

Economic Sanctions against Iran:

Engaging, Not Confronting, Allies

by [Michael Jacobson \(/experts/michael-jacobson\)](/experts/michael-jacobson)

May 4, 2007

ABOUT THE AUTHORS

[Michael Jacobson \(/experts/michael-jacobson\)](/experts/michael-jacobson)

Michael Jacobson is a senior fellow in The Washington Institute's Stein Program on Counterterrorism and Intelligence.



Brief Analysis

On April 18, 2007, senior Treasury and State Department officials testifying before Congress were criticized for failing to employ sufficiently tough economic sanctions against Iran. This failure was partly attributed to Washington's fear of upsetting foreign allies. Ironically enough, the Bush administration could use such congressional pressure as leverage in its efforts to forge effective international cooperation on Iran.

Congressional Pressure

The hearing -- a joint session of House Foreign Affairs and Financial Services subcommittees -- focused on efforts to isolate proliferators of weapons of mass destruction (WMD) and state sponsors of terrorism through financial means such as sanctions. Committee members criticized the government's failure to fully exploit existing tools and encouraged the Bush administration to ramp up economic sanctions targeting Iran. One focus was Washington's longstanding unwillingness to sanction foreign companies for investing in Iran's energy sector. Many have argued that such sanctions could cause a backlash and undermine U.S. efforts to build a broad international coalition against Iran -- financial penalties would likely apply to companies in Europe and Japan, whose support is considered essential to the success of any international effort.

The administration maintains that its approach -- combining diplomacy with targeted financial measures -- is succeeding. As evidence, it points to the various UN Security Council resolutions, and the fact that a number of foreign financial institutions and private companies have voluntarily reduced or terminated commercial ties to Iran. The European Union (EU), for one, has exceeded UN requirements by imposing a full arms embargo on Iran and bringing sanctions against entities that have not yet been designated by the UN.

Legal Background

The Iran-Libya Sanctions Act (ILSA), now the Iran Sanctions Act (ISA), was passed in 1996 as part of a broader effort to strengthen economic sanctions against Iran and Libya. Enacted soon after Iran first permitted foreign investment in its energy sector, ILSA was intended to deprive the regime of much-needed assistance in modernizing its energy industry. Many also hoped that the legislation would reduce the funds available to Iran for supporting terrorism or developing WMD programs, given the country's reliance on oil revenues.

ILSA required the president to impose sanctions on non-U.S. companies investing more than \$20 million in Iran's

energy sector annually. The president could choose which two out of six possible measures to apply in each case. These included sanctions with a potentially major impact (e.g., restricting imports to the United States) as well as less severe measures (e.g., barring a company from serving as a primary dealer in U.S. debt instruments). The president was also given authority to waive sanctions under two conditions: (1) "country waivers," issued when a company's home country had taken steps to inhibit Iran's WMD programs, and (2) "national interest waivers," issued when the president certified that an exception was important to U.S. national interests.

The Iran Freedom Support Act (IFSA), passed in September 2006, amended key portions of ILSA and extended it until December 2011. Most important, IFSA removed the sanctions against Libya, which was no longer designated a state sponsor of terrorism. To reflect this change, ILSA was renamed ISA. IFSA also codified many of the comprehensive sanctions already in place against Iran, which were largely based on 1995 and 1997 executive orders. This step limited the president's ability to unilaterally lift existing sanctions.

Like ILSA before it, IFSA requires the president to impose two out of six potential sanctions on entities investing in Iran's energy sector. But IFSA limits the president's authority to issue waivers. Although the national interest waiver remains in place, the country waiver has been replaced with a case-by-case waiver that can only be issued for six months at a time. The president must also certify that any such provisional waiver is vital to U.S. national security interests. In addition, IFSA requires the president to sanction entities that knowingly support Iran's WMD programs.

European Reaction

The Bush administration, like those before it, has not sanctioned foreign companies under ISA/ILSA for investing in Iran's energy sector. John Bruton, the EU ambassador to Washington, recently reiterated European opposition to such a measure, noting that the EU would "question the wisdom" of imposing sanctions on any European entities. In fact, the EU strongly objected to ILSA from the outset, arguing that it was "extraterritorial" in nature -- an inappropriate extension of U.S. law beyond its jurisdiction.

ILSA became the subject of particularly intense U.S.-EU debate in 1997, when a French company agreed to participate in a \$2 billion project to develop Iran's South Pars gas field. To protest ILSA, the EU brought an action against the United States before the World Trade Organization (WTO). In May 1998, President Bill Clinton granted a waiver certifying that the gas project, despite violating ILSA, was nevertheless in U.S. national interests. Secretary of State Madeleine Albright stated that similar future projects involving EU companies would likely receive waivers as well. In return, the EU promised to step up cooperation with U.S. efforts to counter Iran's WMD programs and terrorist activities (the EU had already agreed to suspend its WTO action, though it threatened to renew the proceedings if Washington did not grant waivers for future European energy projects).

No additional projects have been found to constitute a violation of ILSA/ISA since that time, though critics have charged that Washington has not been looking carefully enough. To address this issue, IFSA includes a provision that the president should investigate credible reports of investment activity in Iran that may meet the threshold for sanctions, determining within 180 days whether a violation has occurred.

Threat of Sanctions

The administration is in an awkward position, caught between a Congress calling for tougher sanctions and key allies strongly opposed to them. The pressure from Congress could be an advantage, however -- Washington can use potential congressional action as leverage in discussions with key European and Asian allies, whose companies would most likely be affected by new sanctions. Specifically, it could deliver a strong message that pressure in the United States is building and that broader sanctions are indeed possible. The best way to forestall congressional action, the administration could argue, is by demonstrating that the current strategy is achieving significant results - an outcome that would, of course, require significant international support.

Washington could further point out that if new sanctions are applied, they could make cooperation more difficult, which is in no one's interest. For example, they could place foreign governments under significant domestic pressure to counter U.S. economic restrictions. In that environment, it would be politically challenging for them to cooperate with the United States -- either bilaterally or multilaterally through the UN -- on further actions against Iran.

In light of these issues, the administration should keep Congress closely apprised of all pertinent developments, treating it as an important partner. Whether our allies are taking positive steps (such as the EU's efforts beyond UN resolutions) or presenting significant obstacles, the administration should highlight these instances for Congress. Both branches of government, along with America's foreign allies, share the same ultimate goals: preventing Iran from acquiring nuclear weapons and ending its support for terrorist activities. Working closely together to develop a cohesive multilateral strategy of financial and diplomatic pressure on Iran remains the likeliest path to success.

Michael Jacobson, a senior fellow in The Washington Institute's Stein Program on Terrorism, Intelligence, and Policy, previously served as a senior advisor in the Treasury Department's Office of Terrorism and Financial Intelligence. ❖

Policy #1227

RECOMMENDED



BRIEF ANALYSIS

[Iran Takes Next Steps on Rocket Technology](#)

Feb 11, 2022

◆
Farzin Nadimi

(/policy-analysis/iran-takes-next-steps-rocket-technology)



BRIEF ANALYSIS

[Saudi Arabia Adjusts Its History, Diminishing the Role of Wahhabism](#)

Feb 11, 2022

◆
Simon Henderson

(/policy-analysis/saudi-arabia-adjusts-its-history-diminishing-role-wahhabism)



ARTICLES & TESTIMONY

Podcast: Breaking Hezbollah's Golden Rule

Feb 9, 2022



Matthew Levitt

(/policy-analysis/podcast-breaking-hezbollahs-golden-rule)

TOPICS

Proliferation (/policy-analysis/proliferation)

U.S. Policy (/policy-analysis/us-policy)

REGIONS & COUNTRIES

Iran (/policy-analysis/iran)