

Prisoner Release

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Jan 20, 2016

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Articles & Testimony

Although there were good reasons for delaying the ballistic missile sanctions against Iran, dropping charges against individuals linked to terror sponsorship only exacerbates doubts about the administration's commitment to enforcement.

Speaking from the White House on the day after the implementation of the Iran nuclear deal, President Obama proudly declared "Today is a good day" demonstrating what is possible with "strong American diplomacy." History will determine whether the Iran deal proves to be the success its proponents already claim it is. One key factor in the deal's success or failure will be whether the United States holds Iran accountable -- through the imposition of sanctions and other tools -- for its ongoing illicit conduct, such as its support for terrorism, human rights abuses, and ballistic missile production.

Just a few weeks before Iran tested its Emad ballistic missile in October, the Treasury Department's Acting Undersecretary for Terrorism and Financial Intelligence, Adam Szubin, stressed that the "whole range of sanctions targeting Iran's support for terrorism, destabilizing regional activities, missile proliferation, and human rights abuses will remain in place." However, the U.S. delayed imposing sanctions on the October missile test until just this week.

We now know that the decision to apply new sanctions became intimately entangled with the other diplomatic success President Obama pointed to: the release of several Americans unjustly detained by Iran. A closer look at the interplay between these three developments -- the implementation of the Iran deal, the delayed imposition of new sanctions, and the release of detained Americans -- underscores the uncertainty surrounding the administration's commitment to enforcing its pledge to "use all our available tools, including sanctions, to counter Iran's menacing behavior."

In retrospect, it would be hard to argue that immediately imposing sanctions on Iran over its October ballistic missile test was more important than the successful conclusion of 14 months of secret negotiations aimed at gaining the freedom of the detained Americans. Their freedom is a welcome triumph, even if tempered by the continued detention of at least two other Americans. The damage has less to do with the delay and more with the ham-handed way the sanctions were rolled out, denounced by Iran, and quickly pulled back.

We now know that Iranian Foreign Minister Javad Zarif warned that imposing the sanctions in the middle of delicate prisoner exchange negotiations -- both between the United States and Iran and within Iran's competing leadership circles -- could undermine the likelihood of securing the prisoners' freedom. Indeed, there is logic to that argument. But that was not how things played out at the time. Once news of the potential sanctions broke in the press, an Iranian foreign ministry spokesman quickly insisted, "Such actions are unilateral, arbitrary and illegal and the Islamic Republic of Iran has warned the U.S. in this respect." President Rouhani himself also joined the chorus of Iranians condemning the sanctions, denouncing the decision to impose new sanctions and instructing his defense minister to respond by building still more ballistic missiles.

In fact, it now appears that Congress was informed of the pending sanctions action only as a result of a lack of interagency communication and bureaucratic errors. Senior U.S. officials, including the President, had already decided to wait and impose the sanctions only after Implementation Day arrived and the detained Americans were released.

But the question remains: did the administration not anticipate that hitting Iran with the first set of new sanctions since the Iran nuclear deal was announced in July might present a challenge to the deal or undermine sensitive prisoner swap negotiations? Secretary Kerry reportedly called Zarif on December 29 to inform him that Washington intended to sanction Iran over the October missile test. It was then that Zarif warned of the possible repercussions for the pending prisoner swap.

Better, it would have seemed, to have imposed the sanctions soon after the October missile test to prevent the ballistic missile issue from getting caught up in the prisoner exchange. Officials apparently wanted to wait for the UN monitoring team to determine if the ballistic missile test technically qualified as a violation of UNSCR 1929, which it did in December. However, the administration delayed the imposition of sanctions, giving the impression that, despite its pledges to the contrary, perhaps the administration might not enforce current sanctions or impose new ones in the event of Iranian violations of UN Security Council resolutions or the nuclear deal. When the Treasury Department finally did impose these very sanctions the day after Implementation Day, it announced on Twitter: "Treasury's action today confirms the U.S. government's commitment towards targeting Iran's ballistic missile program."

The trust-deficit regarding the administration's commitment to sanctioning Iran's illicit behaviors runs even deeper. In what the President described as a "reciprocal humanitarian gesture," the Department of Justice dropped charges (and agreed to the removal of Interpol arrest "red notices") against 14 Iranians wanted on a variety of charges. Most of these individuals were wanted for helping Iran evade sanctions, smuggle airplane parts or other banned items (some with nuclear applications), or procure military items or weapons.

Among the 14 fugitives whose charges were dropped, one name stands out: Hamid Arabnejad, managing director of Iran's Mahan Air. Unlike the others, Arabnejad was tied to support for terrorism, one of the still-sanctionable actions for which the Obama administration has consistently pledged it would continue to hold Iran responsible.

Mahan Air was designated under the Treasury Department's counterterrorism authorities in 2011 for its role in Iran's ongoing support for terrorism. According to information Treasury released at the time, Mahan Air actively supports the Iranian Revolutionary Guard's Qods Force (QF) and Hezbollah with services ranging from clandestine

travel to arms smuggling. Less than two years later, the Treasury Department designated Arabnejad himself, under the same counterterrorism authority, for his personal role in Mahan Air's ongoing support for terrorism.

It is one thing to drop charges against people involved in evading sanctions, which, come Implementation Day, no longer exist. But it is quite another to drop them against an individual who, according to the U.S. government, has played an "instrumental" role in Iranian support for terrorism. And while charges have been dropped, Arabnejad remains on Treasury's Specially Designated Nationals list, and secondary sanctions would still apply to anyone doing business with him.

There is a very real trust deficit between the administration and both elements of the American public at home and U.S. allies abroad regarding U.S. policy toward the Middle East (think: chemical weapons redline) and the Iran deal in particular (think: inspections anywhere, anytime). The question hanging over the Iran deal has always been: would the Obama administration risk undermining the Iran deal by sanctioning Iranian entities for supporting terrorism, abusing human rights, or developing Iran's ballistic missile program? Existing sanctions, Szubin has made clear, "don't just continue on the books, they will continue to be enforced."

In his statement on Sunday, President Obama pledged that the United States would "remain steadfast in opposing Iran's destabilizing behavior," highlighting Iran's threats against Israel and the Gulf States, and its support for violent proxies in places like Syria and Yemen. He noted that U.S. sanctions remain on the books for Iran's violations of human rights, for its support of terrorism, and for its ballistic missile program, and pledged to "continue to enforce these sanctions, vigorously."

The way the ballistic missile sanctions were handled gave the impression that enforcement might not be a priority. In retrospect, that was not the case: though the case was poorly handled, there were good reasons for waiting on the sanctions, and the administrations did in the end follow through and impose them. But dropping charges against individuals linked to Iranian sponsorship of terrorism raises doubts once more, putting the onus on the administration to quickly and effectively demonstrate such doubts are misplaced by sanctioning Iran's illicit conduct.

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