

THE FOUNDATION FOR DEFENSE OF DEMOCRACIES' CENTER ON
SANCTIONS AND ILLICIT FINANCE HOLDS A DISCUSSION ON
RISKY BUSINESS IN IRAN: ONE YEAR SINCE THE JOINT
COMPREHENSIVE PLAN OF ACTION (JCPOA)

JULY 11, 2016

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LAKSHMANAN: I want to welcome everyone here to the Foundation for Defense of Democracies' one-year anniversary conversation, marking 12 months since the Iran deal was agreed on in Vienna this week. And I am thinking back to having spent 18 days in a row in Vienna there myself last year, and some of you might have also been there.

And this last year has given us a chance to kind of, with the benefit of distance and time, look at the implementation of that deal. As many of you know, it took about six months to get the deal off the ground, to get it implemented with the simultaneous taking of actions by Iran to limit their nuclear activities, and simultaneous lifting by the U.S. and the European Union of a number of sanctions that had crippled Iran's economy across a variety of sectors, including the financial sector and oil, but not limited to those, over the last several years.

As many of you know, it was only supposedly nuclear-related sanctions that were to be lifted, that other sanctions remain in place. But this panel is going to be focused on, in the six months since the deal was implemented in January, what steps have been taken on an economic front by Iran to try to legitimize its business dealings, to try to get maximum economic benefit that it can out of the deal?

You all remember that a year ago, the P5+1 leaders from the U.N. Security Council said that the deal had to be a compromise on both sides, that in exchange for taking these steps to limit its nuclear activities, Iran had to get some economic benefit to give it the incentive to continue to comply with the deal.

So, a lot has happened in the past six months. There is supposedly a leaked copy of U.N. Secretary General Ban Ki-moon's report on compliance for the first six months of the deal. It's been reported by Reuters. It hasn't been confirmed, but we could certainly talk about that. We can talk about actions that have been taken by the United States government in an effort to make sure that the U.S. complies with the deal and efforts by Iran to try to press the United States to do more.

And for those of you who haven't been following it so closely, from the U.S. point of view, the biggest deal has probably been this estimated \$25 billion planned sale by Boeing of civilian aircraft to Iran Air for what is meant to be civilian planes. And on Thursday night, the House by a voice vote passed a number of amendments that would seek to block this deal, even though it's allowed for under the Iran Joint Comprehensive Plan of Action, as the official name of the Iran deal.

So, we have two excellent speakers here who really have studied this issue up and down for years and years and years, and I want to give you a chance to hear from them on this very important issue of where we are economically a year since the deal was signed.

Sitting on my left, Mark Dubowitz is the executive director of the Foundation for Defense of Democracies and of its Center on Sanctions and Illicit Finance. He's a lawyer, he's a sanctions expert. He leads projects on Iran sanctions, nonproliferation, and he has advised both the administration and Congress on a number of sanctions over the last six years or more.

And sitting to my right is Eric Lorber, who is a senior adviser to FDD's Center on Sanctions and Illicit Finance, and he is himself a former Treasury Department official. He's also senior associate at the Financial Integrity Network, which advises clients on issues related to economic sanctions and regulatory compliance.

So Mark, I want to start out with you by asking you to lay out for us the sort of numbers of how Iran has gained financially from the Iran deal and its level of economic engagement with the international community. If you can start out by telling us what's happened to oil sales, and if anything else has happened beyond oil sales to help Iran?

DUBOWITZ: Great, well, thank you, Indira, and thank you to Eric and thank you to all of you for showing up.

So, I think when we talk about Iran and economic relief, it's worth remembering that from an Iranian perspective, the JCPOA was not the end of the negotiations, but it was very much the beginning of the negotiations. And we are seeing the Iranians continue to press, making the claim that they haven't gotten enough economic relief.

When we talk about economic relief, we sometimes get caught up in sort of the numbers in terms of oil sales, and foreign direct investment in some of the deals that are being signed, like the Boeing deal. But it's worth stepping back and looking at something that is kind of boring, but it's sort of important, which is a macro-economic situation in Iran.

You know, based on the familiar indicators that all economies look at -- GDP, growth, inflation, the exchange rate, foreign exchange earnings, et cetera -- and it's also worth remembering in 2013, that Iran was about four to six months away from a severe balance of payments crisis, where it effectively was running out of foreign exchange reserves and was pretty close to an almost -- I wouldn't say quite, but an almost Venezuela-style economic collapse. That was sort of 2013.

And as a result of a number of decisions made, including by the administration to block new sanctions, to enter a negotiation process with Iran over the interim agreement, giving Iran \$11.9 billion in return to export oil fines over the negotiation period, putting a cap on the oil sales, basically allowing Iran to sell at the level it had been selling at, relieving sanctions on the auto sector and petrochemical sector.

You actually saw quite a significant economic recovery from that point in time, all right, from this very severe recession to a modest recovery by 2014, 2015.

And now looking 2016, 2017, this is an Iranian economy projected to grow about 3.5 percent. Inflation has gone from, unofficially, about 80 percent and it is now down to single digits. The exchange rate, which had plummeted about 70 percent, has now stabilized and Iran is, by no stretch of the imagination, in good economic shape, but it is certainly has avoided the kind of severe economic collapse that it was facing.

So the Iranians have done fairly well. Now when I say the Iranians, let me be very clear. The Iranian people have not done very well. The Revolutionary Guard has actually made off like the bandits they are, and they are signing the major multi-billion dollar deals. They are the ones that are getting the lion's share of the economic relief today.

So the Revolutionary Guards and the supreme leader himself, who owns a \$95 billion holding company that also got de-listed as part of the JCPOA, they are in a very good position today, having negotiated some very economically advantageous deals. But I'll just conclude with this -- keep your eye on the macroeconomic indicators as you see Iran's economy over the next few years begin to improve step-by-step.

LAKSHMANAN: You know, Mark, you bring up the point of the improvements in the macro economy. Of course, what the Obama administration tells us is that the oil sales by Iran dropped precipitously after the mid-2012 oil sanctions, secondary and tertiary sanctions imposed by the United States, and the primary oil embargo imposed by the European Union. And their oil sales went down from about 2.5 million barrels a day to 1.1 million barrels a day.

I understand, Eric, from the numbers I have looked at of Iran's sales that they are actually now back up to pre-sanction levels of both oil production and oil sales, but that in areas beyond the petrochemical sector, they have not managed to reap the rewards that they were hoping they would get, at least initially, from the deal.

So tell us a little bit, you know, tell us a little bit about your perspective on why they haven't gotten the benefits they thought they would?

LORBER: Absolutely. Thank you so much, Indira, and thank you to Mark and FDD for hosting this important discussion.

I mean, I think the short answer is that the sticking point has largely been Iran's access, or lack thereof, to the international financial sector. You have seen, since the signing of JCPOA and in particular since the implementation day, there's been a lot of interest from manufacturing companies, from service companies to provide goods and services to Iran, but the one thing that they are not able to really find is banking for these services.

And so, if you look at the Wolfsberg Group banks, so they -- the largest, basically, 11 banks in the world, global banks, the vast majority of these are completely unwilling to go back into Iran as a jurisdiction, because of the risks that remain in the country.

So it's not just risks related to, for example, as Mark was pointing out, the Islamic Revolutionary Guard Corps, which is well known to engage in material support for terrorism, illicit finance, money laundering, et cetera, but there are also sanctions risks that remain in the country.

So it's been a partial unwinding of the sanctions on Iran, right? So most U.S. primary sanctions remain in place, but most European sanctions have been lifted. There are two complications, and this is particularly troubling for the financial sector. One is that the reach of the U.S. primary sanctions is actually incredibly broad.

So for example, if I am a German bank, and I want to do -- I want to bank business in Iran, and I have a U.S. citizen who is a chief compliance officer, or on the board of that bank, and that U.S. citizen approves those financing deals, all of a sudden the entire bank and the entire transaction is subject to U.S. primary sanctions jurisdiction and is prohibited.

The takeaway from this is that in a globalized economy, in a globalized supply chain system, you can almost always find some U.S. nexus that is sufficient for the imposition of remaining primary U.S. sanctions.

The other important...

LAKSHMANAN: Can I just -- can I just interrupt for a second, because that is fascinating. I had not heard that before. Does that mean that the compliance officer is actually forbidden from signing off on the deal?

LORBER: So -- that's right. In fact, what we recommended in my private practice to banks and others institutions that are dealing with this is that there be, in effect, a complete firewall between U.S. persons and any Iran-related activity.

So if, for example, I'm in Frankfurt and I am a U.S. person, I'm an American citizen, and I see a deal like that come across my table, instead of, you know, looking at it and passing it on to somebody else, I simply have to say, I can't do this. Please someone else look at this deal, a non-U.S. citizen look at this deal.

So you will get basically what are in effect recusal, very, very sophisticated recusal policies to make sure that there is no U.S. nexus in these transactions.

And a second concern beyond this primary U.S. sanctions jurisdiction is that secondary sanctions still actually apply and remain on Iran. So everyone hears, you know, the phrase, "Oh, well, U.S. secondary sanctions were lifted as part of the deal."

Generally that's true, but a number of core ones still remain in place. And the really core one which was the financial sector is, if you are a foreign financial institution, a German bank, for example, and you do business with the IRGC, you can be cut off from U.S. financial markets. It's very simple.

If you are an international bank, getting cut off from U.S. financial markets it's essentially a death now, because you don't get access, for the most part, to U.S. dollars, and 85 percent of world trade, cross-border trade is done in USD -- denominated, excuse me, in USD.

So, these banks are looking at this situation and not only are they seeing the illicit finance and the money laundering and other activities in Iran itself, but they are also seeing that the path of the sanctions that remain on the country are very, very powerful, and frankly, are risk prohibitive for most of these banks considering re-entering the Iranian market.

LAKSHMANAN: So when you say that if you are a German bank, for example, and you engage in some transaction with the IRGC, but the IRGC, if I understand, has not been sanctioned in the same way that the Quds Force, for example, has been.

But is it still that any company that is controlled by the IRGC, and that reaches widely across the Iranian economy, that you would still be subject to sanctions, even though the IRGC is not subject to the same kind of sanctions as Quds Force?

Either one of you.

DUBOWITZ: Well, the IRGC is still sanctioned under U.S. law, they're sanctioned for a number of reasons, including missile proliferation, human rights, for their activities in Syria.

The IRGC hasn't been designated as a terrorist organization. The Quds force has, but the IRGC itself in its entirety hasn't been designated as a terrorist organization under what is called Executive Order 13224, or as a foreign terrorist organization. But still, significant risk to in doing business with the IRGC.

And in fact, the European IRGC sanctions also remain in place, so both the Europeans and Americans have strict IRGC sanctions, which are obviously very difficult when you think of every key strategic sector of the Iranian economy that international investors care about has a heavy IRGC penetration and preponderance.

LORBER: Can I also weigh in on that too? It is not just the IRGC -- excuse me -- that you have to worry about. And I apologize, because I'm getting a little bit into the legalese of this. It's also the agents and affiliates of the IRGC that are -- that are prohibited persons.

So, we got into this conversation on -- last Thursday, when Mark and I were testifying before House Financial Services. But if, for example, Iran Air, if a U.S. company does business with Iran Air, Iran Air could be construed as an agent or affiliate of the IRGC, and therefore, those transactions very well may be prohibited under U.S. law.

DUBOWITZ: Yeah. And if I could just add to that, because I think we're going to talk about the Boeing deal, sort of an interesting segue here, that Iran Air itself had been listed because it had been used by the IRGC for missile proliferation and moving militants, and money and arms to the Assad government, to Lebanese Hezbollah. It was de-listed in 2016 as part of the implementation of the JCPOA.

The problem, of course, is it should never have been de-listed, because it was not a nuclear sanction, the sanctions that everything had to do with the Revolutionary Guards, and missiles and terrorism. And so, this Boeing deal and the Airbus deal are being done with Iran Air, which is an entity previously listed for all of this illicit behavior, and which continues to fly these flights from a resupply base in Abadan, Iran, to Syria, using false transponders, and it's hiding its flight pathways.

So there is every reason to believe that if you are Boeing, and you going in and trying to deal with Iran Air, it is a due diligence nightmare to try and figure out whether Iran Air is still itself conducting illicit flights, and/or if Iran Air is actually going to be in a position to supply your planes to Mahan Air and three other sanctioned Iranian aircraft that are still sanctioned because they are supporting the IRGC.

So this is just giving you a sort of small snapshot of the kind of risks that exist for U.S. and for international companies in doing business in IRGC-dominated sectors.

LAKSHMANAN: I want to get back to the Boeing deal, because it's something that I think everyone in this room cares about.

But before we drill down onto that, Eric, I want you to give us a little bit more of the 30,000-foot view of the sort of -- what you are describing. It sounds like a compliance headache. I'm not going to use the word nightmare, that's for you to decide, but it sounds like it certainly is challenging for international banks and businesses.

So I guess my question is, when Iran complains that it's not getting the benefit that it expected out of the Iran deal, whose fault is that? Is that because of things -- could Iran be doing things differently to make it easier for banks and businesses to do business with them and comply with remaining sanctions and law?

LORBER: I do think that Iran could be doing things to make it particularly -- make it significantly easier. The reason that banks are not willing to go back into the country, to a certain extent, it's the sanctions-related risk, but if the Iranian economy and the Iranian financial sector were more transparent, if the IRGC, for example, hadn't spent the past 10 years developing sanctions evasion techniques, which include to a large extent building front companies, building shell corporations and things like that, which make it very difficult from a banking perspective to do due diligence and to properly understand who your counter-party is, who you are actually banking and doing business with.

Then if they -- if the Iranians had done that, I don't think there would be such significant reluctance on the part of -- on the part of major Western banks to go back in.

As it is, the only banks who we are really seeing -- entertain re-entering Iranian financial markets and banking Iranian deals are smaller European banks, a couple of Austrian banks, a couple of German banks, I've seen some Italian banks, that have very limited exposure to the United States.

So those banks are basically -- are entertaining the risk calculus that even if we run afoul of U.S. regulations, we're not really exposed to the U.S., so it's probably not going to be that much of a problem for us.

But again, the larger banks, if you actually look at their internal policies, across the board, there's -- Iran is basically what's considered a no-go zone.

LAKSHMANAN: OK. So, Mark, when the administration says -- I'm now, I'm talking about the Obama administration -- says that Iran is trying to do things to improve its behavior with, for example, the Financial Action Taskforce, FATF, or with the IMF to improve its transparency or compliance, what do you say to that?

DUBOWITZ: Well, I think it's a premature assessment. I mean, you know, the Financial Action Taskforce still kept Iran on its blacklist. It temporarily suspended, for one year, the mandatory application of countermeasures that they had followed up with very stark and clear warnings about Iran's continued illicit financial activities.

Iran also, with respect to talking about Financial Action Taskforce Compliance -- I mean, one of the things that you have to do when you get off the blacklist and you agree to an action plan is you have to agree not to engage in terror financing.

Well, unfortunately, Iran defines terrorism very differently than the rest of the world and explicitly includes, you know, organizations that are fighting off occupation, or are trying to defend their, you know, national rights. And they've got this whole, long convoluted definition of terrorism, which I think most FATF members don't subscribe to.

So you've got a situation today where I think -- and in my theory, that I think the administration is so desperate to lock in the deal and to ensure that Iran gets all of the economic benefits that Iran wants, that they are falling susceptible to a legitimization campaign that the Iranians are running, and I'd say quite successfully. The Iranians ran a very successful nuclear legitimization campaign.

Right? They got all of these benefits, they gave up only part of their nuclear program, and they never admitted to past wrongdoings for a long -- decades-long rap sheet of nuclear mendacity. I think Iran has realized they can follow the same strategy on the financial side, which is deny, you know, deceive, don't disclose, and continue to pressure the administration in its waning months to agree to some fundamental changes that would very much lock in this deal, and I think create enormous difficulties for the next president.

Chief among them, I'm sure, Indira, we're going to talk about this, but chief among them is getting Iran getting access to the U.S. dollar through dollarized transactions. If Iran gets that because they--a concession that they forgot to negotiate during the JCPOA, or maybe they tried to negotiate, but the Treasury Department refused that concession. If they get that concession, it's going to be exceedingly difficult for a President Clinton or a President Trump to use non-nuclear sanctions, particularly financial sanctions, to push back against Iran's malign behavior.

So, you've really got, in the next six months, sort of a race against the clock by both the Iranians and by the Obama administration to give as many concessions as possible, including those not negotiated as far as the JCPOA, in order to lock in the deal. And I'm afraid that if they do that, they're going to paralyze U.S.-Iran policy for the next administration.

LAKSHMANAN: All right. I want to circle back and talk a little bit more about the dollarization. But just following directly on what you said, we have a question that someone from our audience sent in ahead of time that follows right on what Mark was talking about, and maybe Eric, you can address it.

The person wants to know, "What could the Iranian government do in a relatively short span of time -- say six months to a year -- to provide a good case for eliminating further sanctions, or are we in a situation where Iran's behavior must be modified over a more extended period of time to justify any further removal of sanctions?"

LORBER: I mean, I think that Iran is going to have a very difficult time in the next six months, short of completely casting off any aspirations for supporting--any material support for Hezbollah, any material support for other terrorist organizations that it has historically assisted, to actually make a significant -- to make the international financial community in particular, but also more generally, the United States and its Western partners, change their perspective on what Iran's activities are, and whether or not it remains a very high-risk jurisdiction to do business in, or that sanctions should remain in place.

So, I think what you are looking at here is a much longer term perspective. I don't think the Iranians can do anything in the short-term to basically create a situation where there will be a wholesale lifting of the remaining sanctions on the Islamic Republic.

I think what you are going to see, and I think this is exactly Mark's point and I think it's right, is that the Iranians are going to continue to kind of -- I'm very bad with analogies, but it's one where the camel's nose under the tent. They are going to keep trying to push a little bit here and a little bit here, to see how much they can get.

And frankly, and I know we will talk about this in a second, but this is the dollarized transaction question, the offshore dollarized transaction question.

I don't think that was bargained for in the JCPOA negotiations. But once Iran began saying, well, we haven't gotten the economic relief we were expecting. You know, this is threatening the validity and stability of the deal, that's when you saw the administration really step in and almost give them something which seemed like very clearly like a concession, a non-bargained-for concession.

And that has been the Iranian strategy, it has basically been to figure out ways to move the goal posts ever so slightly. Don't really violate the letter or the spirit of the deal, but still get Iran enough such that it benefits in a way that it probably shouldn't have under the original terms of the deal.

LAKSHMANAN: Yeah.

DUBOWITZ: Sorry, if I could just quickly add to that, because I think it's part of the 30,000-foot view.

I mean, I don't spend a lot of time defending this administration on the Iran deal, but this administration is absolutely correct when they say we never guaranteed Iran economic outcomes as part of this deal.

I mean, when you talk to the U.S. negotiators, the Iranians asked for economic outcomes, I mean, what an economic outcome would look like? It was something to the effect of, we guarantee you that the 12 major financial institutions will plop back into the Iranian financial system. We guarantee you a GDP growth rate higher than 3.5 percent. We guarantee you that inflation will fall to single digits. We guarantee foreign direct investment of more than \$50 billion on an annual basis.

I mean, those are the kind of economic outcomes or examples of economic outcomes that the Iranians were asking for, or could have asked for. The administration said, absolutely not. We're not guaranteeing you economic outcomes. What we are guaranteeing you is that we will lift or suspend hundreds of U.S. sanctions and European sanctions. That's exactly what the administration and its partners did on implementation day. No more, and no less. That's exactly what was bargained for.

And so now, for Iran to come back and effectively say to the administration, we're just not happy with the economic relief we got, we want you to guarantee economic outcomes, is for Iran to return back to the position of continuing to negotiate points that were supposedly well settled as far as the JCPOA.

But let's be frank. That's exactly what's going to happen over the next decade. Iran will continue to renegotiate the JCPOA, re-litigate it, find ambiguities, find the loopholes, and in violating both the spirit and the letter of the law, which I would argue Iran is doing right now, continue to try and extract greater concessions from the United States.

LAKSHMANAN: Well, let's talk to, specifically, Mark, about that dollar question.

Now, the administration says that they never intended to give U-turn transactions to permit Iran to be able to use the U.S. financial system to have its transactions transferred through U.S. banks, that they had no intention of doing that. And they claim that Iran -- that non-U.S. people are already permitted to handle U.S. dollars with respect to Iran.

So say, if an Indian bank has a stack of U.S. dollars and is involved, that it can pay Iran for its oil with those dollars, anyway.

So tell us what you believe they were trying to do, and what you believe would go against the deal.

DUBOWITZ: So I think that answer from the administration is not wrong, but it's incomplete. And it is incomplete for the following reason.

First, the Iranians are absolutely demanding access to the U.S. financial system directly through lifting a prohibition on what's called a U-turn transaction, where a transaction is done, literally at electronic speed. It actually goes through New York, and it's, you know, in a millisecond, but that's called a U-turn transaction.

And the Iranians have been demanding access to the U-turn, into the U.S. financial system. The administration said we're not going to give Iran that access.

What Iran then is asking for is essentially dollarized transactions that take place offshore. So, when a transaction is done between a European bank and an Iranian bank, in euros and riyals, at some point that transaction is -- has to be dollarized, because most foreign currency transactions are at some point converted to the U.S. dollar.

Alright? The U.S. dollar is the most stable currency, it's the most used currency, and it also doesn't fluctuate as much as other currencies do.

So for these foreign stage transactions, many if not most of them are dollarized in that way and Iran wants access to that dollarized transaction.

LAKSHMANAN: It would have to come through ultimately from an American financial institution that would be transferring that money offshore.

DUBOWITZ: Well, that's exactly right. Now, the -- but there's -- banks -- banks abroad have dollars, I mean, when you travel abroad, you've got dollars in your pocket, right?

Those dollars are being used all the time, and they are being used for Iranian transactions even today. But at some point those dollars have to be replaced. And it is U.S. financial institutions that actually put dollars into the global financial sector and take those dollars back out.

So there effectively is a very slow U-turn in the sense that those dollars go in and those dollars go back out. And so, what you have today is a situation where, even though these banks have dollars, at some point they are going to have to get replacement dollars, and they are very concerned right now about an explicit license from the U.S. government that, if they use those dollars for an Iranian transaction, they're going to find themselves on the wrong side of an enforcement action, which is a lie.

LAKSHMANAN: Though the administration claims that if you have dollars in your bank, you can do what you want with them if there is no American person involved.

DUBOWITZ: Look, if -- if you are a big global financial institution and the administration is claiming that, you're going to ask for an explicit guarantee that if I use those dollars, I'm not going to find, again, myself on the wrong side of an enforcement action.

So you are going to want a general license to cover -- you, as a foreign bank, and U.S. banks who are putting the money in and taking the money out are also going to want to be covered by that general license.

And no one is willing to take this risk, because this isn't explicitly permitted as far as I remember, Eric, under U.S. law. There are hints of this, but there is no explicit guarantee. This is an enormous financial risk.

Now I will just quickly conclude with this. Why does Iran want dollarized transactions beyond the technical nature of the trade that I described?

The reason they want the U.S. government to effectively greenlight the greenback is because that provides a stamp of approval, the legitimacy that Iran is seeking, right? Iran is an illicit financial actor today. They've got a long rap sheet of financial crimes. They are trying to get themselves out from under this an enormous risk overhang that is preventing large banks from going back in.

If they can get the U.S. government to effectively greenlight the greenback and say to Iran, yeah, you get to use our currency, the most important reserve and trading and financial currency in the world, Iran can use that as part of its financial legitimization campaign, and that is the nose under the camel's tent, as Eric just described.

LAKSHMANAN: OK, Eric, I think a lot of people are going to want to hear a bit more about the Boeing deal, so we probably shouldn't wait too long to tell them about it. So, you were testifying last week, as was Mark, about the Boeing deal.

We have one question here from the audience submitted in advance. What are the prospects for Boeing and Airbus consummating their contracts with Iran? May -- you may know that Airbus, the French

company, had a big MOU with Iran shortly after implementation day, but we haven't heard much about anything happening yet.

I'm told that these aircraft transactions take years and are really complex. It's not something that going to happen in a matter of months, but tell us, how would this work, since we are talking about billions and billions of dollars. Would E.U. and/or U.S. banks do the transactions, and what were you telling congressmen last week?

LORBER: Absolutely. So, as just sort of a brief overview. There -- as part of the JCPOA there was a statement of specific licensing policy and what's called General License I, which were both issued -- bargained for and issued as part of the agreement, which basically say the United States should take a favorable view towards allowing the sale of commercial aircraft, for commercial purposes, to Iran, to non-designated persons in Iran, in this case, Iran Air.

So over the past few months, both Boeing and Airbus have signed MOUs. I think the Airbus MOU was initially valued at \$27 billion. The Boeing was -- we've heard \$25 billion. I think the number for the sale was \$18.7 billion, and then leasing for another, I think 20 or 30 aircraft. So probably about the same, as well.

And both Boeing and Airbus have applied for these licenses from the Office of Foreign Asset Control. So in effect they are waiting.

LAKSHMANAN: At the Treasury Department.

LORBER: At the Treasury Department, right. They are waiting to hear back.

And last week Mark and I were discussing this because there is real concern, and it is very valid concern, that these aircraft are either going to be used directly by Iran Air, who's the counterparty in these transactions, for potential illicit purposes. I know Mark mentioned earlier that Iran Air West designated in 2011 for engaging in supplying -- resupply routes for both Hezbollah in Lebanon and for President Bashar al-Assad in Syria.

And that it appears, there is evidence to suggest that Iran Air is still engaged in this activity, or that if Iran Air is not going to be the ultimate beneficiary, the ultimate receiver of these airplanes, that they will be subleased to designated parties like Mahan Air, for example, which is designated under U.S. law. And...

LAKSHMANAN: Can I ask you just a question? Would -- I mean, if they are selling a passenger airplane, would a passenger -- commercial passenger airplane be used to do this kind of resupply you are talking about?

Or would they be using other existing -- I mean, for example, if during June, as Mark said, they did three of these resupply flights for Assad, they are doing it with aircraft that they already have, not with brand-spanking new French or American passenger aircraft. How do we know they would be using the same planes, if that is, indeed -- if those planes have been used?

LORBER: Yeah. So, that's actually a fantastic question, and that really goes to the heart of what's at issue here, and it is whether you can verify how these new aircraft are going to be used.

So for example, if you can ensure without a shadow of a doubt that they won't be flying routes to, for example, resupply bases in Syria, then most on the Hill, I think would be more comfortable, though certainly not completely comfortable, with facilitating or at least allowing OFAC to issue the general license.

But I don't think that certainty exists. I mean, it is useful to keep this in context. As I mentioned before, Iran has spent the past 10 or 15 years developing sophisticated sanctions evasion mechanisms and techniques.

And so, what they used to do with a lot of these aircraft in Iran Air is they would -- they would set a route for three months down the line, and then they would, within three hours of announcing the route, they would say that it had been completely sold out, and there were actually fictitious passengers, and they would, instead, load the planes up with arms, munitions or militants, IRGC individuals to go and serve on the front.

And so, I think there is a very serious risk that even in the case where they are sold to Iran Air, and even the case there are certain validation procedures in place to ensure that they are not used for these routes, that the facts on the ground will actually be different and they will be used for illicit activities.

DUBOWITZ: Yeah. I mean, sort of just adding to that, that the entire fleet of Iran Air's 36 planes, the combined Airbus, Boeing deal to start, is 200 planes. The Iranian minister in charge of this talked about 500 planes. So even if Iran Air doubles its fleet to about 70 planes, you've still got somewhere in the neighborhood of 130 to 430 planes that are going to go somewhere else.

Where are they going to go? Well, there are four other still sanctioned Iranian airlines.

So again, regardless how those airlines use the planes, they are still sanctioned. So that's the point. It doesn't matter how they use the planes. They are still sanctioned under U.S. law. That sale, or transfer or lease of the 130 to 430 aircraft from Iran Air to these other airlines would be in violation of U.S. sanctions.

So how do you actually reassure yourself? How does Boeing and Airbus reassure the U.S. Congress that these aircraft are only going to be used for civilian purposes by a non-sanctioned civilian aircraft company that is not going to be still conducting the same illicit activities that it was conducting only last month? And that's why this deal with, again, is a due diligence nightmare for Boeing, for Airbus and for the banks that bank this deal. And I think that's why it is such a concern.

The other thing is, I mean, the JCPOA basically says that OFAC is going to set up a licensing regime. It doesn't describe the nature of that licensing regime. So it gives OFAC and legislators a fair amount of flexibility to design a certification regime where aircraft will only be licensed if, for example, if the president has certified that these planes are not going to sanctioned entities.

And made a little mistake, in my view, which is the thrust of my testimony last week, to basically go on a wing and a prayer. So let's sell the planes, and spend \$50 billion and put your taxpayers through Ex-Im Bank on the hook for the financing, and then hope and pray that the Iranians don't use this for illicit activity.

I mean, it would be better to actually have a period of time to pass, a certification by the U.S. president and assurances from Iran over its conduct, not just its verbal assurances that this is not going to take place.

And I think that actually is a good lesson for how we should be relaxing these sanctions over time, and not just depending on kind of open and change in the Iranian regime after decades of financial and nuclear mendacity.

LAKSHMANAN: I know that we are going to have to turn to audience questions shortly, but I want to ask you, Mark, even though our focus today is on the economic and financial piece, the administration has said that, you know, they are getting -- in their view, they are getting what they wanted out of this deal, which is nuclear compliance. And that immediately on that day in January, Iran's nuclear capabilities and activities were immediately constrained and are being monitored and verified. So they feel like they are winning.

So I would like to hear from you what you think about the compliance aspect, when the administration keeps saying, you know, look, whatever you say about Iran and other things they are doing with ballistic missiles or anything else, they are complying with the nuclear aspect of this deal, which was to be just a nuclear deal, not to suddenly whitewash them and make them great players.

The United States, as we all know, still considers Iran to be the leading state sponsor of terrorism in the world. And that didn't change with the nuclear deal, correct?

DUBOWITZ: Right. So, it depends how narrowly you construe this deal. Right? If you construe the deal based on specific provisions with respect to giving up its LEU stockpiles, limiting enrichments to 3 percent, to warehousing, you know, basically 13,000 centrifuges, putting concrete in the core of the Arak heavy water reactor, then Iran is complying with the deal. I mean, the IAEA has certified those very specific elements of it.

If you think the deal also involves the implementation resolution of the U.N. Security Council resolution, right which is the U.N. Security Council resolution 2231 that actually implements the deal, and that resolution includes requirements that Iran not engage in the testing of long-range ballistic missiles capable of carrying a nuclear warhead, not be violating any arms embargoes, then we have a very different situation. Iran is clearly violating the implementation resolution.

If you also think that the JCPOA prohibits Iran from engaging in illicit procurement of nuclear and missile technology, then you would be very troubled by what the German intelligence services reported on last week.

And that report, which still remains a little unclear -- and we -- it would be interesting to learn a little bit more about it, if you are in Congress, but the German intelligence services said that in 2015, the Iranians engaged in illicit procurement on a significant scale for both nuclear and missile technology. That the German intelligence report, the federal report, was then backed up by eight reports that were released by the state intelligence services, which also said the same thing and confirmed a significant number of these illicit procurement cases.

You also had certainly a -- certainly, a line which was very interesting in the federal report that says that these activities are likely to continue, meaning into 2016. And then you have the Wall Street Journal

quoting two German intelligence services officials who said, well, actually, indeed it has continued. Well, what has continued? The missile procurement? The nuclear procurement? Both? I mean, it's interesting for us to ascertain that.

So what you have is a situation that in 2015, before the deal was negotiated and after the deal was negotiated, the Iranians were engaged in illicit nuclear missile procurement technology in Germany. Why? Because they are trying to get their hands on materials so they have a clandestine pathway to a nuclear weapon, and they want to get materials to build advanced centrifuges and to put in place an advanced enrichment program that is hidden from the eyes of the IAEA.

That should be deeply troubling to everybody, and it should demand a significant investigation by the U.S. Congress and by the administration. And if these activities continue past implementation day, they are in direct violation of the JCPOA.

And I think instead of excusing Iranian behavior, this is our opportunity to hold Iran's feet to the fire, because if they get away with this kind of incremental cheating on the deal, incremental cheating in sum becomes egregious cheating as the Iranians believe that they continue to violate the agreement, violate the Security Council resolution and face no consequences for that.

LAKSHMANAN: OK, we're going to switch over to questions from the audience. And I'm just going to give the very first question to one of these that was submitted in advance, and it is directed -- let me direct it to you, Eric, which is about whether there are any targeted sanctions that we can place on individuals and/or organizations that provide material support to terrorist groups?

I want to combine that with my own question, because in your testimony last week, you talked about how the United States should think creatively about how to target unwinding of sanctions to achieve strategic goals. So maybe you could find those two together?

LORBER: Yeah, absolutely. It's a good question, whoever was the person who submitted this one, because it's interesting. There are always more targets to focus on in the Iran context. There is constant intelligence coming in suggesting that, for example, new networks are engaged in proliferation of ballistic missile technology, new networks are engaged in supporting Hezbollah or in providing direct financing to Hezbollah.

But actually what I think is almost more important in this context is not necessarily new target designations, even though I think there have only been 11 fairly weak ballistic missile designations since the JCPOA. No human rights designations. And I don't think there have been many, if any, terrorist-related designations.

I think less important than potential designations is actually the enforcement posture that's taken - that's being taken by the U.S. government. So, what you see going into Mark's point is that you've had many comments, particularly early in the process, in July of -- July, August 2015, by the administration that we will continue to adopt a rigorous enforcement posture for the enforcement of non-nuclear related sanctions that remain on Iran.

And yet, you also had significant reluctance, I think, on the part of Treasury to announce new enforcement actions, to continue to engage in deep-dive investigations to reveal illicit conduct and punish entities engaged in that conduct.

So for example, financial institutions or companies that are sending goods or services to Iran. And so I think -- and part of the reason I think the administration is doing this is quite consciously, they don't want to rock the boat. They don't want to create a situation where Iran thinks that all of a sudden, it supposed to see these benefits and then the administration is really sort of continuing to apply the pressure across a wide range of other topics.

And as a result, I think that to a large extent the lack of enforcement posture and the lack of aggressive enforcement, has hamstrung the administration and also made it more difficult to convince foreign actors that -- that Iran continues to be -- it's a very risky jurisdiction. And so, less so, I think that more targeted sanctions are required, and I think it's a more vigorous enforcement posture is probably what is required.

But I was going to -- the last thing I was going to say is in terms of targeted unwinding. I think this goes directly to Mark's point earlier with the Boeing sale. Instead of just permitting these aircraft to be sold to Iran Air and then potentially misused, if you set up the process in such a way that you deliver the aircraft on a particular schedule and verify potentially beforehand that Iran Air had -- was no longer engaging in prohibited or illicit activities, then I think you could, A, be more certain that they were not sort of engaged in the type of activities you want to stop.

But B, also you could use careful unwinding of sanctions to achieve a strategic goal, which in this case would be preventing Iran Air from continuing to support IRGC, continuing to support Hezbollah, continuing to support Syrian President Bashar al-Assad.

LAKSHMANAN: Were you going to add to that, Mark?

DUBOWITZ: Well, just a quick point. Again, a presidential certification, that none of these airlines are conducting illicit activities, and therefore, should have their sanctions lifted. I mean, once the sanctions are lifted on Iran's main airlines -- and the president can certify that the Iranian aviation industry is no longer conducting illicit activities, then you move forward the sale.

But to move forward with the sale while there are still sanctions, while they are still conducting all these activities...

LAKSHMANAN: But Iran Air, as you said, is no longer designated.

DUBOWITZ: But Iran Air is still conducting illicit activities as of June -- as of June. So you know, again, we uphold...

LAKSHMANAN: And you've told the administration about these activities.

DUBOWITZ: Sure.

LAKSHMANAN: But what is the administration doing about those reports? Do they verify them?

DUBOWITZ: Look, the administration is actually having a very tough time. Mahan Air is still designated, and you know, Adam Szubin is flying around the world trying to convince Europeans and Asians and the Gulf to stop letting Mahan Air land in their -- at their airports.

I mean, it's remarkable. This is IRGC Air, still under U.S. sanctions, still conducting flagrant illicit conduct, and flying into Europe and Asian and Gulf airports. And Adam is doing the best job he can trying to convince them to stop, but they are not.

LAKSHMANAN: You mean the undersecretary of Treasury for Terrorism Finance...

DUBOWITZ: The acting, who should be confirmed.

LAKSHMANAN: Right. We should open it up to questions from live human beings in the room, who haven't already submitted them. And if you could identify yourself before asking your question, that would be great. And mics are coming around.

QUESTION: Hi, Rachel Oswald from Congressional Quarterly.

My question is about the potential for the IRGC, because of what you are saying that it is partly the IRGC's huge role in the Iranian economy and the many companies it owns that is keeping foreign banks leery of investing in the country.

Is there potential for domestic pressure to be brought to bear on the IRGC to divest itself of many of its business interests, to sell all of its shares so that these businesses won't be toxic?

LAKSHMANAN: Interesting question. Mark?

DUBOWITZ: So, I think that's a great question. I think actually the IRGC is already doing that, but it's doing so in ways that are actually creating more compliance problems for financial institutions, not less. Because in selling off its shares and, quote unquote, "divesting" itself of companies and starting to walk back from its role in industries, what it's actually doing is it's creating fronts.

It's setting up shadow companies and front companies, and it's actually putting their shares and their holdings in these shell companies, so that from a bank's perspective their counter-party looks clean, but when you trace that counter-party's connections two or three or four steps backward, lo and behold, you discover that the -- it's the IRGC that is actually still behind the transaction.

So what you effectively need in Iran, which is an enormous transformation, is you need the Iranian private sector, private sector actually pushing the IRGC out of the key strategic sectors of Iran's economy. They need to push them out of energy, and construction, and banking, and automotive, and aviation, and shipping and you name it.

So, all the key strategic sectors that the Iranian IRGC has dominated, the private sector has to push them out, but really push them out, not just create a situation where they're just setting up hundreds of shadow companies and shadow holdings.

And that is an enormous challenge for a private sector today that has -- that certainly does not have any political power, and even, you know, the Iranian state, and Rouhani and Rafsanjani and others who are fighting the IRGC at many levels, are themselves engaged -- have been engaged, especially Rafsanjani over the years, in, you know, illicit activities that are longer than your arm.

So that's the problem. There really is no real private sector today that can replace the IRGC, and until there is, I think Eric is right. I think the major financial institutions are going to be just loath to go back in and risk their reputations and the liability of their banks.

LORBER: Can I also just chime in on that for one second?

In addition to the layering that Mark is talking about, and I think he is exactly right on, from the U.S. perspective, from OFAC's guidance that's given to U.S. and foreign financial institutions, that's also been a particular point of frustration. In general, OFAC has provided a significant amount of guidance in the Iran case.

But on this question of how much due diligence is necessary to make sure that, for example, you are not doing business with an IRGC-owned or controlled company, OFAC simply says, whatever due diligence is sufficient. And that's literally the language in the FAQ that they use, sufficient due diligence. And from a banking perspective that doesn't really tell you very, very much at all.

So there has certainly been some frustration on the part of U.S. and Western financial institutions, and that, in turn, has led to them saying, well, then, if we can't get guidance on what's enough from the U.S. government, and we know this layering is such an issue in Iran, we're just not going to go into the market in the first place.

LAKSHMANAN: All right, more questions. I saw a hand over here. Can you identify yourself, and there's a microphone coming over.

QUESTION: Hi, Rachel Watley with Congresswoman Ann Wagner's office. I'm wondering if you could talk about -- you talked about minor smaller European banks going into the country.

Do you see any movement of goods or trade with the west that you could expand on this, or describe?

LORBER: Sure. I mean, there are -- there are certainly transactions that are occurring with Western companies directly into Iran, but it's interesting, because the nature of those goods and services take a very particular form.

It's usually the shipment of manufactured products to Iran, or its contracts that are structured in such a way that there's no sort of really significant capital investment into the country. And the reason why is fairly evident, right?

So there's a risk of sanctions snapback, there's a risk of additional sanctions unrelated to snapback on things like ballistic missile proliferation and related terrorism support.

And so, in particular, European nation companies are structuring the transactions and structuring the contracts in such a way that if sanctions are re-imposed, or additional sanctions are imposed, they can walk away without too much of a financial loss.

LAKSHMANAN: I know there are some embassy folks here. Would any of them like to have a shot at asking a question? OK. Anyone else?

Yes, Rafi, if you could identify yourself.

QUESTION: Yes, Rafi Danziger, consultant for AIPAC.

I understand that the reason that Airbus also needs an American license is because of American politics in Airbus planes. The question is, could the administration decide to separate and grant a license to Airbus, but not to Boeing, in which case actually Airbus not even take up the Boeing deal?

DUBOWITZ: I don't -- Eric could answer if that is technically possible. I mean, think politically impossible. I mean -- and you -- certainly, it's interesting.

Over the weekend, you heard the -- I think it was the head of Boeing's commercial division making it very clear that if Boeing doesn't get a license, no one gets a license.

So I think, again, politically difficult, and I think even technically, probably hard to sustain, given the fact that there is at least more than 10 percent of Airbus planes that have U.S. content. So if you are giving an Airbus license, as far as justifying not giving a Boeing license. So, that's -- that's what I would say.

LORBER: And on the legal point, that's about right, Mark, about 10 percent U.S. origin product in an Airbus plane, then you have -- Airbus is subject to U.S. jurisdiction and has to apply for an OFAC-specific license, which they have done.

On the technical legal point, OFAC could absolutely grant a license to Airbus, and then not grant it to Boeing. Specific licenses are non-binding, which means they are not precedential, so they absolutely do it. But politically, I think it would be a non-starter.

LAKSHMANAN: I just want to add that, you know, despite these amendments that passed by voice vote in the House on Thursday night that would block the Boeing sale, isn't it also true President Barack Obama has pledged that he would veto any legislation that undermines the deal? And this -- I know the administration sees this as a crucial part of the deal.

They have said that there have been so many crashes by Iran commercial aircraft with civilians in them that this is almost like an extension of the humanitarian aspect with medicine and food. That it's a badly run commercial airline, civilian airline system that needs -- that, you know, ordinary Iranian citizens need to be carried around in safe planes.

So, I think he has made it pretty clear that he would veto that, correct?

DUBOWITZ: Well, he certainly has made that clear, but actually this is not true.

Because here is the situation. So you've got the Iranian airline industry, which is absolutely corrupt, terrible safety record, dominated by the Revolutionary Guards.

Then you've got a significant increase in Gulf airlines and Turkish airlines that have actually increased their capacity, I think up to about 40 to 50 percent of the entire aviation capacity of the -- of Iran that are providing both domestic and foreign flights to Iranians. Now you have got British Airways, Alitalia, Lufthansa and Air France have all re-started flights to Iran.

So you've actually got...

LAKSHMANAN: What about internal flights?

DUBOWITZ: Well, no, both domestic and international are being served by other airlines. And so, in fact, if anything, we should, if you really care about the safety of Iranian travelers, you should be encouraging safe, transparent foreign airlines from servicing the Iranian market -- from servicing the Iranian market and providing flights to Iranians, rather than selling Boeing and Airbus planes to the Revolutionary Guards.

Iranians, have alternatives right now. They have safe, transparent and secure ways to fly, and I think that the notion of sort of giving these airlines that are all riddled with corruption and engaged in it, plus in -- in illicit activities, you know, new Boeing and Airbus jets I think is bad for U.S. security. And I don't think it necessarily -- there is no humanitarian need that needs to be addressed. We don't want more bad Iranian airlines flying. It's just...

LAKSHMANAN: Are there restrictions, though, that exist? I mean, I can imagine that a flight might come from Britain, land in one major Iranian city and go to another, but aren't there restrictions in every country over a foreign airline running the domestic routes? I don't know of any country where foreign airlines run all the domestic routes.

Does that -- is that something that...

DUBOWITZ: I mean, Virgin Air -- I mean, constructed these deals the way you want. I mean, Virgin is now running domestic routes in the United States, right. Virgin is a British airliner, it only flew international, transatlantic flights, and now they're -- now you can fly from Washington to L.A. on -- on Virgin Airways.

LAKSHMANAN: Right. But not to St. Louis. You know what I mean, to small cities.

DUBOWITZ: Well, no. The point is -- the point is -- yeah, I know -- is your question, is the Iranian government prepared to open up its aviation market so that foreign airlines can service domestic routes? The answer is probably no.

But could they? The answer is absolutely yes. And so there really isn't an overwhelming humanitarian need to provide these aircraft, unless you want -- you believe that it is in U.S. national security interest to help build up the Iranian aviation industry and have Revolutionary Guard-controlled airlines, or agents and affiliates of the Revolutionary Guard running domestic flights not only inside Iran, but from IRGC-supplied bases to Assad and Hezbollah.

LAKSHMANAN: Did you want to add something, Eric?

LORBER: Yeah, I did. I'm sympathetic. Obviously, there are significant risks in providing aircraft to Iran and in particular Iran Air. I'm also sympathetic to the safety concern, and that Iran Air has had a very dubious and frankly a terrible safety record for the past 20, 25 years.

I think that the way this debate is moving is -- and I know that this is the voice vote legislation -- is that there is an attempt to find a way to pass -- or provide legislation that requires statutorily OFAC and the

Treasury Department to allow a specific license to go through, but the specific license would be required to contain a large number of restrictions, such -- some of the things we were talking about earlier.

So for example, a presidential certification, or some limit on the delivery of the aircraft until there is an understanding that Iran Air is no longer engaged in such activities, or escrow payments up front to ensure that if Iran does use these goods for illicit activities, that it will forfeit all of the money that they paid for the planes.

So I think that that's where sort of the movement is, because there's an argument that we've seen, and our third witness last week brought this up, that a blanket statute or blanket bill that broadly prohibits the sale of these aircraft to Iran may actually violate a provision of the JCPOA. I don't -- it's an arguable point, but I think there's concern that it would.

And so I think that what we are seeing a movement is a little bit of the direction of trying to make sure that the legislation really clamps down on Iran's ability to use these aircraft for illicit purposes.

LAKSHMANAN: OK. Any other questions? I saw his hand first, then I'll come to you.

QUESTION: Yeah, Tim Dykstra. I'm Senate Appropriations Energy and Water Subcommittee.

So, I'm curious that before and after the JCPOA, as I understand it, illicit missile and nuclear sales are believed to have occurred. And if the -- after the sanctions have been lifted the economy has rebounded, maybe not as much as Iran would like, but has rebounded.

Can you help me -- a super basic question, but two parts.

The first is, how is it that a richer Iran could be safer to us than a poorer Iran? And the second part is, what do you think should trigger re-initiation of those sanctions?

LAKSHMANAN: And one clarification, just because -- and although I'm guilty of telling all of you to identify yourselves, and I didn't identify myself at the beginning. But I'm a journalist. I'm sorry. I'm Indira Lakshmanan. I'm a columnist for the Boston Globe and contributor to Politico magazine.

So just as a sort of neutral party here at the table, let me just translate that question to Mark by saying that the German reports that Mark was referring to detail activities in 2015 before and after the deal was agreed to. And they suggest, at least from what we've read -- I don't read German, but from the reports on it in English that I have read, the intelligence agencies were saying, we have no reason to think they have stopped.

But I don't know that our own American intelligence agencies have verified that this is going on in 2016 since implementation day. That is what I have gotten from the U.S. administration, so I can impart that to you. I had asked immediately, as soon as those reports came out, picked up the phone and said, wait a second, is this is going on since implementation day? And U.S. intelligence agencies have not verified that. And then over to you, Mark, for your larger question.

DUBOWITZ: Well, that's right. So let me get to the larger question, which is, I mean, is a richer Iran better for U.S. national security than a poorer Iran? I mean, it really depends.

I guess in some senses, yes. If it's a richer Iran where the wealth moderates Iran, where it moderates Iran's leadership, where it's a different Iranian regime in eight to ten years, right? Because in eight to ten years -- in eight years, the key restrictions on Iran's nuclear program start to go away, and they accelerate after 10 years.

After 15 years, most of those restrictions are gone, so Iran ends up with an industrial-sized nuclear program with near zero nuclear breakout capability, an advanced power, you know, clandestine centrifuge sneak out capability, an ICBM, you know, missile program, a regional hegemony, powerful economy, which is going to be increasing immunized against our sanctions pressure. And a huge and well-armed military.

So it better get rich and it better get moderate and it better get more responsible, or this deal is going to be a disaster. So the real question is, will it? And I guess that's really -- is the -- I don't know if it's the \$50 billion or the \$100 billion question, but it's a big question about whether this -- the -- whether economic seduction can moderate the hard men of Iran. Can it turn them into pragmatic capitalists who no longer believe in exporting the Iranian revolution, and no longer believe in supporting terrorism and building an ICBM program? And most importantly, no longer have aspirations for a nuclear weapon?

Look, it better, because if it doesn't, the next president, or in particular the one after that is going to face an enormous national security challenge. We talked about the due diligence nightmare, that's a true -- that's a national security nightmare.

On the German procurement stuff, if you -- look, it's -- the Germans have provided enough hints in that report, and two German intelligence officials were interviewed by the Wall Street Journal, who said this activity continues into 2016, past implementation day.

Well, what is this activity? What exactly was happening? Was it on the nuclear side, was it on the missile side? And again, to get to my point earlier, we are in this crazy situation today, where if the Iranians violate the U.N. Security Council resolution and implements the deal, that's fine. As long as they are not violating anything that is inside the JCPOA, which is part of that implementation package.

I mean, all of us have been involved in business deals in the past or you know, in negotiated deals, even when we bought a house. I mean, you know, if you are paying your mortgage interest, so you are complying with the mortgage document that was part of your -- your house closing, but you are engaging in activity that violates the property deed, all right, are you in violation of the entire real estate deal or not?

I mean, remember, that's what I said. It depends on how you define this deal. The administration wants to define this deal very, very narrowly, because they are loath to hold a -- Iran's feet to the fire on enforcement. And those of us who have deep concerns with this deal want to define the deal more broadly and say it has to include the implementation resolution of the U.N. Security Council for it to have any value.

Otherwise, Iran -- all Iran will do in very stark terms is it will patiently wait on the fissile material side, while it builds up its capability on the nuclear weapon delivery side. And then after eight to ten years, everything will come together, so now we will have a deliverable nuclear weapon, because it will have the missile, it will have the warhead and it will have the fissile material.

So if we take our eyes off the delivery mechanism, then we are playing right into Iran's strategy.

LORBER: I would just like to add one point on that. From the U.S. side, we are viewing the deal very narrowly, from the U.S. perspective. But we're then, at the same time, allowing the Iranians to construe the deal very broadly. And this goes to the idea of providing them with economic benefits that weren't really bargained for.

So, going back to the dollarized transaction issue. We were under no obligation to clarify to them that offshore dollar access was--was or was not prohibited under U.S. law, but we went ahead and did that so that foreign financial institutions could do dollarized transactions with Iran. So...

LAKSHMANAN: But we haven't -- the U.S. has not given them a license...

LORBER: Haven't given them a license, but Adam Szubin in testimony on May 24th made it very clear that the United States does not view -- that it has jurisdiction over the offshore dollar...

(CROSSTALK)

LORBER: Yeah, exactly. So, it did give them the greenlight for the greenback, as Mark has written. And so from the U.S. perspective, we are viewing the deal as very broad -- very sorry, very narrow. But when given from their perspective, we're giving them all the benefit of the doubt.

DUBOWITZ: Yeah, I just had one other thing. There's opportunity here. No one is saying let's tear up the deal, but the opportunity here is to say, all right, Iran, you forgot to negotiate certain concessions. You're not happy on the economic side. You want access to the U.S. dollar, you want FATF to get you off the blacklist, you want to get into World Trade Organization, right?

When you're in the WTO by the way, our ability to use financial sanctions against a WTO member will be severely constrained.

All right, so Iran wants all of these benefits. Well, we still demand concessions from Iran on missiles, on terrorism, on, you know, the use of the aviation industry to support Assad and Lebanese Hezbollah on its human rights abuses. Well, this would suggest that the next administration coming into office -- because it won't be done by this one -- has the opportunity and the predicate for a follow-on negotiation, for a subsequent agreement where you can now trade off all of the things that we want against all of the things that Iran wants. And this is an opportunity for a follow-on negotiation.

Unfortunately, if we spend the next six months, as we've spent the past 12 months, not calling the Iranians out on this illicit behavior and not using any sanctions to actually enforce our existing sanctions architecture, then all we're doing is reducing our negotiating leverage and making it much more difficult for the next administration to sit down and negotiate a fair and advantageous deal for the United States, if one is even forthcoming.

That is the concern -- I -- I don't want to speak for Eric, but this is, again, we have an opportunity to address Iran's malign behavior, but in order to do so, we've got to enforce U.S. law, we've got to push back against Iran's malign activities, and we've got to set the next president up for a situation where she or he can negotiate a follow-on agreement that addresses many of the dangerous flaws of the current agreement.

LAKSHMANAN: All right, we're coming to a close of our time, so I'm going to take one last question.

Sir, if you could identify yourself, please.

QUESTION: Sure I'm Chris Bidwell from Federation of American Scientists. Eric, you and Mark, thank you for some great presentations.

My question is this. The Iran Sanctions Act may be expiring here in December, and it's possible that it could be renewed or not renewed, if it is or is not, what is the impact on the financial sanctions going forward from that point, if it's renewed or not renewed, and if you have any comments on the prospect for it being renewed? A comment on that?

Thank you.

LAKSHMANAN: All right. Who would like to start?

(CROSSTALK)

LORBER: So, the question is, likely to be renewed or not renewed, and then impact on financial sanctions?

So I think that in terms likely to be renewed, my -- I am not an expert on sort of legislative politics around the ISA. My sense is that it will likely be renewed. I think there's enough support for it. I would be surprised if it wasn't.

If it is renewed into the financial sanctions, I think that -- well, let me rephrase that. If it's not renewed, I think that the impact on financial sanctions is going to be fairly significant. I will also say here, too, that what you've seen over the past, you know, six months to a year, and this is where it becomes important, is that in particular in congressional circles, Congress is being forced to a large extent to play much more of a tactical role in imposing sanctions on Iran, and sort of holding Iran's feet to the fire.

So for example, from 2010 to 2014, you had massive bills that came through, which were really important in increasing the pressure on Iran. So you had CISADA, you had NDAA, you had the Iran Threat Reduction act, et cetera, right?

But now you are in a situation where with the JCPOA, these bills, which were really successful in putting pressure on Iran, are no longer sort of the MO. It's much smaller, equally important, but smaller elements such as, for example, trying to block Iran's access to offshore dollars or trying to block the elements of the Boeing and Airbus deal.

And so, I think that the ISA question will be important for determining, you know, is Congress able to really sort of continue to apply the broad-based pressure, or is it moved by much more to kind of a reactionary posture of trying to block whatever the most recent sort of administration attempt to provide Iran with some additional sanctions relief might be.

DUBOWITZ: I think that's exactly right. And I'd only add to this, so let's say Hillary Clinton is president. Secretary Clinton has been saying in the campaign very specifically that she's going to use

strong financial sanctions against the Revolutionary Guards, against Iran's missile tests and against other malign Iranian activities.

I think if ISA is not reauthorized, that a President Clinton is going to find it exceedingly difficult to actually follow through on those campaign promises, because not only will the failure to reauthorize ISA kind of vitiate key elements of statutory sanctions that remain on the books, but it will put a President Clinton in a situation where any attempt to impose sanctions, nuclear or non-nuclear, on Iran will be seen by the Iranians or played by the Iranians as a violation of JCPOA.

And then Iran will use what I call their nuclear snapback, which to me is one of the most powerful elements of JCPOA that doesn't get much attention. Which is the provisions of the JCPOA effectively say exactly that, that if the U.S., the Europeans and others impose sanctions on Iran, nuclear or non-nuclear, Iran will treat the agreement as null and void.

And what that means is that Iran then uses nuclear blackmail, which it has used over the past three years, I would argue, and says that if -- if we walk away from this deal, we're going to snap back our nuclear program. And with that nuclear snapback, we're going to start to escalate our nuclear program. Then you, the United States and Europe and others, you're going to have no choice. Either you're going to have to use military force to stop us, or you're going to have to concede that we are on our way to having a nuclear weapon.

They are using the nuclear snapback and the threat thereof in order to deter, and in some respects paralyze our ability to create deterrence on both the nuclear enforcement side and on the non-nuclear side.

So what I fear this administration is doing -- and though I would argue they -- I think they are actually consciously doing this -- and that is they are trying to lock in this deal in such a way that not only President Trump can't mess with it, but even a President Clinton can't actually follow through on very explicit commitments to push back and deter Iran's malign activities across the region.

That presents a situation where we -- if that happens, then we literally are -- we are creating a paradigm where, unless billions of dollars don't economically seduce the hard men of Iran, Iran has got a clear pathway, multiple pathways, not only to nuclear weapons capability but also to regional hegemony, a ICBM program and regional dominance.

If that is the intent of the administration, to set that up and paralyze U.S.-Iran policy, all of this -- dollar, FATF, WTO, you know, John Kerry off on road shows around the world trying to strong-arm U.S. bankers, all of that is going to set up...

LAKSHMANAN: You mean European.

DUBOWITZ: European bankers, sorry, and -- well, and U.S. bankers, too, now. But all of that is going to create a situation where we are going to have no tools of coercive statecraft left, and an Iran policy that effectively is held hostage by Iranian nuclear snapback.

LAKSHMANAN: All right. Well, we've been given the signal that time is up, so I want to thank you all for your attention. And please join me in thanking our speakers.

(APPLAUSE)

END