

# Don't Drop Iran's Revolutionary Guards from FTO List

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## ABOUT THE AUTHORS



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Brief Analysis

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**On paper, removing the IRGC from just one of several U.S. designation lists would have few if any legal implications—but it's still a terrible idea.**

**A**s part of the effort to bring the nuclear negotiations to a close, the Biden administration has reportedly considered assenting to Iran's demand that it remove the Islamic Revolutionary Guard Corps (IRGC) from the State Department's Foreign Terrorist Organization (FTO) list. In return, **[Iran would apparently make \(https://www.state.gov/briefings/department-press-briefing-march-16-2022/\)](https://www.state.gov/briefings/department-press-briefing-march-16-2022/)** a “public commitment...to de-escalate in the region.”

Dropping the FTO tag would not mean delisting the IRGC entirely—the organization appears on several other U.S. designation lists due to its human rights abuses, nuclear proliferation activities, and terrorist activities. Nor would it mean that the United States has ceased regarding the IRGC as a terrorist organization—the group would remain on a separate government terrorist list. Rather, the debate has more to do with messaging and supporting America's partners in the Middle East, many of whom fear that lifting the FTO designation would exacerbate the effects of recent U.S. actions in the region.

## A String of Designations

**T**he United States had defined and sanctioned the IRGC as a terrorist organization long before the Trump administration **[added the group \(https://2017-2021.state.gov/designation-of-the-islamic-revolutionary-guard-corps/index.html\)](https://2017-2021.state.gov/designation-of-the-islamic-revolutionary-guard-corps/index.html)** to the FTO list as part of its “maximum pressure” campaign. At the time, the additional listing was heavy on messaging but **[had few practical advantages \(https://www.washingtoninstitute.org/policy-analysis/what-will-irgc-designation-actually-do\)](https://www.washingtoninstitute.org/policy-analysis/what-will-irgc-designation-actually-do)** given the numerous actions already taken against the organization.

The IRGC was first designated by the Treasury Department **[in October 2007 \(https://www.treasury.gov/press-center/press-releases/pages/hp644.aspx\)](https://www.treasury.gov/press-center/press-releases/pages/hp644.aspx)** under the counterproliferation authorities of Executive Order 13382.

That action also designated the IRGC's Qods Force branch—though not the IRGC overall—as a terrorist group under E.O. 13224. In June 2011, the department designated the IRGC for its human rights abuses (<https://www.treasury.gov/press-center/press-releases/Pages/tg1204.aspx>) under E.O. 13553. In October 2017, the IRGC in its entirety was designated as a terrorist entity (<https://www.treasury.gov/press-center/press-releases/Pages/sm0177.aspx>) under E.O. 13224. Two years later, the State Department added the organization to the FTO list.

The 2019 FTO designation is the only one the Biden administration is reportedly thinking about dropping. And as explained below, that designation was largely symbolic.

## Understanding the FTO Designation

Labeling the IRGC as an FTO added two authorities beyond those already on the books:

1. Immigration restrictions on IRGC members simply by virtue of their past or current membership, so anyone ever affiliated with the organization could now be barred from entering the United States.
2. A criminal prohibition on knowingly providing material support or resources to the IRGC.

Proponents of the designation argued that it would make countries and companies think twice about doing business with Iran, since the IRGC is so deeply embedded in the Iranian economy. In practice, though, it was unclear how exactly the FTO designation added to the existing sanctions risk of doing business with Iran. On top of the numerous Treasury designations mentioned above, the European Union had banned economic transactions with the IRGC (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010R0668>) in 2010, and both the U.S. and EU designations remained in place after the 2015 nuclear deal was implemented.

The FTO designation does expose businesspeople to the additional criminal charge of providing material support to terrorists (<https://www.justice.gov/jm/criminal-resource-manual-15-providing-material-support-terrorists-18-usc-2339a>) under the Antiterrorism and Effective Death Penalty Act (18 USC 2339B) if they knowingly do business with the IRGC. Yet the organization's role in Iran's economy is notoriously opaque, so the standard of "knowingly providing material support" is very difficult to prove. Indeed, the Justice Department has not issued any indictments under this authority during the Trump or Biden administrations.

More important, persons engaged in such activities were already exposed to criminal liability before the FTO designation. Under Treasury's authorities, anyone knowingly acting on behalf of a designated entity like the IRGC is liable for sanctions evasion under the International Emergency Economic Powers Act (50 USC 1701 (<https://www.law.cornell.edu/uscode/text/50/1701>)). The only substantive difference between that act and the FTO designation is that the former applies only to activities with sufficient territorial nexus to the United States, while the latter includes a measure of extraterritoriality for "material support" activities.

## Why the IRGC Should Stay on the List

On paper, the reasons for lifting the FTO designation might seem convincing: it is of little practical utility in helping the U.S. government deal with the IRGC, the organization would still be a U.S.-designated terrorist entity under Treasury Department lists, and many serious barriers to doing business with Iran would remain in place. And yet, taking the IRGC off the FTO list is a bad idea.

First, Tehran understands that the FTO designation is largely symbolic, which is why it is pressing for the delisting. The regime wants something it can point to when attempting to persuade investors that it is not really involved in terrorism and that such charges are just Western propaganda.

Second, Iran has made clear that the nuclear negotiations must remain focused on its nuclear activities alone, not its involvement in terrorism, missile proliferation, human rights abuses, illicit financing, and other malign activities in

the region. So long as that remains the case, the United States should not agree to provide relief from any terrorism-related sanctions. If Iran wants to open the file on its terrorism designations, then the negotiations should be expanded to include its regional activities in support of terrorists. Otherwise, dropping the FTO designation prematurely could undermine the efficacy of other non-nuclear sanctions.

Third, 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. This means the IRGC should not be removed from the FTO list until there is evidence it has ceased terrorist activities—a threshold not nearly met by vague promises of “de-escalation.” Delisting the organization when it continues to engage in widespread acts of terrorism could create the perception that U.S. sanctions are not technocratic tools to change hostile behavior, but political tools to be used however a given administration sees fit.

Most important, dropping the FTO designation would present a serious messaging problem. America's partners and allies in the region, especially the Gulf states and Israel, are extremely concerned that a renewed nuclear deal will empower Iran at a time when the United States is perceived to be stepping back from the region. In particular, they fear that if Tehran is flush with funds from sanctions relief, it will increase its support for terrorist proxies across the region, causing further destabilization. At a time when senior IRGC officers are serving in Iranian embassies around the Middle East and the hardline government of President Ebrahim Raisi is in office, the Revolutionary Guards will likely grow even more powerful. In the view of U.S. allies, now is therefore the worst moment to take pressure off the organization by delisting it.

The Biden administration has wisely emphasized the goal of **reinvigorating and modernizing its partnerships** (<https://www.whitehouse.gov/wp-content/uploads/2021/03/NSC-1v2.pdf>) around the world, but its relationships with key states in the Middle East are unsteady at the moment, primarily over regional security concerns. The Afghanistan withdrawal and other recent actions have left local leaders concerned that Washington is leaving them to fend for themselves on problems such as Iran's malign regional activities. Dropping the IRGC's FTO designation might not have much practical impact on U.S. counterterrorism authorities, but it could severely undermine broader American interests.

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