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U.N. Ban on Iran Arms Transfers and Sanctions Snapback

Overview

A 2015 multilateral Iran nuclear agreement (Joint Comprehensive Plan of Action, JCPOA), provides for limits on Iran’s nuclear program in exchange for sanctions relief. Annex B of U.N. Security Council Resolution 2231 (July 17, 2015), which endorsed the JCPOA, provided for a ban on the transfer of arms to or from Iran until October 18, 2020. The Trump Administration, supported by many in Congress, sought to extend the ban in order to try to prevent Iran from acquiring new conventional weaponry. On August 14, the U.N. Security Council, including two key potential arms suppliers of Iran—Russia and China—voted down a U.S. draft to extend the arms transfer ban. An overwhelming majority of the Council also has refused to recognize a U.S. assertion that it had standing to implement the provision of Resolution 2231 that enables JCPOA participants to snap back all U.N. sanctions on Iran, including the arms transfer ban. The dispute over the U.S. snapback request remains unresolved. Annex B also contains a ban, until October 18, 2023, on supplying equipment with which Iran could develop nuclear-capable ballistic missiles, and calls on Iran not to develop ballistic missiles designed to carry nuclear weapons. See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

Provisions of the Arms Transfer Ban

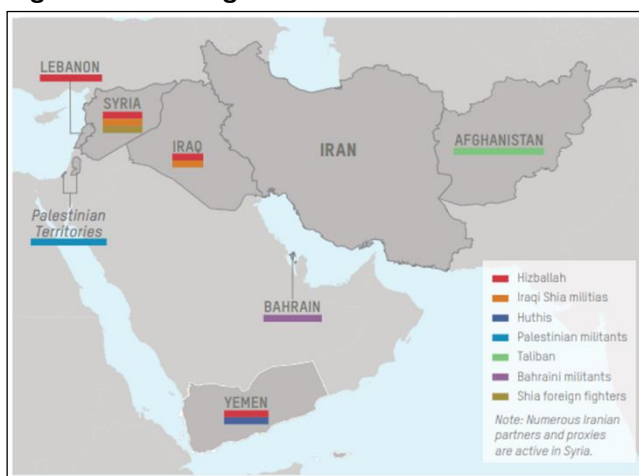
Annex B restated and superseded the restrictions of: (1) Resolution 1747 (2007), which banned Iran’s transfer of arms from its territory and required all U.N. member states to prohibit the transfer of Iranian arms from its territory, and (2) Resolution 1929 (2010), which banned the supply to Iran of “any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register of Arms [ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 16 miles] or related materiel, including spare parts...” The Security Council can waive the restrictions on a “case-by-case basis,” but has not done so, to date. The ban expires on the earlier of (1) five years after the JCPOA “Adoption Day” (ie: October 18, 2020), or (2) upon the issuing by the International Atomic Energy Agency (IAEA) of a “Broader Conclusion” that all nuclear material in Iran remains in peaceful activities.

U.S. and other Security Council member officials interpret the restriction as inapplicable to the sale to Iran of purely defensive systems. In 2016, Russia delivered to Iran the S-300 air defense system, which a State Department spokesperson described as “...not formally a violation [of 2231] because the S-300 is for defensive uses only.”

Effects of the Ban

Assessing the effectiveness of the arms transfer ban, the congressionally mandated Defense Intelligence Agency (DIA) annual report on the military power of Iran for 2019, released in November 2019, states that Iran wants to “purchase new advanced weapon systems from foreign suppliers to modernize its armed forces, including equipment it has largely been unable to acquire for decades.”

Figure 1. Iran’s Regional Allies



Source: Defense Intelligence Agency. *Iran Military Power: 2019*.

Regarding the ban on Iran’s exportation of arms, the DIA report (which represents a consensus U.S. judgment) stated: “Since the Islamic Revolution, Iran has transferred a wide range of weapons and military equipment to state and non-state actors, including designated terrorist organizations.... Although some Iranian shipments have been interdicted, Tehran is often able to get high-priority arms transfers to its customers. [See Figure 1.] Over the years, Iranian transfers to state and non-state actors have included communications equipment; small arms—such as assault rifles, sniper rifles, machine guns, mortars, and rocket-propelled grenades (RPGs)—and ammunition; ... artillery systems, including MRLs (multiple rocket launchers) and battlefield rockets and launchers; armored vehicles; FAC (fast attack craft); equipment for unmanned explosives boats; ... SAMs (surface-to-air missiles); UAVs (unmanned aerial vehicles) ... ground-attack aircraft ...” and other weaponry. A June 2020 report by the U.N. Secretary General on implementation of Resolution 2231 assessed that Iran attempted to export weaponry and missile parts to Houthi forces in Yemen, and U.S. and allied forces have intercepted some of those shipments. See CRS Report R44017, *Iran’s Foreign and Defense Policies*, by Kenneth Katzman.

Relevant Laws, Authorities, and Options for the Administration and Congress

Trump Administration stated policy is to apply “maximum pressure” on Iran to compel it to alter its behavior. The Administration cited the schedule expiration of the arms transfer ban as among the flaws in the JCPOA that justified the U.S. exit from it in May 2018. At a U.N. Security Council meeting on June 30, 2020, Secretary of State Michael Pompeo said: “Don’t just take it from the United States, listen to countries in the region. From Israel to the Gulf, countries in the Middle East—who are most exposed to Iran’s predations—are speaking with one voice: Extend the arms embargo.” A May 4, 2020 letter, signed by 387 House Members, “urge[s] increased diplomatic action by the United States to renew the expiring United Nations arms embargo against Iran...”

Figure 2. Iran Military Structure and Size Estimates

Iranian Military Structure and Size Estimates			
Islamic Revolutionary Guard Corps (IRGC)		Regular Forces (Artesh)	
IRGC Ground Force (IRGCCF)	150,000	Islamic Republic of Iran Ground Force (IRIGF)	350,000
IRGC Navy (IRGCN)	20,000	Islamic Republic of Iran Navy (IRIN)	18,000
IRGC Aerospace Force (IRGCASF)	15,000	Islamic Republic of Iran Air Force (IRIAF)	37,000
IRGC Gods Force (IRGC-QF)	5,000	Islamic Republic of Iran Air Defense Force (IRIADF)	15,000
Basij (Reserves)	450,000		
Total (excl. Basij)	190,000	Total:	420,000
Total (incl. Basij)	640,000		
Total Military (Active): 610,000			
Total Military (incl. Reserves): 1,060,000			

Note: Basij number only includes estimated active reserve personnel; Iran may be able to mobilize an additional 500,000 to 1 million Basij in wartime.

Source: Defense Intelligence Agency. Iran Military Power: 2019.

The DIA report, cited above, states “Iran’s potential acquisitions after the lifting of UNSCR 2231 restrictions include Russian Su-30 fighters, Yak-130 trainers, and T-90 MBTs (main battle tanks). Iran has also shown interest in acquiring S-400 air defense systems and Bastian coastal defense systems from Russia.” On June 23, 2020, Secretary Pompeo posted this Twitter message: “If the U.N. Arms Embargo on Iran expires in October, Iran will be able to buy new fighter aircraft like Russia’s SU-30 and China’s J-10. With these highly lethal aircraft, Europe and Asia could be in Iran’s crosshairs.” Iran’s force is depicted in Figure 2.

In August 2020, the United States circulated a draft U.N. Security Council resolution that would extend the arms transfer ban “until the Security Council decides otherwise.” On August 14, the United States and the Dominican Republic voted in favor, but Russia and China voted against it and the remaining eleven Council members abstained.

The Trump Administration called the U.N. vote “inexcusable,” and President Trump stated that the United States would invoke a snapback of all U.N. sanctions that were lifted upon implementation of the JCPOA, including the arms transfer ban. Under Resolution 2231, a JCPOA “participant” can after notifying the Security Council of an issue that the government “believes constitutes significant non-performance of [JCPOA] commitments,” trigger (within 30 days) an automatic draft resolution keeping sanctions relief in effect. A U.S. veto of this resolution

would reimpose the suspended sanctions. The U.S. assertion of its ability to trigger the snap back is based on a State Department legal interpretation of Resolution 2231 that the U.S. status as a “participant,” for the purpose of the sanctions snap back, exists independently of the JCPOA.

Governments of European countries, Russia, and China asserted that the United States could not claim standing to trigger the snap back. On August 16, EU foreign policy chief Josep Borrell said “Given that the US unilaterally withdrew from the JCPOA in May 2018 and has not participated in any JCPOA structures or activities subsequently, the US cannot be considered as a JCPOA participant. We therefore consider that the US is not in a position to resort to mechanisms reserved for JCPOA participants [such as the so-called snapback].”

Despite the opposition, Secretary of State Pompeo met on August 20 with the U.N. Security Council presidency, held in August by Indonesia, to deliver the formal U.S. complaint that Iran is in material breach of the JCPOA and that all U.N. sanctions should snap back. The next day, 13 of the 15 Security Council members wrote letters to the Indonesian rotating Council presidency asserting that the United States does not have standing to implement the snapback. On that basis, Indonesia refused to circulate the draft resolution maintaining sanctions relief. Nonetheless, on September 19, Secretary of State Pompeo declared that the United States considers all U.N. sanctions to be back into effect, stating: “the United States expects all UN Member States to fully comply with their obligations to implement these measures. If U.N. Member States fail to fulfill their obligations to implement these sanctions, the United States is prepared to use our domestic authorities to impose consequences for those failures and ensure that Iran does not reap the benefits of U.N.-prohibited activity.”

U.S. allies in Europe, as well as the broader Security Council and United Nations, consider that the status of U.N. sanctions is unchanged, and that the arms transfer ban will expire as originally scheduled on October 18. In a joint letter of the United Kingdom, France, and Germany stated that: “Any decisions and actions which would be taken based on this procedure or on its possible outcome would also be devoid of any legal effect.” It is not clear what entity or person might adjudicate the dispute. Claiming that there is “uncertainty” whether the sanctions snap back is in effect, on September 19, U.N. Secretary General Antonio Guterres said he would not provide U.N. support to the Security Council that would be needed to implement a reimposition of U.N. sanctions.

Fulfilling the claim that the United States would act unilaterally to prevent new arms sales to Iran, on September 21, the President issued Executive Order 13949 blocking the U.S. property of any entity that sells arms to Iran or brokers or facilitates such a transaction. The provisions of the Order are similar to, but somewhat broader, than those of Section 107 of the Countering America’s Adversaries through Sanctions Act (P.L. 115-44). Other authorities that could be used include: the Iran-Iraq Arms Non-Proliferation Act, the Iran, North Korea, and Syria Nonproliferation Act (INKSNA), Executive Order 13382, and Iran’s designation as a state sponsor of terrorism. Alternatively, the United

States might bilaterally negotiate with potential arms sellers to Iran to dissuade them from completing any sales to Iran.

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