



Export Controls in the United Arab Emirates: A Practical Manifestation of a Strategic Dilemma

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On January 15, 2009, the United States and the United Arab Emirates (UAE) signed a civilian nuclear cooperation agreement, known as the “U.S.-UAE 123 Agreement.” The accord is intended to enable the UAE to possess a peaceful nuclear energy capacity while at the same time preventing weapons proliferation. Under the agreement, the UAE, forfeits the Nonproliferation Treaty (NPT)-afforded right to a domestic enrichment program and will not seek to reprocess its spent nuclear fuel. [1] If approved by the U.S. Congress, by 2017, the UAE could become the first Arab nation to utilize civilian nuclear technology. According to UAE Foreign Minister Sheikh Abdullah bin Zayed al-Nahyan, “Under the terms of this agreement, the UAE will gain access to significant capabilities and experience in the peaceful use of nuclear energy. This will allow the UAE to develop its civilian nuclear program to the highest standards of safety, security and nonproliferation.” [2]

The deal has received mixed reactions from around the world. Many people support the use of civilian nuclear energy in the region, including Hans Blix, the former head of the International Atomic Energy Agency (IAEA). [3] Yet, others worry that it may spark a nuclear arms race. [4] Within Iran, press coverage alluded to a U.S. double standard in that the agreement showed that Washington favored nuclear technology for its neighbor, the UAE, but not for Tehran. [5] Inside the United States, debate continues, even within the U.S. Congress. There, members introduced a bill intended to restrict the agreement until evidence was provided that the UAE had appropriately addressed its long-standing role in facilitating Iranian evasion of U.S. and international sanctions. Diplomats from both the Bush administration and the UAE met with Congressional leaders to convince them of the merits of the deal, but several lawmakers remained apprehensive, citing Iranian proliferation as a major source of concern. Although the outgoing Bush administration signed the agreement, it will be up to the Obama administration to submit it to Congress for final approval.

For the UAE, the inking of this deal and the considerable debate it has generated – especially over the nation’s role in illicit trading – highlights how the country’s policies and preferences are defined not only by its priorities vis-à-vis its relationship with the United States, but also by its relationship with Iran, and the dilemma that this reality creates. Further, it creates an opportunity to examine the UAE’s current export controls and border security measures and explore them within a broader regional context.

Separated by less than 30 miles of water, the Islamic Republic of Iran and the United Arab Emirates have a historical and complicated relationship. Cultural and economic ties between the two states have traditionally been very strong, with high levels of trade fostering financial interdependence. But it is also a relationship filled with suspicion and tension. Indeed, all six member states of the Gulf Cooperation Council (GCC), both individually and collectively, struggle to strike the right balance between preserving their security relationship with the United States and maintaining a constructive and peaceful relationship with an Iran that is increasingly projecting power in the region. [6]

For the UAE, the dilemma of maintaining the balance between its security guarantor and its northern neighbor is played out not only through its public diplomacy efforts and complex bilateral relationships with Iran and the United States, but also in its domestic policy decisions. One such example is the country’s traditionally lax approach to export and trade controls, which have been well documented as providing a channel for Iran’s evasion of financial and trade sanctions imposed by the United Nations and the United States. Although the UAE has made efforts to tighten its borders in recent years, obvious loopholes and enforcement issues abound.

The UAE has reasons for not further tightening its controls, including economic incentives and lack of enforcement capacity. A lack of political will to take aggressive action to prevent Iranian proliferation,

however, may also be a contributing factor. One cannot reject the possibility that UAE leaders calculate that, should they pursue more effective export control and border security measures, as Washington insists, they would be making the strategic choice to abandon the cloak of official non-involvement in the ongoing U.S.-Iran conflict.

The UAE's current military capabilities pose no credible threat to Iran and must be considered primarily defensive. On the other hand, the intricate and essential trade relationship that the UAE has with Iran affords it a unique economic lever against its neighbor. Obstructing Iran's primary supply line for illicit material would have a tangible effect upon the current Iranian *modus operandi* for evading U.S. and international sanctions by not only complicating access to materials essential for its nuclear program but also perhaps further weakening Iran's struggling domestic economy. If it were seen to do so, the UAE government could be viewed as carrying out U.S. policy towards Iran. This involvement would place it at greater risk of being a target of Iranian anti-U.S. activity.

However, proceeding with business as usual – allowing for the operation of an illicit, albeit lucrative, trade relationship and avoiding antagonizing an increasingly powerful Iran – also risks outcomes seemingly contrary to the UAE's national interest. In particular, it could result in both the continued facilitation of a suspected nuclear weapons program and enhanced conventional military capabilities in Iran, as well as the further emboldening of a regime that works increasingly against Arab Gulf interests.

The Regional Context

Iran's alleged pursuit of a nuclear weapons capacity, aggressive military posturing, bellicose rhetoric, and longstanding tensions with the West are all sources of anxiety for Arab Gulf regimes. Should Iran be successful in obtaining a complete nuclear fuel cycle, or even proven enrichment or reprocessing capabilities, the balance of power in the region would, in their view, be tipped in Tehran's favor. When imagining such a future, the Arab Gulf states remember "Iran's historic regional ambitions, its support of Shia groups in the 1980s and early 1990s, and Ayatollah Khomeini's eagerness to export the Islamic Revolution." [7] They also look to both real and alleged Iranian interventions as well as Tehran's proxies in the region, from Lebanon and the Palestinian territories to Iraq, to illuminate its future intentions in the Middle East should Iranian policies continue on their current trajectory. The Gulf states' ability to take action to prevent or stall this outcome, however, is limited due to both a lack of capacity to affect political change within Iran and a belief that criticism of the regime today will threaten the prospects of a peaceful relationship with a nuclear Iran in the future. In the meantime, the Iranian regime's continued challenge to the United States and the international community over the nuclear issue has won it admiration among Arab populations – including Gulf state citizens – which further constrains governments' ability to criticize Iran's nuclear ambitions.

The Gulf states remain keenly aware of what is at stake. In the event of U.S. military action against Iran, Tehran has promised to retaliate against U.S. bases and interests in the Gulf and strike critical infrastructure in the GCC states, including oil facilities and power stations. [8] Iranian threats also include disrupting vital shipping traffic in the Strait of Hormuz, which would not only directly affect the security of GCC territory and citizens, but also impact each state's ability to export oil, their primary source of revenue. Also at risk in this scenario is the Arab Gulf states' delicate image as stable and viable locations for economic investment. The fear of Iranian retribution and their longstanding desire for perceived neutrality is exemplified by UAE and other GCC states pronouncements that they will not allow a U.S. attack on Iran from their soil.

Many analysts look to key features of today's evolving strategic environment as a source of hope: the election of Barack Obama and his stated desire to engage Iran, the possibility of a more moderate Iranian leader being elected in 2009, and the passage of a Status of Forces Agreement setting the terms for a withdrawal of all U.S. troops from Iraq by 2011. Leaders in the Gulf, however, fear a darker side to these seemingly positive international developments. They worry that a significant warming of relations between Washington and Tehran will negatively affect the Arab Gulf states' interests, as a "grand bargain" may encourage or tacitly enable Iranian hegemonic aspirations in the Middle East. [9]

These security concerns are not the only defining factors of Arab Gulf policy responses to Iran and the United States. Over the last decade, the Gulf states have experienced remarkable economic growth and have received large amounts of foreign investment. Actively trying to distance themselves from the negative perceptions of the Middle East, they project an image of rapidly growing, investment-friendly, highly efficient, and most importantly, stable states. Either the outbreak of war or a new regional balance

of power drastically tipped in Iran's favor would seriously damage this carefully crafted image.

These competing concerns are particularly prominent in the UAE. Strong economic considerations and limited political maneuverability vis-à-vis Iran limit the government's desire to be at odds with the Islamic Republic. This strategic dilemma manifests itself in practical ways, including its domestic export control and border security policies, and may indirectly facilitate one of the government's greatest fears: a nuclear-armed Iran.

The UAE-Iranian Trade Relationship

Having learned their lesson from the oil boom of the 1970s and crash of the 1980s, the UAE and the other five GCC states have focused much of their recent oil wealth on diversifying their economies to be sustainable and independent of future shocks in the oil market. With world-class construction, consumer, tourism and financial service industries, the UAE is making its mark on the global economy.

The rise of Dubai as a global economic and trading powerhouse is largely owed to its strategic location on the Gulf with access to both the West and the fast-growing markets of Asia, thus making it the ideal location for re-exports. Furthermore, Dubai is now the eighth largest container port in the world and the leading trading hub in the Middle East. A 2004 statistic put the level of the UAE's re-exports at over one quarter of its \$23 billion non-oil imports, noting that the largest percentage of those shipments went to Iran. [10] According to the Dubai Deputy Chamber of Commerce and Industry, it is "estimated that in 2006 re-exports constituted 60% of the trade" between the Emirates and Iran. [11]

Hosting the world's largest Iranian expatriate community, the UAE greatly benefits from strong economic ties with Iran, its third largest export market. [12] While most of the UAE's imports from Iran include foodstuffs, materials, carpets, ceramics and agricultural and industrial products, Iran primarily imports "cars and appliances through re-exportation and gasoline." [13]

As a result of the UAE's lax trade and export policies, Iran's closest trading partner evolved into the natural location for diverting shipments and evading international sanctions. For the "last two decades... [Dubai] along with other points in the emirates, has been the main hub through which traffickers have routed their illegal commerce to hide their trails." [14] Smuggling into Iran via Dubai greatly increased after 1987, when the first U.S. trade embargo on Iranian goods and services was put in place. According to one assessment, "By the time the 1995 oil sanctions took effect, it was a well-greased mechanism." [15] By setting up front companies and taking advantage of free zones like Jebel Ali – which was "set up to re-export goods through Dubai to other markets, the largest being Iran and India" [16] – the UAE-Iranian business communities successfully undermined U.S. and international trade sanctions against Iran – with smuggling through Jebel Ali comprising a major portion of Iran's imports. [17] Facilitating these illicit activities is the minimal oversight of re-exports passing through the UAE. One reason for this is what is considered to be Dubai's enabling of "automatic deniability," as the emirate "brags that its policy on re-exporting 'enables traders to transit their shipments through Dubai without any hassles.'" [18]

Outside the free zones, rumors are heard of "non-private sector companies or people belonging to the [Iranian] government investing in Dubai." [19] According to Stuart Levey, the Under Secretary of Treasury for Terrorism and Financial Intelligence, "Iran's nuclear and missile firms hide behind an array of agents that transact business on their behalf." [20]

The UAE has long been scrutinized for its role in facilitating illegal proliferation. Perhaps the most serious example of the role that the UAE's re-export industry plays in illicit trade is the 2004 discovery of Dubai's role in the notorious A.Q. Khan nuclear network. The clandestine network provided nuclear components and knowledge not only to Iran, but to North Korea as well. [21] Dubai was considered an essential transfer point for the trans-shipment of these components, and two Dubai-based companies were discovered to be directly involved. Indeed, one of those companies, SMB Computers, was considered to be the primary "front for the proliferation activities of the A.Q. Khan network." [22]

Beyond the Notorious: UAE Export Controls and Proliferation

Abuse of the Emirates' ports and trading systems had been occurring long before the 2004 discovery: [23]

- In 1996, the Dubai-based company Gulf Oil was caught attempting to re-export impregnated alumina from the United States to Iran, a material which can be used to produce chemical nerve agents. Later that year the German government identified several companies operating in Dubai

as front companies for Iranian efforts to import weapons and nuclear technology.

- In 2004, Washington imposed sanctions on a firm in the UAE, Elmstone Service and Trading FZE, “for allegedly selling weapons of mass destruction-related technology to Iran, under the Non-Proliferation Act.”
- In June 2006, the U.S. Bureau of Industry and Security (BIS) released a general order imposing a license requirement on Mayrow General Trading Company and related enterprises in the UAE. This was done after Mayrow was implicated in the trans-shipment of electronic components and devices capable of being used to construct improvised explosive devices (IEDs) used in Iraq and Afghanistan.” [24]
- More recently, two American businessmen were charged with shipping military parts to Iran to repair Iranian F-14 jet fighters; the parts were originally shipped to the UAE and later resold to Iran. [25]
- In March 2008, a man in Dubai was accused of attempting to sell 240 kg of zirconium, an element used in nuclear reactors, to a buyer outside of the Emirates and attempting to establish a base for a zirconium business in the region. [26]

The Role of the UN, the U.S. and Attempts at Reform

United Nations Security Council Resolution 1540 (UNSCR 1540) is a useful, albeit imperfect metric to explore the UAE’s commitment to export controls and border security legislation and enforcement. [27] The country’s required official reporting to the 1540 Committee has lacked breadth and depth, making it difficult for analysts to make any informed judgments on the degree to which the UAE has implemented UNSCR 1540 in general or the current state of its domestic WMD-related legislation in particular. [28] Studies of UNSCR 1540 implementation [29] have found that “poor compliance...is of special significance for major trading hubs – such as the United Arab Emirates (UAE) – that experience a huge turnover in goods, mainly containerized shipments...Even though it is impossible to control all of the many million standard containers that enter each port every year, improved trans-shipment and end-user controls, better detection methods and equipment, and improved cooperation will lower the proliferation risk by increasing the likelihood that illicit shipments will be detected and intercepted.” [30] Although the UAE was informed by the 1540 Committee about the weaknesses in its nonproliferation controls, according to publicly accessible data, the UAE has not provided the additional information requested by the Committee. [31]

(For more information on the Resolution 1540 and its implementation, please see, “UN Security Council Resolution 1540, Part I: Resolution 1810: Progress Since 1540,” in the August 2008 issue of WMD Insights.)

Given that the United States and the international community have imposed multiple rounds of sanctions on Iran to hinder its nuclear program, the role of the UAE in undermining those sanctions is of utmost concern. As a result, Washington has made several efforts to assist the UAE in strengthening its border security and export controls. In 2004 the United States and Dubai signed a Container Security Initiative Statement of Principles, “aimed at screening U.S.-bound containerized cargo transiting Dubai ports. Under the agreement, U.S. Customs officers are co-located with the Dubai Customs Intelligence Unit at Port Rashid in Dubai.” [32] The UAE also participates in other U.S.-led nonproliferation initiatives, including the Proliferation Security Initiative (PSI), the U.S. Department of Energy’s Megaports Initiative, and the Department of Homeland Security’s Security Freight Initiative.

Arguably the most effective measure taken – at least publicly – to urge the UAE to take the issue of export controls and border security more seriously was in 2007. In February 2007, the Bush Administration threatened to create a new category of countries known as “Destinations of Diversion Concern” of WMD-capable exports. [33] It was generally believed that the UAE would be one of the first countries to receive this new designation, not only because of the established connection between the UAE and Iranian efforts to obtain nuclear weapons and dual-use materials, but also because U.S. components believed to be smuggled through the Emirates had been found in unexploded IEDs in Iraq and ultimately traced back to the Iranian Revolutionary Guards (IRGC). Reports surfaced that U.S. intelligence agencies had “evidence of at least 11 individuals and companies operating in the United Arab Emirates [that were] smuggling electronic components and devices – sometimes through Iran – to build explosive devices used to ambush American soldiers in Iraq and Afghanistan.” [34] This designation

would have been a major embarrassment to the UAE government, damaging its efforts to solidify further its reputation as a reliable and competent hub for global trade.

Thus, it is widely understood that the intense pressure from the Bush Administration to curb illicit trade to Iran motivated the UAE to pass its first draft domestic export control law in March 2007, which also created a “control body known as the National Commission for Commodities Subject to Import, Export and Re-export Controls.” It was signed into law on August 31, 2007. [35] The law “authorizes government bodies to restrict or ban the import, export or re-export of goods deemed a threat to the UAE’s national security, foreign policy, natural resources, public health and safety, or the environment.” Furthermore, it bans the export or re-export of strategic goods, including arms and military hardware, chemical and biological materials, and dual-use items without a special license.” [36] Shortly after its passage, the UAE invoked the new legislation and shut down 40 international and local companies involved in selling dual-use goods and violating the NPT and UN Security Council resolutions. As a result, the U.S. government backed away from its threat and never actually created the “Destinations of Diversion Concern” classification.

The Status Quo

UAE officials, including Yousef al-Otaiba, now the UAE’s Ambassador to the United States, have asserted that today they are “more closely monitoring goods” that are re-exported and “blocking items that might help Iran build weapons systems.” A September 2008 letter from Ambassador Otaiba to former U.S. Secretary of Commerce Gutierrez intended to increase support for the U.S.-UAE 123 Agreement outlines recent examples of U.S.-UAE cooperation and UAE initiatives that have led to the inspection and seizure of hundreds of suspect ships and shipments, some of which were destined for Iran. [37] Furthermore, Treasury Undersecretary Levey recently said that “the UAE is taking steps to be vigilant...they have a challenge there and they are starting to grapple with it.” [38] But many trade experts, U.S. officials, businessmen, and observers report that evidence of the law’s actual enforcement is sparse. [39] According to Nasser Hashempour, deputy president of the Iranian Business Council in Dubai, the law “has virtually had no effect,” and that “if someone wants to move something – get it to Iran – it is easy to be done.” [40]

While much of the continued laxity in UAE export controls and border security is due to a lack of capacity, allegedly opaque UN sanctions, and overdue attempts at course correction in an environment where skilled smugglers have been operating for decades, another major element in the equation is the absence of political will. [41] Implementing export controls and border security measures is bad for business, especially for a country that relies so heavily on laissez-faire economic policies. Tightening the spigot on re-exports risks driving business elsewhere – not only to other developing ports in the Gulf, but to other locations, including China and Singapore – and stifling the UAE’s booming economic growth. With regard to direct UAE-Iran business, it has been difficult preventing these stricter policies from negatively affecting legitimate bilateral trade, a mainstay of the economies of both the Emirates and Iran.

The larger context of this story is, however, an extension of the dilemma the UAE faces when dealing with the challenge of Iran. While Iran continues to obtain illicit goods, it is the UAE that controls their primary transit point. Therefore, the country is able to have a material effect on Iran’s access to these goods essential to its economy as a whole and its nuclear program and conventional military capabilities in particular. The lack of a more robust export control system has resulted in the UAE unintentionally facilitating the expansion of Iran’s alleged nuclear weapons program and its conventional military capacity – both of which the Arab Gulf states observe with great concern. But any sweeping attempt at course correction runs the risk of upsetting fragile regional security dynamics. This is undesirable due to the UAE government’s wish to preserve the strategic balance between the United States and Iran and the belief that it neither has the ability to affect political change in Iran today nor the stomach to be in open opposition to a potentially nuclear-armed Iran in the future. Given these realities, it is therefore possible to understand why, when explaining the limits to the UAE’s willingness to restrict trade with Iran, Sheikh Lubna al Qasimi, the Minister for Economy and Planning, said: “At the end of the day, Iran is still a neighbor.” [42]

Elena McGovern - The Stimson Center

► SOURCES AND NOTES

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