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U.N. Ban on Iran Arms Transfers and Sanctions Snapback

Overview

A 2015 multilateral Iran nuclear agreement (Joint Comprehensive Plan of Action, JCPOA), provides for limits on Iran’s nuclear program in exchange for sanctions relief. U.N. Security Council Resolution 2231 (July 17, 2015), which endorsed the JCPOA, contains Annex B that provides for a ban on the transfer of arms to or from Iran until October 18, 2020. The Trump Administration, with the support of many in Congress, has sought to extend the ban in order to try to prevent Iran from acquiring new conventional weaponry, particularly advanced combat aircraft. On August 14, the U.N. Security Council, including two key potential arms suppliers of Iran—Russia and China—voted down a U.S. draft to extend the arms transfer ban. An overwhelming majority of the Council also questions that the United States has standing for its August 20 request to implement the provision of Resolution 2231 that snaps back all U.N. sanctions on Iran, including the arms transfer ban. The dispute within the Council over the U.S. snapback request has no clear path to resolution.

Annex B also contains a ban, until October 18, 2023, on supplying equipment with which Iran could develop nuclear-capable ballistic missiles, and calls on Iran not to develop ballistic missiles designed to carry nuclear weapons. See CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

Provisions of the Arms Transfer Ban

Annex B of Resolution 2231 restated and superseded the restrictions of: (1) Resolution 1747 (March 24, 2007), which banned Iran’s transfer of arms from its territory and required all U.N. member states to prohibit the transfer of Iranian arms from its territory, and (2) Resolution 1929 (June 9, 2010), which banned the supply to Iran of “any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register of Arms [ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 16 miles] or related materiel, including spare parts....” The Security Council can waive the restrictions on a “case-by-case basis,” but no Iran arms transfers have been approved to date. The ban expires on the earlier of (1) five years after the JCPOA “Adoption Day” (ie: October 18, 2020), or (2) upon the issuing by the International Atomic Energy Agency (IAEA) of a “Broader Conclusion” that all nuclear material in Iran remains in peaceful activities.

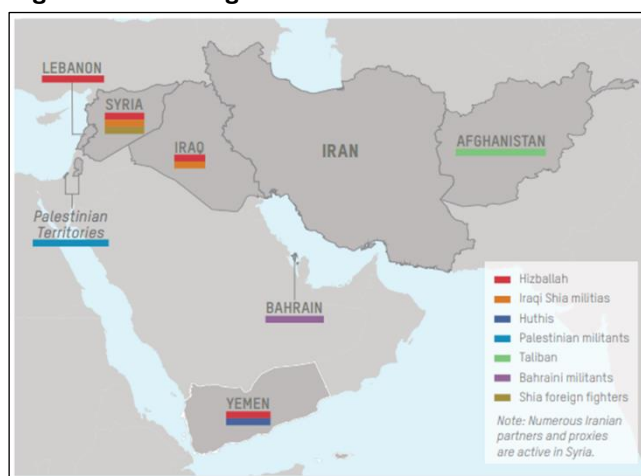
U.S. and other Security Council member officials interpret the restriction as inapplicable to the sale to Iran of purely defensive systems. In 2016, Russia delivered to Iran the S-300 air defense system, which a State Department

spokesperson described as “...not formally a violation [of 2231] because the S-300 is for defensive uses only.”

Effects of the Ban

Implying that the ban on arms sales to Iran has been effective, the congressionally mandated Defense Intelligence Agency (DIA) annual report on the military power of Iran for 2019, released in November 2019, states that Iran wants to “purchase new advanced weapon systems from foreign suppliers to modernize its armed forces, including equipment it has largely been unable to acquire for decades.”

Figure 1. Iran’s Regional Allies



Source: Defense Intelligence Agency. *Iran Military Power: 2019*.

By contrast, regarding the ban on Iranian arms exports, the DIA report (which represents a consensus U.S. judgment) stated: “Since the Islamic Revolution, Iran has transferred a wide range of weapons and military equipment to state and non-state actors, including designated terrorist organizations.... Although some Iranian shipments have been interdicted, Tehran is often able to get high-priority arms transfers to its customers. [See Figure 1.] Over the years, Iranian transfers to state and non-state actors have included communications equipment; small arms—such as assault rifles, sniper rifles, machine guns, mortars, and rocket-propelled grenades (RPGs)—and ammunition; ... artillery systems, including MRLs (multiple rocket launchers) and battlefield rockets and launchers; armored vehicles; FAC (fast attack craft); equipment for unmanned explosives boats; ... SAMs (surface-to-air missiles); UAVs (unmanned aerial vehicles) ... ground-attack aircraft ...” and other weaponry. A June 2020 report by the U.N. Secretary General on implementation of Resolution 2231 assessed that Iran attempted to export weaponry and missile parts to Houthi forces in Yemen, and U.S. and allied forces intercepted some of that weaponry in November 2019 and February 2020. See CRS Report R44017, *Iran’s Foreign and Defense Policies*, by Kenneth Katzman.

Figure 2. Iran Military Structure and Size Estimates

Iranian Military Structure and Size Estimates			
Islamic Revolutionary Guard Corps (IRGC)		Regular Forces (Artesh)	
IRGC Ground Force (IRGCCGF)	150,000	Islamic Republic of Iran Ground Force (IRIGF)	350,000
IRGC Navy (IRGCN)	20,000	Islamic Republic of Iran Navy (IRIN)	18,000
IRGC Aerospace Force (IRGCASF)	15,000	Islamic Republic of Iran Air Force (IRIAF)	37,000
IRGC Qods Force (IRGC-QF)	5,000	Islamic Republic of Iran Air Defense Force (IRIADF)	15,000
Basij (Reserves)	450,000		
Total (excl. Basij)	190,000	Total:	420,000
Total (incl. Basij)	640,000		
Total Military (Active): 610,000			
Total Military (incl. Reserves): 1,060,000			

Note: Basij number only includes estimated active reserve personnel; Iran may be able to mobilize an additional 500,000 to 1 million Basij in wartime.

Source: Defense Intelligence Agency. Iran Military Power: 2019.

Relevant Laws, Authorities, and Options for the Administration and Congress

The Trump Administration's stated policy is to apply "maximum pressure" on Iran to compel it to alter its behavior. The Administration cited the expiration of the arms transfer ban as among the flaws in the JCPOA that justified the U.S. exit from it in May 2018, and the Administration has insisted that the arms transfer ban not expire. At a U.N. Security Council meeting on June 30, 2020, Secretary of State Michael Pompeo said: "Don't just take it from the United States, listen to countries in the region. From Israel to the Gulf, countries in the Middle East—who are most exposed to Iran's predations—are speaking with one voice: Extend the arms embargo." A May 4, 2020 letter, signed by 387 House Members, "urge[s] increased diplomatic action by the United States to renew the expiring United Nations arms embargo against Iran...."

The DIA report, cited above, states "Iran's potential acquisitions after the lifting of UNSCR 2231 restrictions include Russian Su-30 fighters, Yak-130 trainers, and T-90 MBTs (main battle tanks). Iran has also shown interest in acquiring S-400 air defense systems and Bastian coastal defense systems from Russia." On June 23, 2020, Secretary Pompeo posted this Twitter message: "If the U.N. Arms Embargo on Iran expires in October, Iran will be able to buy new fighter aircraft like Russia's SU-30 and China's J-10. With these highly lethal aircraft, Europe and Asia could be in Iran's crosshairs." The composition of Iran's forces is depicted in Figure 2.

In early August 2020, the United States circulated a draft U.N. Security Council resolution that would extend the arms transfer ban "until the Security Council decides otherwise." On August 14, the Security Council completed the voting process on the U.S. extension draft. The United States and the Dominican Republic voted in favor, Russia and China voted against, and the remaining eleven Council members abstained. The European countries on the Council argued that extending the arms transfer ban would likely cause Iran to leave the JCPOA outright. Secretary of State Pompeo denounced the adverse U.N. vote, saying "The Security Council's failure to act decisively in defense of international peace and security is inexcusable."

After the defeat of the effort to extend the arms transfer ban, President Trump stated that the United States would invoke a snapback of all U.N. sanctions that were lifted upon implementation of the JCPOA, saying: "We'll be doing a snapback. You'll be watching it next week." The U.S. position that it can trigger a sanctions snapback is based on a State Department legal interpretation of Resolution 2231 that a JCPOA "participant" could, after notifying the Security Council of an issue that the government "believes constitutes significant non-performance of [JCPOA] commitments," trigger (within 30 days) an automatic draft resolution keeping sanctions relief in effect. A U.S. veto of this resolution would reimpose the suspended sanctions. On April 30, 2020, the then-State Department Special Representative for Iran, Ambassador Brian Hook, asserted that the U.S. status as a participant in the nuclear accord under Resolution 2231 exists independently of the JCPOA.

Governments of European countries, Russia, and China opposed the U.S. assertion that remains a "participant" in the accord under Resolution 2231 and can trigger a sanctions snapback. On August 16, EU foreign policy chief Josep Borrell said "Given that the US unilaterally withdrew from the JCPOA in May 2018 and has not participated in any JCPOA structures or activities subsequently, the US cannot be considered as a JCPOA participant. We therefore consider that the US is not in a position to resort to mechanisms reserved for JCPOA participants [such as the so-called snapback]."

Despite the opposition, Secretary of State Pompeo met on August 20 with the U.N. Security Council presidency, held in August by Indonesia, to deliver the formal U.S. complaint that Iran is in material breach of the JCPOA and that all U.N. sanctions should snap back. The next day, 13 of the 15 Security Council members wrote letters to the Indonesian rotating Council presidency asserting that the United States does not have standing to implement the snapback. On that basis, Indonesia refused to circulate the draft resolution maintaining sanctions relief, but U.S. officials maintain that, on September 19, all U.N. sanctions will go back into effect. Indicating that a U.S. assertion of snapback will not be widely recognized, a joint letter of the United Kingdom, France, and Germany stated that: "Any decisions and actions which would be taken based on this procedure or on its possible outcome would also be devoid of any legal effect." It is not clear what entity or person might adjudicate the dispute.

If a sanctions snapback is not widely recognized or implemented, the Administration might use its sanctions authorities to deter any arms sales to Iran. These include the Iran-Iraq Arms Non-Proliferation Act, the Iran, North Korea, and Syria Nonproliferation Act (INKSNA), Executive Order 13382, the Countering America's Adversaries through Sanctions Act, and Iran's designation as a state sponsor of terrorism provides authorities for the President to sanction arms suppliers to Iran. Alternatively, the United States might try to work with potential arms sellers to Iran to dissuade them from completing any sales.

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