

Throwing the Book at Tehran

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Brief Analysis

On April 7, 2009, the U.S. Treasury Department designated as a proliferator Li Fangwei, the commercial manager for the Chinese company Limmt, for providing support for Iran's missile program. Treasury also blacklisted eight aliases of Limmt, which was originally designated in 2006, in addition to six other Iranian entities. The same day, the Manhattan district attorney's office, acting in coordination with Treasury, unsealed a 118-count indictment against Li and his company for attempting to conceal transactions that transited the U.S. financial system. While the Treasury action was hardly surprising -- given the number of Iran-related designations over the past several years -- the role of other law enforcement agencies in the Iran effort is a fairly recent trend, one that the Obama administration should encourage as negotiations with Tehran move forward.

Law Enforcement Actions

In announcing the indictment, Manhattan district attorney (DA) Robert Morgenthau made clear that his office was becoming actively involved in the broader effort against Iran, noting that he would "make every effort to prosecute [Limmt], which is perhaps the largest supplier of weapons of mass destruction to the Iranian government." Morgenthau added that one of the purposes of the action was to "let people know that the Iranians are deadly serious about acquiring materials for long-range missiles and for atom bombs." Like Treasury, Morgenthau emphasized that the Iranians are attempting to acquire this technology through deceptive conduct -- in this case, through Limmt's aggressive use of front companies to hide the blacklisted company's involvement in the transaction.

This was not Morgenthau's first strike against Iran's illicit activities. In January, the Manhattan DA's office was part of a settlement agreement reached with the Justice Department regarding the violation of U.S. sanctions laws by British bank Lloyds TSB. Lloyds acknowledged that from 1995 to 2007, it had falsified information on wire transfers involving sanctioned countries, such as Iran, so transactions could pass through the U.S. financial system unnoticed. Under the agreement, Lloyds admitted responsibility for the criminal conduct and paid \$350 million, split evenly between New York county and the federal government.

U.S. federal law enforcement agencies have also been stepping up efforts over the past year. On April 3, Baktash Fattahi, an Iranian national residing in the United States, was indicted for attempting to export restricted military aircraft parts to Iran. Ten others were also charged, including a number of Iranian businessmen operating out of Dubai. The investigation was a team effort involving agents from various agencies, including Immigration and Customs Enforcement, and the Departments of Defense, Commerce, and State.

In March 2009, an Iranian citizen and a Tehran business were charged with violating U.S. sanctions laws for illegally exporting helicopter engines and advanced aerial cameras for military aircraft from the United States. The Iranians worked through companies based in Malaysia, Ireland, and the Netherlands to obtain the needed technology, some of which was delivered to the blacklisted Iran Aircraft Manufacturing Industrial Company. The Iranians once again tried to hide their tracks, explicitly instructing the Dutch company not to inform their U.S. counterpart that the goods were destined for Iran. That same month, a U.S. citizen pleaded guilty to exporting dual-use items to Iran, falsely listing Singapore and Malaysia as the ultimate destination for military and commercial aircraft parts.

A number of law enforcement actions were also taken against Iran in the final months of the Bush administration. In September 2008, eight individuals and eight companies were charged for sending dual-use computer software to Iran. According to the U.S. government, the technology had potential military applications in the construction of improvised explosive devices. Once again, a number of federal agencies were involved in the investigation.

Treasury and Justice also coordinated closely in a December 2008 joint action that targeted the Assa Corporation, a U.S.-based company acting as a front for Bank Melli. In addition to designating Assa for its ties to Bank Melli, the Justice Department also moved to forfeit a building on Fifth Avenue in New York, in which Assa had an ownership stake. The infamous Alavi Foundation also owned a portion of this building, and the organization's president, Farshid Jahedi, was charged with obstructing the investigation into the ties between Alavi and Bank Melli.

Why the Uptick?

Several factors are most likely behind the increase in the number and scale of the law enforcement investigations targeting Iran's illicit activities. The first is undoubtedly related to the growing prioritization of Iran by all arms of the U.S. government. As the Bush administration highlighted the growing threat posed by Iran, all of the relevant government agencies -- including law enforcement entities -- began exploring what they could bring to this effort. A second factor was the appointment of a national export control coordinator at the Justice Department in October 2007. The coordinator, career prosecutor Steven Pelak, has helped raise the profile of export control cases among prosecutors throughout the United States. He has also helped educate these prosecutors on how to bring successful cases in this complicated area. The U.S. attorneys are likely feeling some pressure to act, given that Pelak solicits regular reports on each office's export control cases.

A third factor is the expanded U.S. government authority in this area, courtesy of the October 2007 International Emergency Economic Powers (IEEPA) Enhancement Act. The act increased penalties for violating sanctions, raising the possible civil fines from \$50,000 to \$250,000 or twice the value of the transaction (whichever is higher), and the criminal penalties from \$50,000 to \$1 million. IEEPA remains the primary statutory basis for U.S. sanctions regimes, including those targeting Iran. The act also increased the U.S. government's jurisdiction over foreign entities, allowing for civil penalties in cases where a person conspires or causes a violation to occur in the United States.

Limitations of Enforcement Regimes

To this point, the United States has been largely alone in ramping up its enforcement activities against Iran (although Canada's first-ever prosecution earlier this month of an export control violation case, against an Iranian-Canadian who attempted to send sensitive technology to Iran, is a promising exception).

The European Union, whose member states remain major trading partners of Iran, has only a limited ability to monitor sanctions compliance. The EU has oversight jurisdiction over its member states but not individual European companies. The EU also does not have the resources necessary to conduct audits or to bring enforcement actions. As a result, the EU will generally only take action in this area when an obvious violation by a member state is brought to their attention.

Resource constraints and a lack of political will are also affecting individual European countries' efforts to crack

down on illicit trade with Iran. For example, Italy has less than fifteen people working in its export control office, and only eight of these are investigators. Given the country's status as one of Iran's most important European trading partners, this represents a glaring deficiency -- one that could be easily remedied. While Germany devotes far more resources to investigating these types of violations, one of its public prosecutors has stated that they have only uncovered "the tip of the iceberg" of the black market activity involving Iran's nuclear program.

The Way Forward

During the campaign, President Obama spoke of the need to employ "bigger carrots and bigger sticks" when dealing with Iran. As the United States begins to reach out to Tehran, however, it may become politically complicated to put additional sanctions in place, which will be deemed contrary to the spirit of engagement. Putting pressure on Iran through enhanced enforcement of existing laws, on the other hand, will not raise the same level of pushback, particularly from our allies.

In addition, although the newly stepped-up U.S. enforcement efforts are a positive step, there are limits to what the United States can accomplish on its own in this area. To make a broader impact, the Obama administration must persuade other key countries involved in trade with Iran to adopt a similarly aggressive approach.

Michael Jacobson, a senior fellow in The Washington Institute's [Stein Program on Counterterrorism and Intelligence](http://www.washingtoninstitute.org/templateI02.php?SID=11) (<http://www.washingtoninstitute.org/templateI02.php?SID=11>), is a former senior advisor in the Treasury Department's Office of Terrorism and Financial Intelligence. ❖

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