorist Organization (FTO) Designation and Specially Designated Global Terrorist (SDGT) Designation,” *Foundation for Defense of Democracies*, April 21, 2022. (<https://www.fdd.org/analysis/2022/04/21/foreign-terrorist-organization-fto-designation-and-specially-designated-global-terrorist-sdgt-designation>)

nationals” or the “national defense, foreign relations, or economic interests of the United States.”⁸⁷

In 2001, in the aftermath of 9/11, President George W. Bush issued Executive Order (E.O.) 13224, which created the legal architecture for an SDGT designation, specifically targeting terrorism financiers.⁸⁸ In 2017, while the United States remained a participant in the JCPOA, Congress near-unanimously passed the Countering America’s Adversaries Through Sanctions Act (CAATSA), which directed the Trump administration to designate the IRGC as an SDGT pursuant to E.O. 13224. The statute notes the IRGC’s role as the “arm of the Government of Iran for executing its policy of supporting terrorist and insurgent groups.” CAATSA also mandated sanctions on entities connected to the IRGC. Trump obeyed the congressional mandates.⁸⁹

FDD’s Matthew Zweig explains that while FTO and SDGT designations may seem to overlap, they bear important practical differences. (See Exhibit C.) For example, as the next subsection elaborates, unlike an SDGT designation, an FTO designation makes it easier for terror victims — including Gold Star families — to seek legal action against Iran for civil damages.

An FTO designation also imposes a lower legal threshold for criminal prosecution for providing material support to terrorist organizations. With an SDGT designation, U.S. prosecutors must prove that U.S. persons who provided support to a terrorist organization did so “willfully.”⁹⁰ But with an FTO designation, prosecutors must prove only that the violators should have known that they were supporting a terrorist organization. Entities and individuals must therefore conduct enhanced due diligence measures to remain compliant with U.S. law regarding FTOs.

Furthermore, the FTO designation imposes higher criminal penalties — as opposed to civil penalties — for violators. Anyone who “knowingly” provides material support or resources to an FTO or attempts or conspires to do so could face imprisonment of up to 20 years or — if that support results in the death of any person — life imprisonment.⁹¹ By contrast, an SDGT designation carries a maximum penalty of 20 years in prison and a \$1 million fine for any U.S. person who “willfully” provides material support or resources to an SDGT — a higher standard to prove.

Likewise, the FTO designation allows the U.S. government to prosecute even non-U.S. nationals who commit terrorist acts overseas, whereas the SDGT designation allows for prosecution only

⁸⁷“Designation of foreign terrorist organizations,” 8 U.S.C. §1189.

([http://uscode.house.gov/view.xhtml?req=\(title:8%20section:1189%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title8-section1189\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:8%20section:1189%20edition:prelim)%20OR%20(granuleid:USC-prelim-title8-section1189)&f=treesort&edition=prelim&num=0&jumpTo=true))

⁸⁸ Executive Order 13224, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism,” September 23, 2001.

(<https://www.federalregister.gov/documents/2001/09/25/01-24205/blocking-property-and-prohibiting-transactions-with-persons-who-commit-threaten-to-commit-or-support>)

⁸⁹ Countering America’s Adversaries Through Sanctions Act of 2017, Pub. L. 115-44, 131 Stat. 892, codified as amended at 22 U.S.C. §9404. (<https://www.congress.gov/bill/115th-congress/house-bill/3364>)

⁹⁰ “Global Terrorism Sanctions Designations,” 31 C.F.R. §594. (<https://www.ecfr.gov/current/title-31/subtitle-B/chapter-V/part-594>)

⁹¹ “Designation of foreign terrorist organizations,” 8 U.S.C. §1189.

([http://uscode.house.gov/view.xhtml?req=\(title:8%20section:1189%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title8-section1189\)&f=treesort&edition=prelim&num=0&jumpTo=true](http://uscode.house.gov/view.xhtml?req=(title:8%20section:1189%20edition:prelim)%20OR%20(granuleid:USC-prelim-title8-section1189)&f=treesort&edition=prelim&num=0&jumpTo=true))

Exhibit C



Foreign Terrorist Organization (FTO) Designation and Specially Designated Global Terrorist (SDGT) Designation

Together, the Foreign Terrorist Organization (FTO) and Specially Designated Global Terrorist (SDGT) designations pack a powerful **one-two punch**. Removing either would weaken Washington’s ability to target Iran’s Islamic Revolutionary Guard Corps (IRGC).

Impact	FTO	SDGT
Victims — including Gold Star Families — can sue for civil damages arising from the provision of material support to a terrorist organization	Yes	No
Allows for U.S. government asset freezes/financial sanctions	Yes (for entities in U.S. jurisdiction only)	Yes (to include targeting of any financial institution connected to U.S. financial system)
Bans U.S. visa issuance and admission into the United States	Yes	No
Legal threshold for criminal prosecution for providing material support to a terrorist organization	Conviction requires proof that violators knew they were providing support to an organization engaged in terrorism	Conviction requires proof that a U.S. person “willfully” provided support to a terrorist organization — a <i>higher standard of proof</i>
Extraterritorial application	Yes (explicitly stated; applicable anywhere to anyone)	Yes (not explicitly stated; applicable only to U.S. persons or anyone who causes a U.S. person to violate sanctions against an SDGT)
Criminal penalty for providing material support to a terrorist organization	Up to life in prison	Up to 20 years in prison
Violators subject to civil fines and property forfeitures	Yes	Yes

 *For more information and sources, see FDD Visual: Foreign Terrorist Organization Designation and Specially Designated Global Terrorist Designation*

of individuals or entities subject to U.S. jurisdiction, wherever located. Moreover, unlike an SDGT designation, an FTO designation bans the designated party from receiving a U.S. visa or otherwise entering the United States.

Thus, an FTO designation brings far greater criminal exposure for a wider range of violators than an SDGT designation, although both carry substantial criminal penalties. Companies that do business or interact in any way with an FTO immediately face increased legal, financial, and reputational risk, pressuring them to rapidly sever those ties. The day after the IRGC’s FTO designation in 2019, for example, Instagram blocked the accounts of Qassem Soleimani and

several other senior IRGC leaders. Washington had already designated Soleimani as an SDGT — an individual designation that did not directly influence corporate behavior.

In one important way, however, an SDGT is more powerful than an FTO designation. In 2019 President Trump issued EO 13886,⁹² which amended E.O. 13224 to authorize the application of secondary sanctions on any foreign individuals or entities, including businesses, that allow an SDGTs to use their services. This move further increased the risk associated with providing financial services to terrorists, including by threatening U.S. financial sanctions against any foreign financial institution that engages in such activity.

The FTO and SDGT designations also have broader consequences for the impact of U.S. sanctions policy as a whole. As former Treasury official Matthew Levitt put it, “dropping the FTO designation prematurely could undermine the efficacy of other non-nuclear sanctions.” As such, he continued, “to protect the credibility of U.S. sanctions authorities worldwide, Washington should only provide relief from terrorism-related penalties in response to changes in Iran’s support for terrorism, not as a side benefit of a nuclear deal.”⁹³ Former White House administration officials Victoria Coates and Robert Greenway have advanced a similar argument. If Washington delists the IRGC, they write, U.S. sanctions will “henceforth seem negotiable in nature and not tethered to the behavior they are designed to punish.”⁹⁴

Impact of FTO and SDGT Designations on Civil Suits Against Iran

As FDD’s Richard Goldberg and Matthew Zweig explain,⁹⁵ the IRGC’s removal from the FTO list would have direct implications for the ability of victims of Iranian terrorism to litigate against Tehran in U.S. courts. In 1992, Congress amended the Antiterrorism Act (ATA) of 1990 to allow American victims of international terrorism to file civil suits for their injuries. Thus, the civil litigation risk for companies and individuals working with the IRGC is substantial. Congress has repeatedly acted to facilitate lawsuits against aiders and abettors of terrorism.

If the IRGC continues to kill or injure U.S. citizens in conflict zones such as Iraq and Syria, the IRGC’s FTO designation would make it far more straightforward for the victims or their families to sue not only the IRGC but also anyone who provided material support to the IRGC.

Before the IRGC’s FTO designation, a federal district court dismissed a civil action against a European bank alleged to have criminally conspired with IRGC agents to launder hundreds of billions of dollars through the U.S. financial system. The court held that the connection between

⁹² Executive Order 13886, “Modernizing Sanctions To Combat Terrorism,” September 9, 2019.

(<https://www.federalregister.gov/documents/2019/09/12/2019-19895/modernizing-sanctions-to-combat-terrorism>)

⁹³ Matthew Levitt, “Don’t Drop Iran’s Revolutionary Guards from FTO List,” *Washington Institute for Near East Policy*, March 21, 2022. (<https://www.washingtoninstitute.org/policy-analysis/dont-drop-irans-revolutionary-guards-fto-list>)

⁹⁴ Victoria Coates and Robert Greenway, “We put Iran’s Revolutionary Guard on the terrorist list. Biden must keep it there,” *The Washington Post*, March 23, 2022. (<https://www.washingtonpost.com/opinions/2022/03/23/greenway-coates-iran-revolutionary-guards-terrorist-list>)

⁹⁵ Matthew Zweig and Richard Goldberg, “Rescinding the IRGC’s Terror Designation Would Harm American Victims of Terrorism,” *Foundation for Defense of Democracies*, May 14, 2021. (<https://www.fdd.org/analysis/2021/05/14/rescinding-the-irgcs-terror-designation>)

the bank's conduct and the acts of terrorism was too attenuated to create liability, apparently in part because the IRGC itself lacked an FTO designation at the time of the attacks and was not engaged solely in terrorism. The U.S. Court of Appeals for the Seventh Circuit and the U.S. Supreme Court subsequently affirmed the dismissal.⁹⁶

With the FTO designation, that defense would likely no longer be successful, particularly given the Supreme Court's affirmation of Congress' contention that "foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct."⁹⁷ The U.S. government's FTO designation against the IRGC and scrutiny of its economic empire facilitate successful civil actions against banks or other companies that knowingly do business with the IRGC's expansive business network. The FTO designation makes it more difficult for these banks and companies to escape prosecution by relying on a defense of willful blindness to the IRGC's relationship with their business partners.

A recent Supreme Court judgment held that victims suing a foreign government entity under the state-sponsored terrorism exception to the Foreign Sovereign Immunities Act may obtain punitive damages.⁹⁸ While the case involved Sudan rather than Iran, it appears to have set a precedent that victims suing the IRGC directly may obtain retroactive punitive damages from Iran for attacks that occurred prior to the IRGC's FTO designation. Now victims suing under the ATA may be able to use that judgment to attach assets involved in IRGC-connected economic activity. Since the IRGC mainly operates in foreign jurisdictions beyond the reach of U.S. courts, the prime targets of ATA civil actions are foreign companies and banks proven to have knowingly transacted with the IRGC.

International shipping companies and banks, for example, that provide trade finance or otherwise knowingly process financial transactions for the IRGC or its agents may also be subject to potential civil suits in the United States, regardless of where the transactions take place. Transactions with shipping terminals and port authorities controlled by designated IRGC affiliates — such as Iranian port operator Tidewater Middle East Company, which the United States designated as an IRGC-controlled entity in 2011⁹⁹ — could result in exposure to civil liability.

A rescission of the IRGC's FTO designation would have far-reaching detrimental consequences for the ability of U.S. victims of Iranian terrorism to pursue their claims. Currently, there are well over \$50 billion in default judgements against Iran on behalf of U.S. victims of terrorism. Moreover, there are assets in the United States identified as owned by the government of Iran. These assets include 650 5th Avenue in New York City and \$1.67 billion in assets held by the Luxembourg-based bank Clearstream SA. The Biden administration and Congress should do

⁹⁶ "Rubin v. Iran," *Ballotpedia*, accessed May 3, 2022. (https://ballotpedia.org/Rubin_v._Iran); Jonathan Stempel, "Nine banks win dismissal of Iran terrorism financing lawsuit: U.S. judge," *Reuters*, March 29, 2019. (<https://www.reuters.com/article/us-iran-banks-lawsuit-idUSKCN1RA214>)

⁹⁷ "Holder v. Humanitarian Law Project, 561 U.S. 1 (2010)," *Justia*, accessed May 3, 2022. (<https://supreme.justia.com/cases/federal/us/561/1/>)

⁹⁸ *Opati v. Republic of Sudan*, (U.S. Supreme Court, May 18, 2020). (https://www.supremecourt.gov/opinions/19pdf/17-1268_c07d.pdf)

⁹⁹ U.S. Department of the Treasury, Press Release, "Fact Sheet: Treasury Sanctions Major Iranian Commercial Entities," June 23, 2011. (<https://home.treasury.gov/news/press-releases/tg1217>)

everything possible to enable victims to execute judgements against these assets — not undermine them.

Sanctions Against the CBI

In addition to the FTO and SDGT designations of the IRGC, the United States designated the Central Bank of Iran in September 2019 as an SDGT under E.O. 13224 for providing “billions of dollars to the Islamic Revolutionary Guards Corps (IRGC), its Qods Force (IRGC-QF) and its terrorist proxy, Hizballah.” The State Department¹⁰⁰ and Treasury Department¹⁰¹ announcements of that designation prominently noted the financial support the bank provides to Hizballah, as documented in intelligence reviewed by the two departments’ career professionals. To undo such sanctions, a future president would have to stipulate affirmatively that the Islamist group no longer engages in terrorism.

As FDD’s Richard Goldberg, Matthew Zweig, and Alireza Nader write,¹⁰² Iranian financial institutions, including the CBI, have played a key role in terrorist activities. The United States has long identified the CBI as the principal Iranian government entity responsible for providing funding to terrorist organizations. In 2006, then-Secretary of State Condoleezza Rice labeled Iran “the central banker of terrorism.”¹⁰³ In 2007, the U.S. Financial Crimes Enforcement Network (FinCEN) issued an advisory on the Iranian financial system, reminding financial institutions about U.S. sanctions applied to Iranian government-owned banks and other entities owing to their links to terrorist activity and proliferation.¹⁰⁴ Subsequent designations by the U.S. Treasury Department noted the role of the CBI in financing terrorism.¹⁰⁵

In November 2011, under the Obama administration, FinCEN published a draft rule designating Iran as a jurisdiction of primary money laundering concern, noting that “Iranian financial institutions, including the Central Bank of Iran ... and other state-controlled entities, willingly engage in deceptive practices to disguise illicit conduct” such as support for proliferation and terrorism.¹⁰⁶ While not binding, banks largely complied with the draft rule.

¹⁰⁰ Secretary of State Michael R. Pompeo, U.S. Department of State, Press Statement, “U.S. Sanctions Iran’s Central Bank, National Development Fund, and Etemad Tejarat Pars,” September 20, 2019. (<https://2017-2021.state.gov/u-s-sanctions-irans-central-bank-national-development-fund-and-etemad-tejarat-pars/index.html>)

¹⁰¹ U.S. Department of the Treasury, Press Release, “Treasury Sanctions Iran’s Central Bank and National Development Fund,” September 20, 2019. (<https://home.treasury.gov/news/featured-stories/treasury-sanctions-irans-central-bank-and-national-development-fund>)

¹⁰² Richard Goldberg, Matthew Zweig, and Alireza Nader, “Biden Administration Should Not Provide Sanctions Relief for Terrorism,” *Foundation for Defense of Democracies*, February 22, 2021. (<https://www.fdd.org/analysis/2021/02/22/biden-should-not-provide-sanctions-relief>)

¹⁰³ “Rice: Iran ‘Central Banker’ For Terror,” *CBS News*, March 16, 2006. (<https://www.cbsnews.com/news/rice-iran-central-banker-for-terror/>)

¹⁰⁴ U.S. Department of the Treasury, Financial Crimes Enforcement Network, Advisory, “Guidance to Financial Institutions on the Increasing Money Laundering Threat Involving Illicit Iranian Activity,” October 1, 2007. (<https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2007-a001>)

¹⁰⁵ U.S. Department of the Treasury, Press Release, “Fact Sheet: Designation of Iranian Entities and Individuals for Proliferation Activities and Support for Terrorism,” October 25, 2007. (<https://home.treasury.gov/news/press-releases/hp644>)

¹⁰⁶ Finding That the Islamic Republic of Iran Is a Jurisdiction of Primary Money Laundering Concern, U.S. Department of the Treasury, Financial Crimes Enforcement Network, 76 Federal Register 72756, November 25,

While Congress is divided on policy toward Iran, there is bipartisan agreement on the use of sanctions against Hizballah, which has ample American blood on its hands and boasts an arsenal of 150,000 rockets trained on Israeli targets, including cities. The Hizballah International Financing Prevention Amendments Act (HIFPAA), which Congress overwhelmingly passed in 2018, mandates the application of sanctions against any agency or instrumentality of a foreign state — such as the CBI — that provides financial support to Hizballah. These sanctions are mandatory, and it is possible that the Biden administration will seek to waive statutory Hizballah sanctions in addition to the delistings and licenses pending before Congress today.

Sanctions Against the National Iranian Oil Company (NIOC) and the National Iranian Tanker Company (NITC)

The new nuclear deal, if it goes ahead, will reportedly lift SDGT designations on the state-run NIOC and its subsidiary NITC.¹⁰⁷ President Obama first sanctioned NIOC in 2012 under E.O. 13662 but lifted the designation in 2016 pursuant to the JCPOA. In 2020, the Trump administration redesignated NIOC for its financial support for the IRGC Quds Force. “In spring 2019 alone,” stated the Treasury Department, “an IRGC-QF-led network employed more than a dozen NITC vessels to transport nearly 10 million barrels of crude oil, mostly destined for the Assad regime. Iran continues to perpetuate the Syrian conflict with these kinds of transactions.”¹⁰⁸

The NIOC and NITC designations are the result of thorough U.S. intelligence, legal, and policy assessments of their records. As Gabriel Noronha writes, NIOC and NITC were

sanctioned under counterterrorism authorities approved by career interagency lawyers, including from the Department of Justice and Department of the Treasury. These sanctions came from a rigorous interagency process that ensured we would not impose them haphazardly; but once such a determination is made, they are not supposed to be lifted until it can be proven the sanctioned entities [no] longer support terrorism.¹⁰⁹

The Biden Administration’s Commitment to Terrorism Sanctions

The IRGC’s bloody record initially led President Biden and his senior officials to pledge that Washington would retain non-nuclear sanctions against Iran even under a new deal. But the administration is poised to break that pledge if the new deal goes through, by lifting scores of terrorism, missile, and human rights designations.

2011. (<https://www.federalregister.gov/documents/2011/11/25/2011-30332/finding-that-the-islamic-republic-of-iran-is-a-jurisdiction-of-primary-money-laundering-concern?msclkid=dc6fd4cbab0611ec9aa953065b44dbd9>)

¹⁰⁷ Gabriel Noronha, “This Isn’t Obama’s Iran Deal. It’s Much, Much Worse.” *Tablet*, March 7, 2022. (<https://www.tabletmag.com/sections/news/articles/this-isnt-obamas-iran-deal-its-much-much-worse>)

¹⁰⁸ U.S. Depart of the Treasury, Press Release, “Treasury Sanctions Key Actors in Iran’s Oil Sector for Supporting Islamic Revolutionary Guard Corps-Quds Force,” October 26, 2020. (<https://home.treasury.gov/news/press-releases/sm1165>)

¹⁰⁹ Gabriel Noronha, “This Isn’t Obama’s Iran Deal. It’s Much, Much Worse.” *Tablet*, March 7, 2022. (<https://www.tabletmag.com/sections/news/articles/this-isnt-obamas-iran-deal-its-much-much-worse>)

In a September 2020 op-ed for CNN, then-candidate Biden wrote, “We will continue to use targeted sanctions against Iran’s human rights abuses, its support for terrorism and ballistic missile program.”¹¹⁰ During Secretary Blinken’s confirmation hearing before this committee in January 2021, a senator asked him whether he thought lifting terrorism sanctions would advance U.S. national security interests. “I do not,” Blinken responded, “and I think there is nothing ... inconsistent with making sure that we are doing everything possible, including the toughest possible sanctions, to deal with Iranian support for terrorism.”¹¹¹

During her confirmation hearing before this committee in March 2021, Deputy Secretary of State Wendy Sherman expressed a similar view. “It is a fair statement,” she said, “that we have to keep sanctions on that deal with human rights abuses, state sponsorship of terrorism, arms sales, et cetera.”¹¹² Likewise, during his confirmation hearing the same month, Under Secretary of Defense for Policy Colin Kahl said that Washington “should not be loosening sanctions on terrorism or human rights or anything else that checks back Iran’s destabilizing activities.”¹¹³

If the Biden administration lifts terrorism and human rights sanctions on the regime in Iran, top officials will have broken their commitments to your committee as well as to the Senate Armed Services Committee, and will have undermined peaceful tools of American power to counter the Islamic Republic’s misconduct.

The New Deal’s Nuclear Inspections Regimen

The new deal will not meaningfully constrain Iran’s nuclear activities any more than its predecessor did. These activities continue today. In March, Tehran and the IAEA reached an agreement that would require Iran to explain the presence of uranium particles at three undeclared nuclear sites.¹¹⁴ President Biden’s team agreed to give the IAEA until June to keep trying to get answers regarding the three sites. After that, if past is precedent, the Biden team will likely ignore Iran’s nuclear intransigence and block punitive action by the IAEA Board of Governors.¹¹⁵

After it gets substantial sanctions relief, Iran will have no incentive to cooperate with the IAEA or to fully account for its nuclear weapons work at the three remaining sites (or any other sites or activities subsequently discovered). Tehran would also lack any incentive to be transparent about

¹¹⁰ Joe Biden, “Joe Biden: There’s a smarter way to be tough on Iran,” *CNN*, September 13, 2020.

(<https://www.cnn.com/2020/09/13/opinions/smarter-way-to-be-tough-on-iran-joe-biden/index.html>)

¹¹¹ Anthony Blinken, *Testimony Before the Senate Committee on Foreign Relations*, January 19, 2021.

(<https://www.foreign.senate.gov/hearings/nominations-011921>)

¹¹² Wendy Sherman, *Testimony Before the Senate Committee on Foreign Relations*, March 3, 2021.

(<https://www.foreign.senate.gov/hearings/nominations-030321>)

¹¹³ Colin Kahl, *Testimony Before the Senate Committee on Armed Services*, March 4, 2021. (https://www.armed-services.senate.gov/imo/media/doc/21-08_03-04-2021.pdf). See also: Tzvi Kahn, “Biden and Obama Previously Defended Non-Nuclear Sanctions on Iran,” *Foundation for Defense of Democracies*, April 29, 2021.

(<https://www.fdd.org/analysis/2021/04/29/biden-and-obama-previously-defended-non-nuclear-sanctions-on-iran>)

¹¹⁴ Francois Murphy and Parisa Hafezi, “Iran, IAEA agree timeline to remove obstacle to reviving nuclear deal,” *Reuters*, March 5, 2022. (<https://www.reuters.com/business/energy/iaea-chief-says-nuclear-deal-not-possible-until-iran-resolves-its-issues-with-2022-03-05>)

¹¹⁵ Anthony Ruggiero and Andrea Stricker, “The Good, the Bad, and the Ugly of the IAEA’s New Iran Agreement,” *The Dispatch*, March 11, 2022. (<https://www.fdd.org/analysis/2022/03/11/good-bad-ugly-iaeas-new-iran-agreement>)

its past activities. Even if IAEA Director General Rafael Grossi reports to the board that Iran has not cooperated with the safeguards probe, the parties to the JCPOA are unlikely to put the nuclear deal's continued implementation at risk by censuring Iran.¹¹⁶

In this regard, the IAEA seems to be repeating the same mistake it made in December 2015, when the agency dropped its investigation of the PMD of Iran's nuclear program. In so doing, the IAEA left unanswered a series of questions about Iran's atomic program.

The JCPOA and its successor accord therefore do not put Iran's nuclear program "back in the box," as Secretary Blinken claimed.¹¹⁷ Rather, as FDD's Richard Goldberg put it, "If you want to call this a box, it's the first box that's ever been in existence that has no top or side, because Iran gets to keep all of this enrichment capability on hand."¹¹⁸ Under the deal, Iran would keep that capability and would be permitted to further expand it.

Under a new deal, Iran likely will be permitted to store more than 2,000 of its fastest, most advanced centrifuge machines, meaning they would be physically accessible should Tehran renege on its commitments.¹¹⁹ Iran may begin enriching uranium using thousands of models of advanced centrifuges in 2027. Tehran would also be permitted to stockpile an additional 2,400 of its most advanced centrifuges by 2029.¹²⁰

As a result, Iran's breakout time will shorten over the course of a new deal.¹²¹ The Islamic Republic would retain the technical capability to ramp up uranium enrichment at will, meaning there would be no practical restriction preventing Tehran from rapidly breaking out using declared facilities or "sneaking out" to atomic weapons using a few hundred centrifuges moved to clandestine facilities.

In light of this reality, writes former IAEA official Olli Heinonen, "It is essential that the JCPOA, if it is reintroduced, has new provisions to address [Iran's] nuclear weapons activities and that those experiments and capabilities have been verifiably and irreversibly dismantled."¹²²

¹¹⁶ Ibid.

¹¹⁷ Matthew Lee, "Blinken reassures allies ahead of possible Iran deal," *Associated Press*, March 27, 2022. (<https://apnews.com/article/middle-east-iran-israel-antony-blinken-nuclear-weapons-921c10306aa4add89d137a896bfcd6e3>)

¹¹⁸ Interview with Richard Goldberg, March 23, 2022.

¹¹⁹ David Albright, Sarah Burkhard, and Spencer Faragasso, "Updated Highlights of Comprehensive Survey of Iran's Advanced Centrifuges," *Institute for Science and International Security*, March 17, 2022. (<https://isis-online.org/isis-reports/detail/updated-highlights-of-comprehensive-survey-of-irans-advanced-centrifuges>)

¹²⁰ "Iran's Long-Term Centrifuge Enrichment Plan: Providing Needed Transparency," *Institute for Science and International Security*, April 25, 2019. (<https://isis-online.org/isis-reports/detail/irans-long-term-centrifuge-enrichment-plan-providing-needed-transparency/8>)

¹²¹ David Albright, Sarah Burkhard, and Spencer Faragasso, "Updated Highlights of Comprehensive Survey of Iran's Advanced Centrifuges," *Institute for Science and International Community*, March 17, 2022. (<https://isis-online.org/isis-reports/detail/updated-highlights-of-comprehensive-survey-of-irans-advanced-centrifuges>)

¹²² @OlliHeinonen, "These activities have taken place at the entities of the IRGC. It is essential that the JCPOA, if it is reintroduced, has new provisions to address the nuclear weapons activities and that those experiments and capabilities have been verifiably and irreversibly dismantled. 5/7," *Twitter*, April 29, 2022. (<https://twitter.com/OlliHeinonen/status/1520207648880214016>)

Iran's Ballistic Missile Program

As FDD's Behnam Ben Taleblu notes,¹²³ the new deal — like the 2015 accord — likely will do nothing to stymie Iran's ballistic missile program, which U.S. intelligence assesses as the largest in the Middle East.¹²⁴ The intelligence community also assesses that ballistic missiles are Tehran's "preferred method of delivering nuclear weapons."¹²⁵ Worse, if not amended, the nuclear deal will lift European Union sanctions by 2023 against a plethora of missile-related defense entities in Iran.¹²⁶ Since the JCPOA's finalization in 2015, the Islamic Republic has conducted more than 100 ballistic missile tests.¹²⁷

Iran uses ballistic missiles to threaten as well as punish its regional adversaries. The regime's ballistic missile program also offers Tehran a potential option to deliver weapons of mass destruction (WMD). In a December 2021 interview, U.S. Central Command Commander Gen. Kenneth McKenzie said Iran's missiles pose a more immediate threat than its nuclear program.¹²⁸ Tehran has spent the past decade growing the lethality of its ballistic missile arsenal — as well as other long-range strike systems such as drones and cruise missiles, which Tehran employed against Saudi oil facilities in 2019.¹²⁹

In addition, Iran is proliferating missile-related military technology to its terrorist proxies and supporting their local production of rockets and other projectiles for use in attacks on U.S. allies and partners.¹³⁰ Iran's proliferation of long-range strike capabilities to its so-called "Axis of Resistance" means that U.S. partners and allies in the region need to be concerned about and offset multi-directional attacks from different Iranian proxies that have the capability to expand

¹²³ Parts of this section previously appeared as an FDD op-ed: Behnam Ben Taleblu, "New Iran Nuclear Deal? Same Old Missile Problems," *The Dispatch*, March 8, 2022. (<https://thedispatch.com/p/new-iran-nuclear-deal-same-old-missile>). See also: Richard Goldberg, Matthew Zweig, Behnam Ben Taleblu, and Saeed Ghasseminejad, "Biden, Congress Should Defend Missile Sanctions Imposed on Iran," *Foundation for Defense of Democracies*, April 27, 2021. (<https://www.fdd.org/analysis/2021/04/27/biden-congress-should-defend-missile-sanctions-imposed-on-iran>)

¹²⁴ U.S. Office of the Director of National Intelligence, "Annual Threat Assessment of the U.S. Intelligence Community," February 2022, page 15. (<https://www.dni.gov/files/ODNI/documents/assessments/ATA-2022-Unclassified-Report.pdf>)

¹²⁵ Director of National Intelligence James R. Clapper, "Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community," *Testimony Before the Senate Armed Services Committee*, February 9, 2016. (https://www.dni.gov/files/documents/SASC_Unclassified_2016_ATA_SFR_FINAL.pdf)

¹²⁶ Behnam Ben Taleblu and Richard Goldberg, "Here's How the U.S. and EU Can Thwart Iranian Missile Programs," *Foreign Policy*, January 30, 2018. (<https://foreignpolicy.com/2018/01/30/heres-how-the-u-s-and-eu-can-thwart-iranian-missile-programs>)

¹²⁷ This figure is based on research for a forthcoming FDD monograph by Behnam Ben Taleblu.

¹²⁸ Robin Wright, "The Looming Threat of a Nuclear Crisis with Iran," *The New Yorker*, January 3, 2022. (<https://www.newyorker.com/magazine/2022/01/03/the-looming-threat-of-a-nuclear-crisis-with-iran>)

¹²⁹ Erin Cunningham and Rick Noack, "Iran's strategic use of drones and missiles rattles Middle East rivals," *The Washington Post*, September 16, 2019. (https://www.washingtonpost.com/world/irans-strategic-use-of-drones-and-missiles-rattles-middle-east-rivals/2019/09/16/64bb8894-d886-11e9-a1a5-162b8a9c9ca2_story.html)

¹³⁰ See: Behnam Ben Taleblu, "Redefining Iran's Role in its Latest 'Shadow War' Against Israel," *The National Interest*, May 24, 2021. (<https://nationalinterest.org/feature/redefining-iran%E2%80%99s-role-its-latest-%E2%80%98shadow-war%E2%80%99-against-israel-185947>); Behnam Ben Taleblu, "Solid-Propellant Motor Test Proves Iran's Continuing Missile Advancement," *The National Interest*, February 2, 2022. (<https://nationalinterest.org/feature/solid-propellant-motor-test-proves-iran%E2%80%99s-continuing-missile-advancement-200245>)

conflict zones. For example, earlier this year, the Iran-backed Houthi rebels in Yemen targeted the United Arab Emirates with ballistic missiles, cruise missiles, and drones.¹³¹

The more confident Tehran is in its ballistic missile capabilities, the more likely it may be to lower the threshold for their use. For example, in March 2022, Iran fired ballistic missiles at the home of a Kurdish oil magnate near a U.S. diplomatic facility in Erbil — the fifth ballistic missile operation originating from Iranian territory in recent years.¹³²

Tehran also aims to develop ICBMs under the cover of its space program, which the regime regularly employs to test space launch vehicles (SLV). Given that SLVs and ICBMs use similar technologies, an SLV program can inform an ICBM pathway through testing and studies of engines, staging, and more. As the State Department put it in 2019, “Iran’s civilian space launch vehicle program allows it to gain experience with various technologies necessary for development of an ICBM – including staging, ignition of upper-stage engines, and control of a multiple-stage missile throughout flight.”¹³³

The new ultra-hardline government of Ebrahim Raisi appears intent on bolstering Iran’s SLV program and is reinvigorating testing and development. Already, Iran has produced a new and larger solid-propellant motor for its SLVs,¹³⁴ raising concerns about Iranian intentions to expand the range of its ballistic missiles to the point that they could eventually target Europe or potentially even the American homeland.¹³⁵

As FDD’s Saeed Ghasseminejad observes,¹³⁶ Iran’s ballistic missile program is controlled by the IRGC, the dominant force in the country’s economy. To advance the program, the IRGC relies on universities and research institutions as well as key sectors of the Iranian economy, including the metallurgy, mining, chemicals, petrochemicals, energy, construction, automotive, electronic, telecommunication, and computer science sectors. Thus, any U.S. effort to stop the regime’s ballistic missile program will need to rely on robust sanctions against the IRGC. Unfortunately, a new deal likely would instead lift sanctions on the IRGC and IRGC-connected entities.

¹³¹ Natasha Turak, “Drone and missile attacks on the UAE shows its strengths more than vulnerabilities, security analysts say,” *CNBC*, February 11, 2022. (<https://www.cnbc.com/2022/02/11/attacks-on-uae-shows-its-strengths-more-than-vulnerabilities-analysts.html>); “UAE, U.S. intercept Houthi missile attack targeting Abu Dhabi,” *Associated Press*, January 25, 2022. (<https://www.nbcnews.com/news/world/uae-us-intercept-houthi-missile-attack-targeting-abu-dhabi-rcna13260>)

¹³² Behnam Ben Taleblu, “Strikes on Iraq Reveal Iran’s Embrace of Missile Operations,” *The National Interest*, March 27, 2022. (<https://nationalinterest.org/feature/strikes-iraq-reveal-iran%E2%80%99s-embrace-missile-operations-201431>)

¹³³ U.S. Department of State, Office of the Spokesperson, Fact Sheet, “New Sanctions Designations on Iran’s Space Program,” September 30, 2019. (<https://2017-2021.state.gov/new-sanctions-designations-on-irans-space-program/index.html>)

¹³⁴ Behnam Ben Taleblu, “Solid-Propellant Motor Test Proves Iran’s Continuing Missile Advancement,” *The National Interest*, February 2, 2022. (<https://nationalinterest.org/feature/solid-propellant-motor-test-proves-iran%E2%80%99s-continuing-missile-advancement-200245>)

¹³⁵ Behnam Ben Taleblu and Bradley Bowman, “Iran military satellite launch requires US action,” *Al Arabiya* (Saudi Arabia), April 20, 2020. (<https://english.alarabiya.net/views/news/middle-east/2020/04/28/Iran-military-satellite-launch-requires-US-action>)

¹³⁶ Saeed Ghasseminejad, “Iran’s Ballistic Missile Program and Economic Sanctions,” *Foundation for Defense of Democracies*, March 2016. (https://s3.us-east-2.amazonaws.com/defenddemocracy/uploads/documents/Ballistic_Missile_Sanctions.pdf)

Russian Transactions With Iran¹³⁷

In a last-minute ultimatum weeks before what many believed would be the new deal's finalization, Moscow demanded guarantees that U.S. sanctions would not interfere with civil nuclear work envisioned under the 2015 JCPOA. Under this arrangement, the Biden administration would not sanction Iranian entities transacting with key Russian businesses. The deal reportedly would also give Vladimir Putin's regime the right to conduct nuclear work with the Islamic Republic, including a contract to expand Iran's nuclear infrastructure and, as stipulated in the JCPOA, to hold Iran's fissile material on Russian soil, even as Putin engages in nuclear saber rattling amid his war in Ukraine.¹³⁸ Putin would effectively become the guarantor of Iran's nuclear behavior.

While Russia's gambit may seem part of the standard give-and-take of negotiations, Moscow's real motive was likely financial. As Putin and his oligarchs feel the pain of Ukraine sanctions, Russia cannot afford to miss out on a major payday in Iran. Hidden in the JCPOA is tacit permission for Russia to expand Iran's Bushehr nuclear power plant, a project worth some \$10 billion to the Kremlin.

Tehran reportedly owes \$500 million to Russia's state nuclear agency, Rosatom, for past work. Rosatom is the entity Russia tapped to assume operational control of key Ukrainian nuclear power plants. The Biden administration was considering sanctions against Rosatom for its role in the Ukraine conflict. But when Moscow threatened to scuttle the Iran talks in retaliation, the administration quickly backed down.

Russia may also try to use Iran as a financial conduit to evade Ukraine sanctions. A revival of the nuclear deal would remove most U.S. sanctions against hundreds of Iranian banks, companies, and individuals. If sanctioned Russian banks, companies, or individuals trade or transact with newly un-sanctioned Iranian counterparts, the Biden administration could not "re-sanction" the Iranian entities for doing business with Russia — it would be a violation of the JCPOA. Iran's ability to engage in nuclear blackmail under the deal gives Putin a de facto white channel for Russian sanctions-busting through Iranian entities.

Russia's demand reflects its decisive role in the negotiations. The terms of the new Iran agreement were brokered in part by Moscow. Tehran would never assent to a deal without Putin's consent, because the regime knows it will need Russia in the future.¹³⁹

¹³⁷ A modified version of this section appeared in an op-ed: Anthony Ruggiero and Andrea Stricker, "Congress must stop Team Biden from giving Russia a financial lifeline in Iran deal," *New York Post*, March 17, 2022. (<https://nypost.com/2022/03/17/congress-must-stop-biden-from-giving-russia-a-lifeline-with-iran-deal>)

¹³⁸ Parisa Hafezi, Humeyra Pamuk, and Simon Lewis, "Russia says it has written guarantees on Iran nuclear deal," *Reuters*, March 15, 2022. (<https://www.reuters.com/world/middle-east/russia-says-it-has-written-guarantees-iran-nuclear-deal-2022-03-15>)

¹³⁹ Mark Dubowitz and Jonathan Schanzer, "Biden throws Putin a nuclear lifeline," *Washington Examiner*, March 17, 2022. (<https://www.washingtonexaminer.com/politics/biden-throws-putin-a-nuclear-lifeline>)

Lifting Sanctions on Iran's Human Rights Abusers

If it moves ahead, the new deal would lift sanctions on a range of Iranian officials responsible for human rights abuses who play no role in Iran's nuclear program.¹⁴⁰ This concession will embolden the regime in Iran to commit further human rights abuses against its own people and enable it to whitewash its history.

As FDD's Orde Kittrie observes,¹⁴¹ lifting sanctions on Iranian human rights abusers and terrorism sponsors would send a dangerous message of impunity to Putin and his henchmen at a time when they are committing war crimes in Ukraine and human rights abuses in Russia. Lifting sanctions on leading Iranian human rights abusers would be contrary to America's values and would abandon the Islamic Republic's many victims, including hundreds of current political prisoners and detainees.¹⁴² It would also weaken deterrence against future abuses in Iran, making it harder for the Iranian people to liberate themselves from the Islamist regime.

Iran saw mass uprisings in 2009, 2018, 2019, and 2020. In November 2019 alone, the regime murdered about 1,500 Iranian protesters, according to Reuters.¹⁴³ As we are reviewing Iran policy at this hearing, Iranian protestors are back on the streets denouncing the regime's economic mismanagement, corruption, and repression. Like other protests over the years, crowds have called for an end to the Islamic Republic.¹⁴⁴

The regime's repression will likely cause even more mass uprisings in the future.¹⁴⁵ If Washington lifts these sanctions, Iranian officials will have even fewer worries about the personal price they might pay for crushing new uprisings.¹⁴⁶

The agreement reportedly will terminate sanctions imposed pursuant to E.O. 13876, which authorizes sanctions against Iran's supreme leader and any Iranian whom he appoints to office.¹⁴⁷ Khamenei was Iran's president from 1981 until 1989 and has been its supreme leader since

¹⁴⁰ Gabriel Noronha, "This Isn't Obama's Iran Deal. It's Much, Much Worse." *Tablet*, March 7, 2022. (<https://www.tabletmag.com/sections/news/articles/this-isnt-obamas-iran-deal-its-much-much-worse>)

¹⁴¹ A modified version of this section originally appeared as an op-ed: Orde F. Kittrie, "Lifting Human Rights Sanctions on Iran Would Be a Mistake," *The National Interest*, March 14, 2022. (<https://nationalinterest.org/feature/lifting-human-rights-sanctions-iran-would-be-mistake-201157>)

¹⁴² U.S. Department of State, "Iran 2020 Human Rights Report," March 30, 2021. (<https://www.state.gov/wp-content/uploads/2021/03/IRAN-2020-HUMAN-RIGHTS-REPORT.pdf>)

¹⁴³ "Special Report: Iran's leader ordered crackdown on unrest – 'Do whatever it takes to end it,'" *Reuters*, December 23, 2019. (<https://www.reuters.com/article/us-iran-protests-specialreport/special-report-irans-leader-ordered-crackdown-on-unrest-do-whatever-it-takes-to-end-it-idUSKBN1YR0QR>)

¹⁴⁴ Parisa Hafezi, "Iran's security forces clash with anti-government protesters in several provinces," *Reuters*, May 19, 2022. (<https://www.reuters.com/world/middle-east/irans-security-forces-clash-with-anti-government-protesters-several-provinces-2022-05-19>)

¹⁴⁵ Alireza Nader, "Opinion: Biden Must Prioritize Iran's Human Rights Abuses In Future Talks," *Radio Farda*, December 9, 2020. (<https://en.radiofarda.com/a/biden-must-prioritize-iran-s-human-rights-abuses-in-future-talks/30991850.html>)

¹⁴⁶ Orde F. Kittrie, "Lifting Human Rights Sanctions on Iran Would Be a Mistake," *The National Interest*, March 14, 2022. (<https://nationalinterest.org/feature/lifting-human-rights-sanctions-iran-would-be-mistake-201157>)

¹⁴⁷ Tzvi Kahn, "New Executive Order Authorizes Sanctions on Key Iranian Human Rights Abusers," *Foundation for Defense of Democracies*, June 28, 2019. (<https://www.fdd.org/analysis/2019/06/28/new-executive-order-authorizes-sanctions-on-key-iranian-human-rights-abusers>)

then. As such, he is ultimately responsible for four decades of Iranian human rights abuses and support for terrorism.

A U.S. federal court held Khamenei personally responsible for the deaths of 19 U.S. servicemembers in the bombing of the Khobar Towers in Saudi Arabia.¹⁴⁸ Federal courts have also held Khamenei personally responsible for the deaths of U.S. civilians in three terrorist bombings in Israel — two on public buses and one at an outdoor market in Jerusalem.¹⁴⁹

Under the new deal, the United States reportedly will lift sanctions on Raisi, who played a key role in the 1988 massacre of thousands of Iranian dissidents.¹⁵⁰ He also served as the head of Iran’s judiciary between 2019 and 2021, making him complicit in the torture and execution of countless additional dissidents. Despite being a prolific human rights abuser, Raisi is currently sanctioned only under E.O. 13876 and has not been designated pursuant to any U.S. or international human rights sanctions authorities. Rescinding E.O. 13876 or canceling its application to Raisi would make him sanctions-free.¹⁵¹

Washington’s experience negotiating with the Soviet Union, which had a much more advanced nuclear program and military than Iran does today, demonstrates that lifting pressure on human rights abusers is not necessary to negotiate and implement verifiable arms control agreements. In fact, past efforts have shown that it is counterproductive.

For example, President Ronald Reagan, while negotiating the Intermediate-Range Nuclear Forces (INF) Treaty, made no concessions on human rights in order to achieve progress on arms control. Instead, Reagan made clear to the Soviets that progress on human rights was key to increasing trust on arms control.

The ‘Inherent Guarantee’ of Iran’s Nuclear Snapback

Among the Biden team’s many concessions in Vienna, one of the most concerning would be the recognition of an “inherent guarantee” stipulating that if a future U.S. administration exits the deal (as President Trump did in 2018), the regime in Iran will be allowed to enrich uranium to 20 percent and then to 60 percent — a level with no civilian purpose — and to install thousands of advanced centrifuges.

¹⁴⁸ Orde Kittrie, “Iran Still Owes \$53 Billion in Unpaid U.S. Court Judgments to American Victims of Iranian Terrorism,” *Foundation for Defense of Democracies*, May 6, 2016. (<https://www.fdd.org/analysis/2016/05/06/iran-still-owes-53-billion-in-unpaid-u-s-court-judgments-to-american-victims-of-iranian-terrorism>)

¹⁴⁹ Orde F. Kittrie, “Lifting Human Rights Sanctions on Iran Would Be a Mistake,” *The National Interest*, March 14, 2022. (<https://nationalinterest.org/feature/lifting-human-rights-sanctions-iran-would-be-mistake-201157>)

¹⁵⁰ Tzvi Kahn, “Iran’s Leading Presidential Candidate Has Committed Crimes Against Humanity,” *RealClearWorld*, June 26, 2021. (https://www.realclearworld.com/articles/2021/06/16/irans_leading_presidential_candidate_has_committed_crimes_against_humanity_781789.html)

¹⁵¹ Behnam Ben Taleblu, “The Coming Sanctions Battle Over Iran’s New President,” *The National Interest*, July 4, 2021. (<https://nationalinterest.org/blog/middle-east-watch/coming-sanctions-battle-over-iran%E2%80%99s-new-president-189105>)

The Iranian “inherent guarantee” — a form of nuclear snapback — will be a tool of nuclear blackmail to enable Iranian-Russian commercial and arms trade as well as other Iranian illicit behavior. The Biden administration has undermined its own tools of American power to counter the regime, handcuffing Washington from using its most powerful economic punishments and enabling the clerical regime to improve the warfighting abilities of Iran and its proxies. Congress must be on guard to ensure the new deal, including any side letters to the deal, contain neither this guarantee nor anything like it. Like with the 2015 agreement, the American public may never see the text of these side promises and the extent of President Biden’s concessions.

Iran’s Sanctions Evasion

Iran has a long history of sanctions evasion, both past and present. According to a March 18 report in *The Wall Street Journal*, Tehran “established a clandestine banking and finance system to handle tens of billions of dollars in annual trade banned under U.S.-led sanctions, enabling Iran to endure the U.S. economic siege and giving Tehran leverage in multilateral nuclear talks, according to Western diplomats, intelligence officials, and documents.”¹⁵² FDD scholars have identified and exposed this system, which would remain in place under the new deal, allowing Iran to build economic resilience against future U.S. sanctions.¹⁵³

The Biden administration’s failure to enforce key sanctions against Iran, particularly against the energy sector, facilitated this clandestine sanctions-busting scheme. In 2021, Iran exported an estimated 418 million barrels of oil, 123 million more than the previous year. China imported three quarters of this oil.¹⁵⁴ Thanks to these sales, Iran’s fully accessible foreign currency reserves went from only \$4 billion in 2020 to \$31 billion in 2021.¹⁵⁵ As Gabriel Noronha notes, the IMF projects that these reserves may reach \$42.9 billion by the end of 2022.¹⁵⁶ Tehran also obtained a \$5 billion foreign currency boost from the IMF.¹⁵⁷ Iran’s economy grew by an

¹⁵² Ian Talley, “Clandestine Finance System Helped Iran Withstand Sanctions Crush, Documents Show,” *The Wall Street Journal*, March 18, 2022. (<https://www.wsj.com/articles/clandestine-finance-system-helped-iran-withstand-sanctions-crush-documents-show-11647609741>)

¹⁵³ See: Hollie McKay, “How Iran’s central bank currency system is manipulated to fund regional proxy wars,” *Fox News*, December 24, 2020. (<https://www.foxnews.com/world/how-irans-central-bank-currency-system-manipulated-fund-regional-proxies>)

¹⁵⁴ “Iran Tanker Tracking,” United Against Nuclear Iran,” *United Against Nuclear Iran*, accessed May 3, 2022. (<https://www.unitedagainstnucleariran.com/tanker-tracker>); Office of Senator Tom Cotton, Press Release, “Cotton, Colleagues Call on Biden to Enforce Sanctions on Iranian Oil Tankers,” January 28, 2022. (<https://www.cotton.senate.gov/news/press-releases/cotton-colleagues-call-on-biden-to-enforce-sanctions-on-iranian-oil-tankers>)

¹⁵⁵ Adam Kredo, “Iran’s Cash Reserves Soar Under Biden,” *Washington Free Beacon*, November 9, 2021. (<https://freebeacon.com/biden-administration/irans-cash-reserves-soar-under-biden/>)

¹⁵⁶ @GLNoronha, “📌 Update: According to the IMF, Iran’s foreign currency reserves are continuing their massive recovery as Biden refuses to enforce U.S. sanctions on Iran. By the end of this year, their foreign currency reserves are slated to be 10x higher than in 2020.” *Twitter*, May 11, 2022. (<https://twitter.com/GLNoronha/status/1524562626759569410>)

¹⁵⁷ @GLNoronha, “Most of the sanctions haven’t been lifted yet as part of the new deal. But they received a \$5B foreign currency boost from the IMF (approved by the US), and over \$10B in new oil sales (plus a lot more trade) because @USTreasury won’t enforce its existing sanctions,” *Twitter*, March 23, 2022. (<https://twitter.com/glnoronha/status/1506754723478741002>)

estimated 3.4 percent to 6.2 percent over the past 12 months,¹⁵⁸ a sharp reversal from its 6.8 percent contraction in 2019.¹⁵⁹

Tehran's sanctions-evasion schemes have infected the entire Iranian financial system. In 2007, FinCEN issued an advisory on the Iranian financial system, reminding companies about U.S. sanctions imposed against Iranian government-owned banks and other entities owing to their links to terrorist activity and proliferation.¹⁶⁰

In November 2011, FinCEN moved to designate Iran as a jurisdiction of primary money laundering concern under Section 311 of the USA PATRIOT Act.¹⁶¹ In effect, FinCEN issued a warning that the threat of illicit finance had permeated every corner of the Iranian economy, so foreign banks that do business in Iran should take special precautions. That advice was not binding, but leading international banks still complied with it.

While the United States remained a participant in the 2015 nuclear deal, the Obama administration hesitated to finalize the FinCEN designation under Section 311, which would have made it binding. As in the case of the CBI, the JCPOA's unintended effect was to protect Iran's illicit financial networks, lest any push for accountability lead Tehran to renounce the nuclear agreement.

In 2019, more than a year after the Trump administration withdrew from the nuclear deal, FinCEN issued a new evidentiary finding and a final rule designating Iran as a jurisdiction of primary money laundering concern and imposing binding restrictions on U.S. banks.¹⁶²

It was not just the United States that had come to this conclusion, but multilateral bodies as well. In 2007, the Financial Action Task Force (FATF) — a 39-member inter-governmental body that establishes international financial standards — first cited Iran as a threat to the international financial system, noting its lack of anti-money laundering and combatting the financing of

¹⁵⁸ @GLNoronha, "NEW DATA: According to Iranian government documents, after U.S. stopped enforcing Iran sanctions, the regime enjoyed between 3.4% and 6.2% economic growth in the past 12 months. How was it spent? On more funding for torture sites, IRGC security, and kidnapping plots," *Twitter*, March 23, 2022. (<https://twitter.com/GLNoronha/status/1506737569018621965>)

¹⁵⁹ World Bank, "GDP growth (annual %) - Iran, Islamic Rep." accessed May 3, 2021.

(<https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=IR&start=2018>)

¹⁶⁰ U.S. Department of the Treasury, Financial Crimes Enforcement Network, Advisory, "Guidance to Financial Institutions on the Increasing Money Laundering Threat Involving Illicit Iranian Activity," October 1, 2007.

(<https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2007-a001?msclkid=bbe6d528aafa11ecbcdcabded3e658ba>)

¹⁶¹ Finding That the Islamic Republic of Iran Is a Jurisdiction of Primary Money Laundering Concern, U.S. Department of the Treasury, Financial Crimes Enforcement Network, 76 Federal Register 72756, November 25, 2011. (<https://www.federalregister.gov/documents/2011/11/25/2011-30332/finding-that-the-islamic-republic-of-iran-is-a-jurisdiction-of-primary-money-laundering-concern?msclkid=dc6fd4cbab0611ec9aa953065b44dbd9>)

¹⁶² U.S. Department of the Treasury, Financial Crimes Enforcement Network, Final Rule, "Imposition of Fifth Special Measure against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern," October 25, 2019. (<https://www.fincen.gov/news/news-releases/imposition-fifth-special-measure-against-islamic-republic-iran-jurisdiction?msclkid=954f3fc3ab0b11ecae9e4c0ab0924c5b>)

terrorism (AML/CFT) mechanisms.¹⁶³ In 2008, FATF called on its members to conduct enhanced due diligence when transacting with Iranian financial institutions.¹⁶⁴ Finally, in 2009, FATF imposed countermeasures against Iran after it failed to meaningfully address its AML/CFT weaknesses.¹⁶⁵

While Iran never strengthened its AML/CFT mechanisms, the 2015 nuclear deal once again granted it a reprieve. The Obama administration lent its support to an arrangement that would suspend FATF countermeasures against the Islamic Republic for two years, during which time Tehran would complete an “action plan” to bring itself into compliance with FATF standards.¹⁶⁶ Iran never made a good faith effort to address money laundering and terror finance concerns, yet it took until 2020 for FATF members to reach a consensus on re-imposing countermeasures.¹⁶⁷

Iran cannot rehabilitate itself from financial criminal to good financial citizen while keeping in place a massive money laundering architecture. Even the maintenance of the IRGC as an SDGT — despite the designation’s weakness compared with an FTO — highlights the money laundering architecture that remains a threat to the integrity of the international financial system and the international correspondent banking network.

This threat could expand if Washington fails to enforce existing sanctions laws, such as the Comprehensive Iran, Sanctions, Accountability, and Divestment Act of 2010 and the Countering America’s Adversaries Through Sanctions Act of 2017. Russia, for example, could use this Iranian money laundering and sanctions busting architecture for its own efforts to circumvent Western sanctions. Iran will keep this black architecture in place to evade future sanctions.

Policy Recommendations: Confront Iran the Reagan Way¹⁶⁸

In the short term, Tehran must know that it will face severe consequences if it does not agree to a wholly different deal that permanently blocks all pathways to nuclear weapons. This new deal should have no sunsets under which restrictions expire. U.S. negotiators must close the current

¹⁶³ Financial Action Task Force, “FATF Statement on Iran,” October 11, 2007. (<https://www.fincen.gov/sites/default/files/shared/FATFOct2007.pdf?msclkid=6fe9fd27ab1a11ecb7db724e4eb0ba57>)

¹⁶⁴ Financial Action Task Force, “FATF Statement,” February 28, 2008. (<https://www.fincen.gov/sites/default/files/shared/FATFeb2008.pdf?msclkid=eb3e53bdab4f11ecb8fa2fd0f4a46479>)

¹⁶⁵ U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, “Countries Bure/Jurisdictions of Primary Concern – Iran,” 2016. (<https://2009-2017.state.gov/j/inl/rls/nrcrpt/2016/vol2/253407.htm?msclkid=757d6a34ab5311eca99097673ae44f42>)

¹⁶⁶ Financial Action Task Force, “Public Statement - 24 June 2016,” June 24, 2016. (<https://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-june-2016.html?msclkid=8dd12520ab5411ecbe145aebbf9ac8a>)

¹⁶⁷ Financial Action Task Force, “High-Risk Jurisdictions subject to a Call for Action – 21 February 2020,” February 21, 2020. (<https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/call-for-action-february-2020.html?msclkid=81f84afbab5611ecad9b174d6a2842f3>)

¹⁶⁸ Part of this section originally appeared in two essays: Mark Dubowitz, “Biden Needs an Effective—and Coercive—Iran Strategy,” *Jerusalem Strategic Tribune*, September 2021. (<https://jstribune.com/biden-iran-nuclear-strategy-dubowitz>); Mark Dubowitz, “Confront Iran the Reagan Way,” *The Wall Street Journal*, July 4, 2017. (<https://www.wsj.com/articles/confront-iran-the-reagan-way-1499197879>). See also: Mike Giglio, “Trump’s New Iran Strategy, Inspired By The Cold War, Calls For ‘Maximum Pressure,’” *Buzzfeed News*, September 25, 2018. (<https://www.buzzfeednews.com/article/mikegiglio/trump-officials-are-reading-a-book-about-the-cold-war-for>)

deal's many gaps relating to inspections, nuclear weaponization, missile development, support for terrorism, and other malign Iranian activities.

Going back in time, the current situation with Iran is reminiscent of President Ronald Reagan's moment in history in confronting the Soviet Union, when he came to believe that coercive measures would work to exploit Moscow's weaknesses and help hasten the Soviet regime's collapse. Similarly, the Biden administration should deploy a comprehensive set of coercive tools to combat the full range of Tehran's malign behavior, including its nuclear advances, regional aggression, human rights abuses, and global terrorist networks.

In the early 1980s, President Reagan seriously upgraded his predecessors' "containment" strategy by pushing policies that tried to roll back Soviet expansionism. The cornerstone of his strategy was the recognition that the Soviet Union was an aggressive and revolutionary yet internally fragile state that Washington could defeat. Reagan's policy was outlined in 1983 in National Security Decision Directive 75 (NSDD-75), a comprehensive strategy that called for the use of all instruments of American overt and covert power. The plan included a massive defense buildup, economic warfare, support for anti-Soviet proxy forces and dissidents, and an all-out offensive against the regime's ideological legitimacy.

The Biden administration — or, by 2025, perhaps a new president — should call for a new version of NSDD-75 and go on offense against the regime in Iran. The administration would be wise to address every aspect of the Iranian menace, not merely the nuclear program, and to leverage all instruments of American power. President Obama's narrow focus on disarmament paralyzed American policy. His engagement with the Islamic Republic as an end in itself suffered from the same mistaken assumptions that American presidents have entertained about Communist China. Those mistaken assumptions about engagement made China wealthy and more powerful but did not moderate China's rulers. The recent election of Raisi, a mass murdering cleric close to the supreme leader, who was elected by the lowest number of voters in Iran's history, should sober up Team Biden to the unmistakable conclusion: The Islamic Republic cannot be reformed.

President Biden also should avoid the arms-control trap that paralyzed Obama's Iran policy. Under Obama's nuclear accord, Tehran does not need to cheat to reach threshold nuclear-weapons capabilities. Merely by waiting for key constraints to sunset, the regime can emerge over the next decade with an industrial-size enrichment program, a near-zero breakout time, and an easier clandestine "sneakout" path to an atomic weapon. Tehran can also acquire long-range, nuclear-armed ballistic missiles, much better conventional weaponry, regional dominance, and a more powerful economy increasingly immunized against Western sanctions.

- 1. The Biden administration should halt negotiations with Iran until the regime agrees that the purpose of talks is to achieve a permanent cut-off of all pathways to an Iranian nuclear weapon.**

The United States must stop negotiating from a position of weakness. So long as Washington refuses to wield its robust economic leverage against Iran, enforce existing sanctions, and use or credibly threaten the use of other instruments of American coercion,

the regime will not accept potent constraints on its nuclear program. Moreover, by negotiating without requiring Tehran to halt its plots against current and former U.S. officials, the Biden administration conveys desperation, thereby emboldening the regime to demand more concessions.

In this context, President Biden should replace Special Representative for Iran Robert Malley with an official more willing to negotiate from a position of strength. Malley has publicly condemned the use of pressure on the regime and advocated robust U.S. concessions to Iran that would merely enrich Tehran and embolden the regime to advance its nuclear program, to increase its regional aggression, and to stifle dissent at home. If the Biden administration seeks successful talks, it must use its economic and military leverage to force Iran to make concessions.

2. President Biden should stand firm in his refusal thus far to remove the IRGC from the FTO list.

To date, the Biden administration appears unwilling to delist the IRGC even though this steadfastness may lead Iran to walk away from the table. However, in his eagerness to reach a deal, Biden may be tempted to accommodate Tehran's demands and drop the designation, which provides important leverage against the IRGC. This would be a serious mistake. The IRGC is a terrorist organization through and through. Only when that changes would delisting be appropriate.

3. Congress should codify the IRGC's designation as both an FTO and an SDGT until such time that the executive branch can demonstrate that the IRGC has fully repudiated all terrorist activities and support to terrorist organizations.

As FDD's Matthew Zweig states, given the scope and breadth of its support for terrorism, the IRGC must demonstrate that it has verifiably and completely ended its terrorist activities. As part of this process, Tehran must provide compensation to American victims of the IRGC, including Gold Star families.

Congress has overwhelmingly opposed the delisting of the IRGC as an FTO. On May 5, the U.S. Senate passed — by a vote of 62-33 — a non-binding motion calling for any agreement with Tehran to address “the full range of Iran's destabilizing activities,” including its missile program, terrorism, and sanctions evasion. On the same day, the Senate passed another non-binding motion — by a vote of 86-12 — stating that sanctions on the IRGC as well as the CBI, which funds the IRGC, “are necessary to limit ... cooperation” between Iran and China.¹⁶⁹

FDD's Richard Goldberg notes that President Biden may be considering a compromise: Remove the IRGC in its entirety from the FTO list and replace it with the narrower designation of the IRGC Quds Force — giving a pass to the vast IRGC-controlled

¹⁶⁹ Marc Rod, “62 senators, including 16 Democrats, vote to oppose nuclear-only Iran deal,” *Jewish Insider*, May 4, 2022. (<https://jewishinsider.com/2022/05/62-senators-including-16-democrats-vote-to-oppose-nuclear-only-iran-deal>)

business empire that subsidizes Quds Force operations. The United States should not distinguish between the IRGC's multiple divisions, all of which — including the Quds Force — receive orders and funding from the broader IRGC leadership. The IRGC as a whole is the actor that controls entire industries and structurally significant companies such as NIOC.¹⁷⁰

Even if President Biden does maintain the FTO designation against the entire IRGC, he owes Congress an explanation as to why he is offering to inject the IRGC — an organization plotting to assassinate current and former U.S. officials — with billions of dollars by lifting terrorism sanctions on the Iranian entities that illicitly fund the IRGC, such as CBI, NIOC, and NITC.¹⁷¹

4. The Biden administration should not rely on Russia to broker a deal with Iran.

By relying on the Kremlin to broker an agreement, the Biden administration strengthens Russian influence in the region and advances Moscow and Tehran's shared goal of weakening U.S. global leadership. President Biden himself said Russia should be treated as a "pariah,"¹⁷² yet he has permitted Moscow to play a pivotal role in the Iran nuclear talks, including by being the guarantor of Iran's nuclear program under the JCPOA and any deal based on it.

5. The United States should insist on strict standards for any future deal with Iran.

At the very least, a new agreement should require intrusive, 24/7 monitoring of Iran's nuclear program, including military sites; obligate Tehran to dismantle the entirety of its uranium enrichment program; impose meaningful enforcement mechanisms; contain no sunset provisions; address ballistic missiles; and halt Iran's regional aggression and domestic repression. Congress should lift such provisions only if Iran halts the malign behavior that necessitated them.

6. Biden must abandon the misguided notion that Iran will negotiate seriously for a "longer and stronger" deal if the shorter, weaker one delivers all or most of what Tehran wants.

Iran will only make concessions to Washington if the regime faces severe consequences for its malign conduct. Tehran would regard any unreciprocated U.S. concessions as a

¹⁷⁰ Office of Congressman Mike Gallagher, Press Release, "Gallagher Leads Letter Demanding Congress Has Role in New Iran Deal," February 16, 2022. (<https://gallagher.house.gov/media/press-releases/gallagher-leads-letter-demanding-congress-has-role-new-iran-deal>)

¹⁷¹ Richard Goldberg, "Foil the Financiers of Iran's Terrorism," *The Wall Street Journal*, May 1, 2022. (<https://www.wsj.com/articles/foil-the-financiers-of-irans-terrorism-revolutionary-guard-quds-sanctions-congress-deal-11651432838>)

¹⁷² President Joe Biden, The White House, "Remarks by President Biden on Russia's Unprovoked and Unjustified Attack on Ukraine," *Remarks to the Press*, February 24, 2022. (<https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/02/24/remarks-by-president-biden-on-russias-unprovoked-and-unjustified-attack-on-ukraine>)

form of weakness that it could exploit to extract more of them from the Biden administration.

7. The United States should retain the full scope of its terrorism sanctions — particularly those on the CBI, NIOC, and NITC.

The Central Bank of Iran, National Iranian Oil Company, and National Iranian Tanker Company constitute key financiers of the IRGC, thereby cementing the Guard's role as a bulwark of the Iranian economy. For as long as they fund a terrorist organization, the CBI, NIOC, and NITC should remain under terror sanctions.

The Biden administration should insist that any new deal preserve current sanctions on the CBI, NIOC, and NITC. In a recent letter to President Biden, 165 House members said they will “work tirelessly” to oppose the lifting of sanctions against the IRGC and other Iranian entities that support terrorism.¹⁷³

8. Congress should pass legislation that would block a \$10 billion agreement between Iran and Russia's Rosatom to advance civilian nuclear projects. The bill should also revoke any Iran sanctions waiver authorities with respect to Russia and should not allow Iran to send fissile material to Russia.

Given Russia's invasion of Ukraine and war crimes against its neighbors, no deal with Iran should reward Moscow by enriching Rosatom. “Rosatom's projects in Iran are crucial to the company's future financial viability — that's exactly why we should shut them down by disrupting their foreign contracts — especially those with a regime like Iran,” says Gabriel Noronha. “We're doing the opposite. The United States should sanction Rosatom for its involvement in Russia's war on Ukraine, but in classic fashion, we're giving them full sanctions immunity that will stabilize Rosatom's finances.”¹⁷⁴ Unlike the JCPOA, no new deal should send Iranian fissile material to Russia. That would give Putin an instrument of nuclear blackmail he would be sure to leverage.

If and when Congress moves forward with secondary sanctions on Russia, Iran will insist that its banks — even its central bank — be immune from such sanctions. Tehran will claim that any punishment of an Iranian bank for helping Russia evade sanctions would constitute a violation of the nuclear deal. Congress should force the president's hand and ensure future Russian and Iranian secondary sanctions are fully enforced to deny Moscow a sanctions-evasion hub in Iran.

¹⁷³ Office of Congressman Mike Gallagher, Press Release, “Gallagher Leads Letter Demanding Congress Has Role in New Iran Deal,” February 16, 2022. (<https://gallagher.house.gov/media/press-releases/gallagher-leads-letter-demanding-congress-has-role-new-iran-deal>)

¹⁷⁴ Adam Kredo, “New Iran Agreement Would Let Russia Cash in on \$10 Billion Contract To Build Nuclear Sites,” *Washington Free Beacon*, March 16, 2022. (<https://freebeacon.com/national-security/new-iran-agreement-would-let-russia-cash-in-on-10-billion-contract-to-build-nuclear-sites>)

9. The United States must be the global leader in nuclear nonproliferation.

As part of that leadership, the Biden administration should continue to insist on the full removal of Iran’s enrichment and plutonium reprocessing program by restoring the pre-2015 JCPOA international standard. The Senate Foreign Relations Committee must address why the United Arab Emirates and South Korea, close American allies, have pledged to forgo uranium enrichment — the so called “gold standard” — while an American enemy that has killed and maimed thousands of Americans retains and has the internationally agreed-upon right to expand its enrichment program. Anything short of the termination of such capabilities would enable Iran to dial up its atomic threat at will and would incentivize other countries in the Middle East and in East Asia to develop their own enrichment capabilities.

10. Washington should punish Iran if the regime continues its refusal to cooperate with the IAEA’s investigations of Iran’s nuclear weapons program.

The IAEA needs unfettered access to all of Iran’s declared and undeclared sites. If Iran denies this access, Washington should encourage the IAEA Board of Governors to pass a resolution formally declaring Tehran to be in noncompliance with the CSA and the NPT. If Tehran continues to stonewall the agency, the Board of Governors should refer Iran to the UN Security Council for countermeasures.

It is pointless to talk about a new JCPOA while Iran violates its fundamental NPT and CSA commitments. By insisting on robust penalties for Tehran’s noncompliance, the United States can ultimately begin rebuilding a multilateral economic pressure campaign on Iran with the support of key European and Asian allies.

11. The Biden administration must demand limits on Iran’s ballistic missile development as part of any final deal.

The original JCPOA failed to prohibit the development of ballistic missiles, which are the delivery vehicle for nuclear weapons. Instead, UN Security Council resolution 2231, which endorses the JCPOA, contained a non-binding resolution that merely called on Iran to halt its production of missiles until 2023. Tehran has ignored that resolution. Iran fields nuclear-capable missiles capable of striking Israel and Europe. Tehran is also developing technology that it can use to build ICBMs capable of reaching the U.S. homeland.

12. The United States should work toward developing an integrated air-and-missile defense system in the Middle East, bringing together U.S. partners and allies, all with the goal of offsetting, countering, and defeating Iran’s growing missile and drone capabilities.

To achieve this objective, the Biden administration needs to repair its relationship with Saudi Arabia and bring the kingdom into the Abraham Accords, creating a broader regional architecture to counter Iran and a framework for greater regional peace and security. Washington should also expedite the production and deployment of any American missile defense systems purchased by American partners in the region that remain on order.

13. Washington should step up efforts to expose, disrupt, and deter Iranian illicit procurement activity around the globe related to military-grade or dual-use equipment, WMD-related technologies, and the means to deliver them.

The advent of the JCPOA in 2015 did not put a stop to illicit Iranian procurement activity through cut-outs and front companies in Europe and Asia. Nor did the COVID-19 global pandemic.¹⁷⁵ Iran has continued to use dubious financial and commercial practices when seeking dual-use, controlled, or military-related technology to expand its domestic military capabilities. Working with U.S. partners to enhance export controls while using sanctions and other economic and legal means to crack down on Tehran's illicit procurement networks can help prevent Iran from acquiring these items.

14. Congress should insist upon its statutory authority to review any nuclear agreement pursuant to the Iran Nuclear Agreement Review Act of 2015 (INARA).

As FDD's Andrea Stricker and Anthony Ruggiero write,¹⁷⁶ INARA requires the president to submit to Congress any agreement with Iran and "all related materials and annexes." The president must submit the agreement for review within five days of its finalization, and Congress then has 90 days to hold hearings on and debate the deal. Finally, INARA ensures a vote on whether to lift sanctions. Since the president can veto a resolution prohibiting him from lifting sanctions, blocking a deal requires a two-thirds majority in both chambers. Thus, bipartisanship is essential.

But even if opponents do not clear the two-thirds threshold, significant opposition sends a clear message to Tehran that the deal may last only as long as President Biden remains in the White House. If the administration prefers an enduring agreement, it should stop relying on a partisan minority and submit a stronger accord to the Senate for ratification as a formal treaty. Ratification by the Senate would necessitate a bipartisan consensus on the merits of an accord and render it far less susceptible to cancellation by the next president.

Supporters of the JCPOA may argue that the Biden administration need not submit the deal to Congress for a vote, since the new agreement merely constitutes a restoration of the 2015 accord, which Congress failed to block. However, media reports on the negotiations indicate that the revived JCPOA includes major new concessions that make the deal considerably weaker than its processor. Thus, the revived deal effectively

¹⁷⁵ Benjamin Weinthal, "Post-JCPOA, Iran Revs Up Nuclear, Missile Procurement in Germany," *Foundation for Defense of Democracies*, July 8, 2016. (<https://www.fdd.org/analysis/2016/07/08/post-jcpoa-iran-revs-up-nuclear-missile-procurement-in-germany>); Andrea Stricker and Behnam Ben Taleblu, "More Evidence Suggests Iran's Nuclear Shopping Sprees Persist," *Radio Farda*, April 2, 2020. (<https://en.radiofarda.com/a/more-evidence-suggests-iran-s-nuclear-shopping-sprees-persist/30525577.html>); Spencer Faragasso and Sarah Burkhard, "Iranian Illicit Procurement Scheme to Acquire Controlled Spectrometry Systems Busted," *Institute for Science and International Security*, September 16, 2021. (<https://isis-online.org/isis-reports/detail/iranian-illicit-procurement-scheme-to-acquire-controlled-spectrometers>)

¹⁷⁶ Andrea Stricker and Anthony Ruggiero, "Iran Approaches the Nuclear Threshold," *Foundation for Defense of Democracies*, March 3, 2022. (<https://www.fdd.org/analysis/2022/03/03/iran-approaches-the-nuclear-threshold>)

amounts to a new pact. For this reason, President Biden is legally obligated to submit the agreement to Congress.

Moreover, like its predecessor, the new deal may contain confidential side agreements with additional concessions. Pursuant to INARA, lawmakers should insist upon the Biden administration's submission of all side agreements to Congress.

15. The United States should support pro-democracy movements in Iran.

Washington should target the regime's soft underbelly: its massive corruption and human rights abuses, especially against women. Conventional wisdom assumes that Iran has a stable government. In reality, the gap between the ruled and their Islamist overlords is expanding, as demonstrated by Iran's June 2021 presidential election, in which over 50 percent of Iranians voted against the supreme leader's hand-picked winner, Ebrahim Raisi, and another 20 percent spoiled their ballots in protest. Many Iranians no longer believe that Iran's "reformist" camp can change the Islamic Republic from within. After the 2009 uprisings, Khamenei alluded to his regime being "on the edge of a cliff."¹⁷⁷ President Biden or his successor should create the distinct impression that America will help to push it over that edge.

To achieve this goal, the president should repeatedly challenge the Islamic Republic's legitimacy, highlight the plight of innocent Iranian persecuted by the regime, and sanction human rights abusers and corrupt Iranian officials. The president should also make clear that Washington will accept nothing short of a free and democratic Iran.

16. Supply Israel with bombs capable of destroying Iran's nuclear facilities.

Key Iranian nuclear facilities reside deep underground, shielding them from conventional strikes by the Israeli air force. Yet Washington has the weaponry that could likely penetrate and destroy these facilities. Giving Israel this weaponry would strengthen U.S. and Israeli deterrence and make potential U.S. and Israeli threats of military action more credible. As FDD's Bradley Bowman and Enia Krivine write, the Biden administration should also expedite its delivery of advanced aerial refueling fleets to Israel and immediately begin training Israeli pilots to use them.¹⁷⁸

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

¹⁷⁷ "Iran's leader: why don't those who claimed cheating in elections apologize," *BBC Persian* (UK), June 28, 2013. (http://www.bbc.com/persian/iran/2013/07/130728_101_khamenei.shtml)

¹⁷⁸ See: Bradley Bowman and Enia Krivine, "Israel has a KC-46 problem. Here's the solution." *Defense News*, April 21, 2022. (<https://www.defensenews.com/opinion/commentary/2022/04/21/israel-has-a-kc-46-problem-heres-the-solution>)

About FDD

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