

IN THE NAME OF GOD
INTERNATIONAL COURT OF JUSTICE

CASE CONCERNING
ALLEGED VIOLATIONS OF THE 1955 TREATY OF AMITY,
ECONOMIC RELATIONS, AND CONSULAR RIGHTS

(ISLAMIC REPUBLIC OF IRAN v. UNITED STATES OF AMERICA)

ANNEXES TO THE OBSERVATIONS AND SUBMISSIONS
ON THE U.S. PRELIMINARY OBJECTIONS
SUBMITTED BY THE ISLAMIC REPUBLIC OF IRAN

23 December 2019

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Annex 1

UNGA, Report of the Secretary General, “Review of the Role of the International Court of Justice”, UN Doc. A/8382, 15 September 1971

Excerpts: p. 1 & pp. 105-107



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> REVIEW OF THE ROLE OF THE INTERNATIONAL
COURT OF JUSTICE

Report of the Secretary-General

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(130 p.)

Belgium

319. "Those aspects of the procedure which are specifically covered in the Rule of the Court are only of secondary importance and in any case the Court is the best judge of the way in which its Rules should be used. The long time-limits, which have wrongly been attributed to the Court, are actually due to Governments which have persisted in requesting extensions. The obstacles which give rise to these objections cannot be overcome by attempting to alter the number or order of deposit of documents comprising the written proceedings, reports between the written and oral proceedings, and so on.

320. "The choice of interim measures of protection and especially the handling of preliminary objections present problems, which should be left in the hands of the Court. Finally, it does not seem advisable to pass judgement on the development of the Court's advisory procedures. The revival of the Court's advisory activities depends directly on the attitude of States Members of the United Nations to judicial settlement."

2. The desirability of deciding expeditiously on preliminary issues and questions relating to jurisdiction

Cyprus

321. "The time spent for deciding questions relating to jurisdiction and other preliminary issues... may be curtailed to the minimum possible."

United States of America

322. "The Court should adopt the principle of deciding expeditiously and at the outset of litigation all questions relating to jurisdiction and any other preliminary issues that may be raised. It may not always be possible to dispose definitively of all 'procedural' issues early in the course of litigation if they are intimately related to questions of substance. However, the practice of reserving decision on preliminary objections by joining them to the merits of a dispute has in certain cases led to unnecessarily long and expensive litigation, and should be avoided wherever possible."

/...

Switzerland

323. "The view has been expressed that it would be useful for the Court to decide expeditiously on all questions relating to jurisdiction and other preliminary issues which might be raised by the parties, since the practice of reserving decisions on such questions pending consideration of the merits of the case has many drawbacks,...^{74/} Joining to the merits a preliminary objection initially pleaded separately does, it is true, result in the parties pleading the same point twice. Although this obviously involves a more complicated procedure, the over-all duration of the proceedings, from the time of the application until the time the final judgement is delivered, may not necessarily be extended. The ideal solution is, no doubt, for objections to be ruled upon rapidly during a preliminary stage of the proceedings, but, as a study of the Court's practice shows, extremely delicate and important legal questions that are the main issue in a case are sometimes raised in the form of preliminary objections and it is frequently quite impossible to rule upon them without examining the merits.

324. "It would, therefore, seem advisable to allow the Court the option to choose either to dispose of preliminary objections forthwith or to join them to the merits without a hearing. As the Court pointed out in its judgement on the preliminary objections in the Barcelona Traction, Light and Power Company, Limited, the objection may be 'so related to the merits, or to questions of fact or law touching the merits, that it cannot be considered separately without going into the merits..., or without prejudging the merits ...'.^{75/} The joinder of preliminary objections to the merits will thus reflect 'the interests of the good administration of justice', which are the decisive factor for the Court in the matter. The third preliminary objection filed by Spain in the case concerning the Barcelona Traction, Power and Light Company, Limited was a typical example of the kind of issue that cannot be decided until the merits of the case have been examined, as the Court's judgement clearly illustrates, since it raised the question of the very substance of the rights of those persons whose interests Belgium claimed to be protecting.^{76/}

^{74/} Ibid., document A/8238, para. 48.

^{75/} I.C.J. Reports 1964, p. 43.

^{76/} Ibid., pp. 44-45.

/...

As was later pointed out, of course, the conclusion adopted by the Court in its judgement on the merits of the case, in 1970, 'seems to be derived exclusively from legal considerations regarding the distinct personality of companies in municipal private law, all of which considerations might have been put forward in 1964'.^{77/} Even so, the choice of the decisive argument may require an over-all view of the case that can only be gained from a hearing of the merits. The joinder of the objection to the merits cannot, therefore, be expected to restrict the Court in the choice of the reasons for its decision.

325. "To avoid the parties having to plead the same objection twice, therefore, it would be reasonable if, in future, the Court could join one or more preliminary objections to the merits, without being requested to do so and without hearing the parties involved, whenever it considers that at least one of the objections cannot be appreciated before the merits have been argued. Although in a case such as that concerning the Barcelona Traction Company, the Court would, in any event, not have been in a position to take up the option, which certain parties would have offered it, of deciding on the objections forthwith, a rule such as that proposed above would have allowed the procedure to be shortened by avoiding having the same points argued twice.

326. "The joinder of preliminary objections to the merits without a hearing would only be feasible in the case of objections relating to receivability, and not in the case of objections relating to jurisdiction, since a State could hardly be expected to explain its position in respect of the merits until it has been established that it accepts the jurisdiction of the court. This matter, however, requires a more detailed examination which will be made below. Moreover, the new rule would only offer the Court an option; it would not impose any obligation upon it. Here, too, the Court would be guided solely by the interests of the good administration of justice and the concern of the parties to keep the procedure as simple and expeditious as possible. If, for example, out of a number of preliminary objections there is one that can be ruled upon without reference to the merits, the Court could, depending on the circumstances, decide to give it a preliminary hearing. In other circumstances, however, it might decide to join to the merits

^{77/} Dissenting opinion of Judge Riphagen, I.C.J. Reports 1970, p. 356.

/...

Annex 2

**Letter from the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights to the United States
(Reference AL USA 22/2018), 5 November 2018**

Mandate of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

REFERENCE:
AL USA 22/2018

5 November 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, pursuant to Human Rights Council resolution 36/10.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **Executive Order 13846 of 6 August 2018, "Reimposing Certain Sanctions With Respect to Iran"**, targeting the Islamic Republic of Iran (hereinafter "Iran"). I refer as well to my letter dated 22 August 2018, to your Government on this issue, noting that no reply has been received at this time.

According to the information received:

On 6 August 2018, the White House issued Executive Order (E.O.) 13846 "**Re-imposing Certain Sanctions With Respect to Iran**". On 4 November, this E.O. reapplied unilateral coercive measures to the Iranian Central Bank, as well as to, *inter alia*, trade in oil, petroleum and petrochemical products, which represent over half of Iran's national revenue. These sanctions target both US and non-US citizens and businesses.

The Joint Comprehensive Plan of Action (JCPOA) was adopted through Security Council Resolution 2231, which unambiguously intended to make the agreement binding upon all States. The United States has elected to unilaterally withdraw from the agreement, despite the IAEA noting that Iran remains in compliance with its obligations.

Uniquely, these sanctions seek to punish countries for complying with a United Nations Security Council resolution.

The sanctions regime contains humanitarian exemptions permitting the sale of agricultural commodities, food, medicine, or medical devices to Iran.^{1 2} Despite this, it has been reported that major medical companies are not engaging in sales to Iran because of the difficulties arising from effecting international payments, and from over-compliance by financial institutions and international medical

¹ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_guidance_med.pdf

² https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hum_exp_iran.pdf

vendors. This is particularly problematic for patients requiring specialized treatments, including for thalassemia, cancer, hemophilia, multiple sclerosis and kidney transplants. It has also been indicated that US action will be taken to block the SWIFT technical interbank financial transfer mechanism which will undermine the effectiveness of humanitarian exceptions which may be approved.

It has been reported that the European Union, as well as multiple United Nations Member States have expressed concern since June 2018 that the existing humanitarian exemptions are inadequate.

It is also reported that the effect of these sanctions has been to cause a significant rise in inflation, and a devaluation of the Iranian rial, which has made the basics of life, including food and medicine, prohibitively expensive, particularly for the poor.

On 3 October 2018 the International Court of Justice ruled that any impediments arising from the measures announced on 8 May 2018 to the free exportation to the territory of the Islamic Republic of Iran of (i) medicines and medical devices; (ii) foodstuffs and agricultural commodities; and (iii) spare parts, equipment and associated services (including warranty, maintenance, repair services and inspections) necessary for the safety of civil aviation must be removed, and that any restrictions applying to the payment of such goods or services be also removed.

While I do not wish to prejudge the accuracy of these allegations, the allegations of the wrongful withdrawal from an international agreement aimed at peace and security, followed by the unilateral imposition of coercive measure without clear purpose or cause, leading to serious violations of the enjoyment of human rights by the people of Iran, cause serious concern.

In connection to the above alleged facts and concerns, the measures applied on Iran may be considered as conflicting with the principles recognized in the 1965 Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, the 1970 Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States.

The extraterritorial reach of these secondary sanctions targeting non-US persons and businesses raises serious issues regarding their legality, since it is widely considered that extraterritorial application of sanctions violates international law. I would like to call your Government's attention to the fact that unilateral measures should not be extended without a reasonable and sufficiently justified basis, as well as an evaluation of their efficacy and impact. By seeking to prevent any person or company in the world from transacting with Iran in the above-mentioned sectors, the E.O. appears to cause material harm to the economy of Iran, without cause or justification.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate on what legal basis the United States chose to unilaterally withdraw from the JCPOA and to re-impose sanctions on Iran, contrary to the wishes of all other parties to the agreement, in contravention to Security Council Resolution 2231, and international law.
3. Please indicate what measures your Excellency's Government has taken to ensure that the unilateral sanctions are reasonable, necessary and proportionate (in light of allegations to the contrary by all other parties to the JCPOA), and in accordance with national and international human rights law and standards.
4. Noting the obligations which arise from the 3 October 2018 Order of the International Court of Justice on the "Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights," and noting the concerns raised by Member States regarding the sufficiency of existing published guidance which aims to provide assurance that the sale of agricultural commodities, food, medicine, or medical devices to Iran are not sanctionable (unless involving sanctioned Iranian individuals, organizations or financial institutions), please indicate what measures are being taken to address these concerns, including those regarding the "chilling effect" which continues to cause over-compliance by the international financial sector, and by multinational medical vendors in particular, to address the demonstrated unavailability of certain medicines, or the prohibitive rise in their costs which is leading to the violations of the right to health.
5. Please indicate what measures are being taken to address the serious rise in poverty, and decline in purchasing power, which is causing poor Iranians to be unable to afford adequate food, housing, healthcare or other human rights.

This communication and any response received from Your Excellency's Government will be made public via the communications reporting [website](#) within 60

days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

I intend to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Government to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Idriss Jazairy
Special Rapporteur on the negative impact of unilateral coercive measures on the
enjoyment of human rights

Annex 3

United Nations, Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, UN Doc. A/74/165, 15 July 2019



Seventy-fourth session

Item 72 (b) of the preliminary list*

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**Negative impact of unilateral coercive measures on the enjoyment of human rights****Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Idriss Jazairy, submitted in accordance with Human Rights Council resolution [27/21](#) and Assembly resolution [73/167](#).

* [A/74/50](#).



**Report of the Special Rapporteur on the negative impact
of unilateral coercive measures on the enjoyment of
human rights**

Summary

In the present report, the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights addresses legal issues arising from the practice of using such measures, which effectively become blockades, during both peacetime and war. From that perspective, he considers the situation in a number of countries and recommends possible measures to address the human rights violations that arise in those situations.

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights

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I. Introduction

1. The present report is the fifth report submitted by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights to the General Assembly pursuant to Human Rights Council resolution [27/21](#) and Assembly resolution [73/167](#).

2. In the report, the Special Rapporteur presents: a brief overview of his activities since his previous report ([A/73/175](#)), focusing on what is arguably the most extreme aspect of the practice of unilateral sanctions – blockades and economic sanctions amounting to de facto blockades; an examination of the legal issues arising from the practice of actual blockades and economic sanctions amounting to de facto blockades; a review of some of the most problematic current cases of blockades in armed conflict and of some actual blockade-like sanctions regimes applied outside situations of armed conflict; and his conclusions and recommendations.

II. Overview of the activities of the Special Rapporteur

3. On 28 June 2018, the Special Rapporteur made a presentation to the Humanitarian Task Force for the Syrian Arab Republic to brief member States on the human rights concerns arising from the implementation of sanctions on that country.

4. On 17 July, the Special Rapporteur submitted a report to the General Assembly ([A/73/175](#)), in which he reviewed developments regarding unilateral sanctions applied to certain countries and addressed concerns arising from the use of unilateral sanctions in war and in peace.

5. On 7 March 2019, the Special Rapporteur participated in a panel discussion held by the Organization for Defending Victims of Violence. Participants highlighted the human rights violations suffered by Iranians as a result of unilateral actions taken by the United States of America, including violations of the rights to health and food and the right to protection from extreme poverty.

6. On 29 May, the Special Rapporteur led a panel discussion hosted by International Physicians for the Prevention of Nuclear War on whether economic sanctions against the Syrian Arab Republic might be holding civilians hostage. He also met with Government officials and parliamentarians.

7. On 27 June, the Special Rapporteur was the keynote speaker at an international seminar on unilateral coercive measures and their impact hosted by the Embassy of Cuba in Vienna. In his presentation, he highlighted the human rights concerns arising from the imposition of unilateral sanctions on Cuba, Iran (Islamic Republic of) and Venezuela (Bolivarian Republic of).

III. Legal issues arising from the practice of actual blockades and economic sanctions amounting to de facto blockades

8. The aim of the present report is to take a closer look at some of the most extreme cases of the use of unilateral coercive measures, that is, those which can be said to amount in practice to some form of blockade of the targeted country. In his previous report to the Human Rights Council, the Special Rapporteur described and denounced the escalation of sanctions measures witnessed in recent years. In particular, he deplored the now-recurrent use of measures that, in practice, affect the ability of target States to interact with the international community or, in the case of a blacklisted

central bank, its ability to interact with central banks of other States and the global financial system at large (see [A/HRC/39/54](#), paras. 44–46).

9. The Special Rapporteur also made the argument that comprehensive unilateral economic sanctions regimes which are intended to apply extraterritorially, that is, to coerce third parties not involved in the dispute to refrain from having economic or financial dealings with the targeted State (so-called “secondary sanctions”), and the effects of which are almost equivalent to those of a blockade on a foreign country, obviously qualify as economic warfare ([A/HRC/39/54](#), paras. 24–29).¹ In connection with that argument, it is worth noting that in recent months “economic warfare” has been used increasingly, in different forms, sometimes arguably more benign than actual, and labelled as “trade war”, even against commercial partners and allies of the targeting State. It may be that one of the factors driving such renewed large-scale recourse to economic coercion is the assumption that “trade wars are good and easy to win”.²

10. As the Special Rapporteur noted in his previous report to the Human Rights Council, comprehensive coercive measures with extraterritorial reach are almost universally rejected as unlawful under international law, as evidenced by General Assembly resolution [73/8](#), the latest in a long series of resolutions on the necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba, adopted annually since 1992. The resolution was adopted on 1 November 2018 by a recorded vote of 189 in favour to 2 against. It includes a call upon all States, worded in general terms and as a general rule, to refrain from using unilateral coercive measures. The measures specifically concerned by this condemnation are those laws and regulations adopted by States, “the extraterritorial effects of which affect the sovereignty of other States, the legitimate interests of entities or persons under their jurisdiction and the freedom of trade and navigation”. The wording of the resolution implies the existence of an actual obligation on States, based on the Charter of the United Nations and international law, including the freedom of trade and navigation, to refrain from using such measures and to terminate existing measures (Assembly resolution [73/8](#), para. 2).

11. It is reasonable to assert that States should be considered as being under a legal obligation not to recognize as lawful such unilateral coercive measures, especially extraterritorial, secondary economic sanctions. Such an obligation, which is related to the general legal principle *ex injuria jus non oritur*, meaning that legal rights cannot derive from an illegal act,³ is set out in particular in article 41 (2) of the articles on responsibility of States for internationally wrongful acts, according to which:

No State shall recognize as lawful a situation created by a serious breach [by a State of an obligation arising under a peremptory norm of general international law], nor render aid or assistance in maintaining that situation.

12. It is plausible that breaches of peremptory norms of international law, such as (a) the right to self-determination, (b) the prohibition of racial discrimination, and (c) basic principles of international humanitarian law, could give rise to the obligation

¹ See also Vaughan Lowe and Antonios Tzanakopoulos, “Economic warfare”, in Wolfrum Rüdiger, ed., *Max Planck Encyclopedia of Public International Law* (Oxford, United Kingdom of Great Britain and Northern Ireland, Oxford University Press, 2012); Stephen C. Neff, “Boycott and the law of nations: economic warfare and modern international law in historical perspective”, *British Yearbook of International Law*, vol. 59, No. 1 (1988).

² Twitter message by President Trump, 2 March 2018, available at <https://twitter.com/realDonaldTrump/status/969525362580484098>.

³ Martin Dawidowicz, “The obligation of non-recognition of an unlawful situation”, in James Crawford, Alain Pellet and Simon Olleson, eds., *The Law of International Responsibility* (Oxford, United Kingdom, Oxford University Press, 2010), p. 677.

of non-recognition.⁴ In his previous report to the Human Rights Council, the Special Rapporteur argued that all three sets of preemptory norms could be breached through the imposition of (at least certain forms of) economic sanctions. In that regard, he has suggested that the International Law Commission could be called upon to include in its programme of work the issue of the obligation not to recognize unlawful situations, with a view to further clarifying certain aspects of this rule, in particular its plausible status as customary law in situations where economic coercion infringes on the principle of self-determination, the prohibition of racial discrimination or core rules of international humanitarian law.⁵

13. The Special Rapporteur has also requested that the General Assembly be called upon to affirm solemnly, through a resolution, that, as a consequence of the above-mentioned obligation of non-recognition, States are expected to take appropriate measures (including under their national legislation) to deny any effect, recognition or enforcement in any manner of extraterritorial secondary sanctions in their respective jurisdictions. That would reinforce the call, made time and again in the Assembly, upon all Member States “neither to recognize these measures nor to apply them, and to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures” (Human Rights Council resolution 34/13, para. 3).

14. The above request of the Special Rapporteur is reinforced through the enactment by the European Union of European Council Regulation (EC) No 2271/96 in 1996, in reaction to the adoption by the United States of restrictive measures concerning Cuba, Iran (Islamic Republic of) and Libya, which were intended to impact European Union businesses engaging with those countries in trade or investment relations that were legitimate under European law. The regulation, which was updated in 2018 to cover the sanctions on the Islamic Republic of Iran re-introduced by the United States, was designed to protect European Union entities against the effects of the extraterritorial application of the sanctions measures “where such application affects the interests of persons ... engaging in international trade and/or the movement of capital and related commercial activities between the Community and third countries”.⁶ Under the regulation, European Union persons and entities shall not comply, “whether directly or through a subsidiary or other intermediary person, actively or by deliberate omission, with any requirement or prohibition, including requests of foreign courts, based on or resulting, directly or indirectly, from the [sanctions covered] or from actions based thereon or resulting therefrom”.⁷ The regulation also provided that “no judgment of a court or tribunal and no decision of an administrative authority located outside the Community giving effect, directly or indirectly, to the [sanctions covered] or to actions based thereon or resulting therefrom, shall be recognized or be enforceable in any manner”.⁸

⁴ Dawidowicz, “The obligation of non-recognition of an unlawful situation”, p. 679.

⁵ On the contents of the obligation in general, see for example, Stefan Talmon, “The duty not to ‘recognize as lawful’ a situation created by the illegal use of force or other serious breaches of a jus cogens obligation: an obligation without real substance?”, in Christian Tomuschat and Jean-Marc Thouvenin, eds., *The Fundamental Rules of the International Legal Order* (Leiden, The Netherlands and Boston, Massachusetts, Martinus Nijhoff, 2006). See also Djamchid Momtaz, “L’obligation de ne pas prêter aide ou assistance au maintien d’une situation créée par la violation d’une norme impérative du droit international général”, *Anuario Colombiano de Derecho Internacional*, vol. 10 (2017).

⁶ European Union, Regulation (EC) No. 2271/96 of 22 November 1996 on protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom, *Official Journal of the European Communities*, vol. 39, No. L 309 (29 November 1996), art. 1.

⁷ *Ibid.*, art. 5.

⁸ *Ibid.*, art. 4.

15. From a human rights perspective, economic sanctions having practical effects closely comparable to those of a wartime blockade raise a number of concerns. These may entail restrictions on the enjoyment by the targeted population of a range of human rights, including the right to food, health and freedom of movement, and on economic and social rights in general (A/71/364, para. 28, and A/HRC/31/44, para. 4).

16. The Special Rapporteur is aware that comprehensive embargoes coupled with secondary sanctions do not fit within the precise concept of a “wartime” blockade in the meaning of the law of armed conflict (international humanitarian law). Under that technical definition, a blockade is a belligerent operation to prevent vessels and/or aircraft of all nations, enemy and neutral, from entering or exiting specified ports, airports or coastal areas belonging to, occupied by or under the control of an enemy nation.⁹ It should also be clear that, in the present context, a “de facto blockade” does not necessarily, or does not always, involve the use of maritime economic embargo operations (including maritime interdiction), as was used, for example, by the British off the coast of Mozambique between 1966 and 1975 to enforce the economic sanctions against Rhodesia authorized by Security Council resolution 217 (1965).¹⁰ If comprehensive secondary sanctions with blockade-like effects are not blockades *stricto sensu*, an argument may be made that such sanctions are not covered by the limitations on the use of blockades set by the law of armed conflict and commonly accepted and considered to be binding on all States.

17. Such legal technicalities should not, however, overshadow the basic similarity between the effects of de jure blockades used in wartime and de facto blockades used in peacetime as the civilian populations of targeted countries suffer from the latter in the same manner as they would suffer from the former. This similarity of effects calls for the application to de facto blockades of the same rules as those found in the law of armed conflict (international humanitarian law) as regards wartime blockades, including the prohibition of collective punishment and the principles of necessity, proportionality and discrimination.¹¹

18. Reference may also be made to the concept of a “pacific blockade”, a legal concept developed in the nineteenth century as an alternative measure of coercion, short of war, that is now widely considered to be obsolete.¹² “What is generally known under the name of a pacific blockade consists of the closure of a foreign harbour or the barring of access to a foreign coast for shipping in peace time”.¹³ While the legality of such an action has been widely discussed and was controversial in legal doctrine,¹⁴ what is noticeable is that a major difference was considered to exist between a pacific blockade and a belligerent (wartime) blockade, in that a belligerent blockading State was within its rights to bar all shipping between the blockaded State

⁹ See Wolff Heintschel von Heinegg, “Blockade”, in *Max Planck Encyclopedia of Public International Law* (updated October 2015); Yoram Dinstein, *The Conduct of Hostilities under the Law of International Armed Conflict*, 3rd ed. (Cambridge, United Kingdom, Cambridge University Press, 2016), pp. 257–259.

¹⁰ See Steven Haines, “War at sea: nineteenth-century laws for twenty-first century wars?”, *International Review of the Red Cross*, vol. 98, No. 2 (2016), p. 424, which emphasizes the legal distinction between wartime blockades and “constabulary” maritime economic embargo operations, whether United Nations-mandated or applied unilaterally.

¹¹ See W. Michael Reisman and Douglas L. Stevick, “The applicability of international law standards to United Nations economic sanctions programmes”, *European Journal of International Law*, vol. 9, No. 1 (1998).

¹² See Herbert Arthur Smith, *The Law and Custom of the Sea*, 3rd ed. (London, Stevens, 1959), p. 144.

¹³ Jan Hendrik Willem Verzijl, *International Law in Historical Perspective: Part VIII – Inter-State Disputes and their Settlement* (Leiden, The Netherlands, A.W. Sijthoff, 1976), p. 43.

¹⁴ *Ibid.*, pp. 43–48.

and the external world, whereas a pacific blockade was not supposed to restrict the shipping of third-party States.¹⁵

IV. Overview of selected actual cases of belligerent and de facto blockades

19. A naval blockade in the precise, proper meaning of the term as understood in the law of armed conflict is currently being applied against the State of Palestine (Gaza) and has also arguably been imposed on the port of Hudaydah in Yemen in the recent past, while blockade-like measures have been applied (and remain in force at the time of writing) against Cuba, Iran (Islamic Republic of), the Syrian Arab Republic and Venezuela (Bolivarian Republic of). While the Special Rapporteur cannot delve into these cases in depth in the present report, they are discussed in overview below.

A. Blockades applied in connection with military operations

1. State of Palestine (Gaza)

20. The blockade imposed on the Gaza Strip and its 2 million residents by Israeli authorities has been in force for more than a decade. The mass protests in the Gaza Strip in the spring of 2019, which left at least 135 Palestinians killed and over 14,000 injured (relying on a health-care infrastructure that is on the verge of collapse), have brought renewed international focus to the untenable situation that results from the blockade. The Special Rapporteur noted with alarm the report issued in May 2019 by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), in which it was stated that, as the result of the blockade, more than 1 million people in Gaza – half of the population of the territory – might not have enough food for the following month. Such food insecurity is coupled with other factors, such as successive conflicts that have razed entire neighbourhoods and public infrastructure to the ground.¹⁶ Dozens of humanitarian organizations have jointly drawn attention to the collapse of the economy in Gaza, which has drastically affected the living standards of the population.

21. The ongoing restrictions in the West Bank, along with the decade-long blockade in Gaza, have continued to hollow out the productive sector and have prevented the economy from achieving its potential. With transfers to Gaza declining over the course of 2018, the economy is in a free fall, suffering a 6 per cent contraction in the first quarter of 2018, and an unemployment rate of 53 per cent (over 70 per cent for young people). Given that every second person in Gaza was living below the poverty line before these latest developments, such marked deterioration is alarming.¹⁷

22. United Nations agencies and the Office of the United Nations High Commissioner for Human Rights have repeatedly stressed that the Israeli blockade is unlawful under international law and international humanitarian law, especially to the extent that it constitutes a form of collective punishment, and have found that it entailed continuous restrictions on the enjoyment by Gazans of a range of human

¹⁵ See Jeremy Matam Farrall, *United Nations Sanctions and the Rule of Law* (Cambridge, United Kingdom, Cambridge University Press, 2007), p. 51.

¹⁶ See United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), “More than one million people in Gaza – half of the population of the territory – may not have enough food by June”, 13 May 2019.

¹⁷ World Bank, “Economic monitoring report to the Ad Hoc Liaison Committee”, 27 September 2018, p. 5.

rights, including their right to freedom of movement and their economic and social rights (A/71/364, para. 28, and A/HRC/31/44, para. 40). The blockade is and remains a key driver of Gaza's humanitarian crisis (A/HRC/34/36, para. 36).

23. The 2 million people living in Gaza are exposed to a largely unsafe water supply, limited electricity and expansive restrictions on freedom of movement. Israel often denies or delays permits to those seeking vital medical care outside Gaza, while hospitals lack adequate resources and face chronic shortages of medical supplies. Furthermore, Gaza is labouring under prolonged cuts in its electricity supply and in the payment of salaries of civil servants. It is feared that this situation will worsen in view of the expected reduction or suspension of essential UNRWA emergency services, as two thirds of the overall population of Gaza are Palestine refugees.¹⁸

24. The international community should be called upon once again to recognize Israel's primary responsibility for the unlawful closure and blockade of the Gaza Strip, which is the root cause of its continuous impoverishment, and which amounts to a form of collective punishment prohibited by international law. In particular, it is time for the European Union to take effective measures to ensure the implementation of European Parliament resolution 2018/2663(RSP), in which the Parliament called for an immediate and unconditional end to the blockade and closure of the Gaza Strip.

2. Yemen

25. The past blockade of the port of Hudaydah during the conflict in Yemen has been a major cause of concern. One positive development is that, at the time of writing, the Stockholm Agreement reached on 13 December 2018, including the Agreement on the City of Hudaydah and the Ports of Hudaydah, Salif and Ra's Issa, is designed to allow for the gradual recovery of economic activity and increased levels of imports to the country. According to a briefing to the Security Council by the Special Envoy of the Secretary-General for Yemen in May 2019, it seems that the agreement is being implemented on the ground thanks to the commitment of all parties to the conflict.¹⁹

26. Furthermore, in a briefing to the Security Council on 17 June 2019, the Special Envoy highlighted the economic aspects of the Hudaydah Agreement regarding the revenues of the ports and expressed the hope that achieving consensus on the above aspects would enable the payment of public sector salaries in Hudaydah Governorate and subsequently throughout Yemen. That would be a significant step forward for the Yemeni people.²⁰

B. Blockade-like sanctions applied in peacetime situations

1. Venezuela (Bolivarian Republic of)

27. The previous report of the Special Rapporteur to the Human Rights Council contains a comprehensive description of the economic sanctions imposed on the Bolivarian Republic of Venezuela by the Government of the United States in recent years, and in particular since August 2017, and their consequences on the enjoyment

¹⁸ According to UNRWA, the Gaza Strip is home to a population of approximately 1.9 million people, including some 1.4 million Palestine refugees. See www.unrwa.org/where-we-work/gaza-strip.

¹⁹ See briefing of the Security Council by Mr. Martin Griffiths, Special Envoy of the Secretary-General for Yemen, 15 May 2019, available at <https://osesgy.unmissions.org/briefing-martin-griffiths-un-special-envoy-yemen-security-council-1>.

²⁰ See briefing of the open session of the Security Council by the Special Envoy of the Secretary-General for Yemen, 17 June 2019, available at <https://osesgy.unmissions.org/briefing-un-special-envoy-secretary-general-yemen-open-session-un-security-council>.

of human rights. In a recent, detailed report, a credible Washington think tank found that, in the main, the impact of those sanctions had not been borne by the Government but rather by the civilian population. In that report, it is stressed that:

The sanctions reduced the public's caloric intake, increased disease and mortality (for both adults and infants), and displaced millions of Venezuelans who fled the country as a result of the worsening economic depression and hyperinflation. They exacerbated Venezuela's economic crisis and made it nearly impossible to stabilize the economy, contributing further to excess deaths. All of these impacts disproportionately harmed the poorest and most vulnerable Venezuelans. Even more severe and destructive than the broad economic sanctions of August 2017 were the sanctions imposed by executive order on January 28, 2019 and subsequent executive orders this year; and the recognition of a parallel government, which as shown below, created a whole new set of financial and trade sanctions that are even more constricting than the executive orders themselves.²¹

28. In the same study, findings are presented that the sanctions have inflicted, and are likely to increasingly inflict, very serious harm on human life and health, including more than 40,000 deaths during the period 2017–2018.²²

29. The Special Rapporteur is of the view that, given the gravity of the allegations made in the report regarding mass deaths induced by sanctions, and substantiated by credible prima facie evidence, the General Assembly should immediately call for an international independent investigation to evaluate the validity and materiality of those claims.

30. Arguably, as the authors of the report indicated, the sanctions imposed on the Bolivarian Republic of Venezuela fit the definition of collective punishment of the civilian population, as described both in the Geneva Convention relating to the protection of victims of international armed conflicts of 1949 and the Hague Convention with Respect to the Laws and Customs of War on Land of 1899, to which the targeting State is a signatory, and violate other relevant rules of international law.²³

2. Cuba

31. On 30 April 2019, the President of the United States threatened to impose a “full and complete embargo” and further sanctions on Cuba if its leadership did not immediately end its military support for the current Government of the Bolivarian Republic of Venezuela.²⁴

32. That was the latest in a series of moves made by the United States after its leadership decided to reverse previous openings initiated under the previous administration and to return to a hard-line policy of the comprehensive economic isolation of Cuba (A/72/370, paras. 7–8, and A/73/175, para. 6). The embargo continued to cause major harm to the Cuban economy and consequently to the human rights of Cubans, as documented in the previous reports of the Special Rapporteur. One noteworthy source of concern was the decision of the United States to reactivate, as of May 2019, the provisions of title III of the Helms-Burton Act of 1996, thus extending the embargo imposed by the United States to apply to foreign companies trading with Cuba. From a legal viewpoint, the legislation allows civil litigation to be initiated in

²¹ Mark Weisbrot and Jeffrey Sachs, “Economic sanctions as collective punishment: the case of Venezuela”, April 2019.

²² Ibid.

²³ Ibid.

²⁴ Reuters, “Trump threatens ‘full’ embargo on Cuba over Venezuela security support”, 30 April 2019.

United States courts against foreign companies on the grounds of “trafficking” in Cuban properties expropriated from their previous United States owners.²⁵

33. That move put an end to the long-standing *modus vivendi* between the European Union and the United States, based on a bilateral agreement reached in London in 1998, under which the United States had agreed to grant waivers to titles III and IV of the Helms-Burton Act and had made a commitment to resist future extraterritorial legislation of that kind,²⁶ with a view to alleviating the transatlantic dispute caused by the adoption of the Act.²⁷ The leadership of the European Union has “firmly and continuously opposed any such measures, due to their extraterritorial impact on the European Union, in violation of commonly accepted rules of international trade”,²⁸ but it remains to be seen what actual steps the European Union is prepared to take to curb those claims to extraterritorial jurisdiction.

34. Nearly universal consensus was reached by the international community in its condemnation of the embargo against Cuba in General Assembly resolution 73/8, the most recent Assembly resolution on the necessity of ending the economic, commercial and financial embargo imposed by the United States against Cuba. The resolution was intended to lead to practical steps to alleviate the sufferings of the people of Cuba and to secure the termination of the application of unlawful measures that impede the realization of the country’s right to development.

3. Syrian Arab Republic

35. Considered as a whole, the comprehensive economic sanctions that continue to be imposed on the Syrian Arab Republic by a number of States and regional organizations arguably amount to a situation that effectively constitutes a severe *de facto* blockade of the country. Those sanctions have been described by experts as inhumane and destructive,²⁹ and as the “most complicated and far-reaching sanctions regimes ever imposed”.³⁰ The complexity and the number of targeted, financial and sectoral sanctions have exacerbated the suffering of the Syrian civilian population caused by years of armed conflict. In recent months, while the Government of the Syrian Arab Republic has continued to reassert control over large parts of the country’s territory and has sought to boost efforts towards reconstruction and economic recovery, the imposition of a new range of stringent sanctions has worsened the plight of ordinary people.³¹

36. This is especially the case in the tightening of measures prohibiting oil exports to the Syrian Arab Republic through targeted sanctions on foreign (including Russian and Iranian) entities accused of “facilitating” transactions relating to oil deliveries to

²⁵ See Stephen Wicary, “Trump nears key Cuba sanctions decision over support for Maduro”, Bloomberg, 27 February 2019.

²⁶ Stefaan Smis and Kim van der Borcht, “The EU-U.S. compromise on the Helms-Burton and D’Amato acts”, *American Journal of International Law*, vol. 93, No. 1 (January 1999).

²⁷ See Brigitte Stern, “Vers la mondialisation juridique?: les lois Helms-Burton et d’Amato-Kennedy”, *Revue générale de droit international public*, vol. 100 (1996).

²⁸ See Delegation of the European Union to the United Nations in New York, “EU explanation of vote: United Nations General Assembly – ending the economic, commercial and financial embargo imposed by the United States of America against Cuba”, 1 November 2018.

²⁹ Nour Samaha, “The economic war on Syria: why Europe risks losing”, European Council on Foreign Relations, 11 February 2019.

³⁰ Justine Walker, “Study on humanitarian impact of Syria-related unilateral restrictive measures”, 16 May 2016, p. 6.

³¹ For a detailed account of the impact of economic sanctions on the civilian population of the Syrian Arab Republic in 2019, see Donna Abu-Nasr, “Waiting 19 hours for gas in a lifeless city”, Bloomberg, 26 April 2019; Angus McDowall, “Iran sent oil shipment to Syria, easing fuel crisis”, Reuters, 10 May 2019.

the country.³² The same applies to the issuance by the Office of Foreign Assets Control of an advisory to the maritime petroleum shipping community to alert persons globally to the significant United States sanctions risks for parties involved in petroleum shipments to the Syrian Arab Republic.³³ This has led, at the height of winter, to the most serious gas crisis in the country in recent years.³⁴ It was reported that:

Within 48 hours of its issue, insurance companies cut their ties with vessels going to Syria, ships stopped sending their cargo, and the gas all but dried up. In an effort to deal with the crisis, the Syrian government asked prominent businessmen to buy vessels and transport gas from Iran and Russia, uninsured, which is highly risky and expensive. The cost of shipping has now soared due to the risk.³⁵

37. These measures appear all the more questionable since their stated objectives include “preventing the normalization of economic and diplomatic relations and reconstruction funding”,³⁶ raising the question of whether it is acceptable that the people of the Syrian Arab Republic, after years of deadly conflict, should be denied the right to proceed with reconstruction. The measures appear to be in clear contradiction to the right to development.

38. Such measures are having a severe impact on the economy of the Syrian Arab Republic and have forced the Government to enact rationing measures on gasoline.³⁷ Ordinary Syrians are the victims of the resulting situation:

Inside the country today, ordinary Syrians are queuing for hours to buy a canister of gas to heat and cook with. Electricity cuts are plaguing the country. There is growing and very public discontent among the population. The situation has become so dire that government officials are acknowledging it and warning the population to brace themselves for “storms ahead”. As one Syrian official pointed out to [the] author, “the economic war is far worse than the military one, as the economic one enters into every single household and no one is untouched by it.”³⁸

39. Furthermore, it has also been reported that sanctions prevent Syrians from gaining access to critical medical equipment and pharmaceuticals, including life-saving cancer medication and hospital equipment, because of the terms stipulated in the sanctions.³⁹

4. Iran (Islamic Republic of)

40. The reimposition of comprehensive unilateral sanctions has already translated into adverse consequences for the enjoyment of human rights by ordinary Iranians.

³² See United States of America, Department of the Treasury, “Treasury designates illicit Russia-Iran oil network supporting the Assad regime, Hizballah, and Hamas”, press release, 20 November 2018; see also Alex Wayne, “U.S. sanctions Russian companies to choke off oil for Syria”, Bloomberg, 20 November 2018.

³³ See United States, Department of the Treasury, Office of Foreign Assets Control, “Sanctions risks related to shipping petroleum to Syria”, advisory to the maritime petroleum shipping community, 20 November 2018.

³⁴ Samaha, “The economic war on Syria”.

³⁵ Ibid.

³⁶ United States, Department of the Treasury, Office of Foreign Assets Control, “Sanctions risks related to shipping petroleum to Syria”.

³⁷ See Donna Abu-Nasr, “U.S. sanctions on Iran mean Damascus drivers queue for gas”, Bloomberg, 14 April 2019.

³⁸ Samaha, “The economic war on Syria”.

³⁹ Ibid.

The right to health appears to be the human right that has probably been most widely and severely affected by the sanctions, as shown by multiple credible sources that refer to numerous cases of undue suffering and even death resulting from a lack of access to medicine caused by the sanctions.⁴⁰ These adverse effects had already been documented under the sanctions in force before the conclusion of the nuclear agreement (Joint Comprehensive Programme of Action) in 2015. In a recent study, it was reported that while the United States had nominally exempted humanitarian goods from its economic sanctions, in reality “limitations on trade, the unwillingness of financial institutions to process transactions related to Iran, as well as the Iranian government’s misguided policies, have resulted in staggering prices and shortages of medicine”.⁴¹ There have been cases where the United States Treasury has prosecuted medical companies for selling small amounts of medical supplies to the Islamic Republic of Iran, which, in turn, has had a deterring effect on other companies doing business with the country.⁴² The same study also found that:

Sanctions can further limit access to medicine and proper health care by making them financially less accessible. Dursun Peksen’s study on the impact of economic sanctions on public health⁴³ indicates that sanctions exacerbate the situation by inflicting damage on the target country’s economy. In the case of Iran, reports indicate that during 2012–2013, the price of medicine increased by 50–75 per cent. Coupled with an economic downturn and an increase in unemployment, medicine became less affordable to Iranian patients.⁴⁴

According to field research conducted in Iran during 2013, asthma, cancer, and multiple sclerosis patients struggled with either shortages of medicine or skyrocketing prices. This research further found that many cancer patients had stopped treatment because of an increase in the prices of medicine. It is also noteworthy to mention that while Iran produces nearly 90 per cent of its own drugs, as a result of sanctions, Iranian pharmaceutical companies have faced many difficulties in procuring active ingredients necessary to manufacture locally produced medicine.⁴⁵

41. From a macroeconomic perspective, a report issued by the World Bank in October 2018, just before the reintroduction of the sanctions, forecast the adverse economic effects of the unilateral economic sanctions as follows:

In the medium term, the economy is set to experience a downward trajectory as oil exports are expected to fall to half of their 2017/18 levels following the phased reintroduction of US sanctions culminating in November 2018 ... The economy is expected to contract by 1.4 percent on average between 2017/18–2020/21, experiencing a fall in exports and consumption on the demand side and a contraction of the industry sector on the supply side. Government balances are also expected to deteriorate as oil revenues account for more than 40 percent of central government revenues. With exports disrupted, the demand for the U.S. dollar to finance imports and savings is expected to rise and the parallel premium is likely to increase further than the current 150 percent gap between

⁴⁰ See, for example, Tamara Qiblawi, Frederik Pletigen and Claudia Otti, “Iranians are paying for US sanctions with their health”, CNN, 22 February 2019.

⁴¹ Sina Azodi, “How US Sanctions hinder Iranians’ access to medicine”, Atlantic Council, 31 May 2019.

⁴² Ibid.

⁴³ Dursun Peksen, “Economic sanctions and human security: the public health effect of economic sanctions”, *Foreign Policy Analysis*, vol. 7, No. 3 (July 2011).

⁴⁴ Fatemeh Kokabisaghi, “Assessment of the effects of economic sanctions on Iranians’ right to health by using human rights impact assessment tool: a systematic review”, *International Journal of Health Policy Management*, vol. 7, No. 5 (2018).

⁴⁵ Azodi, “How US Sanctions hinder Iranians’ access to medicine”.

the official rate and parallel rate. Higher import prices from the devaluation are expected to push inflation back above 30 percent in the coming years as inflationary expectations spiral and consumer sentiment falls leading to once again a period of stagflation for Iran ... Despite the depreciation and drop in imports, the reduction in oil exports is estimated to almost eliminate the current account surplus, which is lower than the earlier UN sanctions episode as oil prices are almost half of the levels they were in 2012–2013. The economy's downward trajectory is also likely to put further pressure on the labor market and reverse recent job creation gains ... The falling real value of cash transfers due to inflation may counterbalance the positive impact on wellbeing from economic growth in 2016 and 2017 and exacerbate the impact of predicted negative growth after 2017.⁴⁶

42. At that time, the World Bank expressed the view that there was some measure of uncertainty with regard to the impact of United States sanctions on the external economic relations of the Islamic Republic of Iran, depending on how other trade partners adapted.⁴⁷ Evidence now points to the growing economic isolation of the country, with, in particular, a virtual collapse in trade between the European Union and the Islamic Republic of Iran in recent months.⁴⁸ Most transnational corporations have been coerced into withdrawing from the country and some have even overcomplied with measures imposed by the United States. Firms are not prepared to risk losing access to the markets in the United States or facing huge financial or criminal penalties in the United States if they continue to do business with the Islamic Republic of Iran. This situation shows that the mechanisms designed by the European Union to shield their businesses from the effects of unilateral, secondary sanctions have so far proven largely ineffective, including the updated "Blocking Regulation" of the European Union. In addition, payments and financial flows are affected by de facto bans on the use of international wire transfer payment systems (exclusion from the SWIFT system), thereby rendering even humanitarian exemptions ineffective.⁴⁹ This, again, is a blockade-like situation that calls for the application of the rule prohibiting collective punishment and prescribing the free access of humanitarian supplies and essential goods and foodstuffs.

43. In turn, the blockade of the Islamic Republic of Iran has also affected third countries, including Afghanistan, whose 2.5 million to 3 million nationals reportedly living as foreign workers in Iran in 2017 have been deeply impacted by the economic crisis precipitated by the sanctions. Many of them have already been forced to leave the country as a result of cuts in salaries or job losses.⁵⁰

44. At the time of writing, the most recent sanctions applied by the United States, that is, the executive order issued on 24 June 2019 sanctioning the office of the Supreme Leader of the Islamic Republic of Iran and authorizing further sanctions on those associated with it, represent a new escalation that is likely to only further fuel tensions and jeopardize the prospects of a peaceful settlement of the dispute between the two countries. The same outcome is likely to result from the announced "blacklisting" of the Minister for Foreign Affairs of the Islamic Republic of Iran and

⁴⁶ World Bank, "Iran's economic outlook", 3 October 2018.

⁴⁷ Ibid.

⁴⁸ Statistics show that trade between Iran and European Union member States during the first month of 2019 stood at €343.38 million, representing a decline of 82.72 per cent compared with the corresponding period in 2018. See "Iran trade with EU plunges", *Financial Tribune*, 13 April 2019.

⁴⁹ See, for example, Babak Dehghanpisheh, "Flood-hit Iran getting no financial aid from abroad due to U.S. sanctions: statement", Reuters, 7 April 2019.

⁵⁰ See Babak Dehghanpisheh and Hamid Shalizi, "Afghanistan feels impact of Iran's economic isolation", Reuters, 25 April 2019.

to the repeated threats to use armed force, including the threat of the “obliteration” of the country.⁵¹

V. Conclusions and recommendations

45. The Special Rapporteur stresses that the widespread use of unilateral coercive measures, especially those of a comprehensive nature and of a blockade-like character, reinforce the pressing need to establish a United Nations procurement office to deal with the deleterious effects of overcompliance by banks and financial intermediaries, which prevent even exempted goods, such as food and medicines, from reaching people in need. Following the suggestion of the Special Rapporteur, this model was applied with success in the Sudan, and he believes it would be effective in addressing the needs of the people of Iran (Islamic Republic of), the Syrian Arab Republic and Venezuela (Bolivarian Republic of) in particular.

46. Another suggestion that has already been formulated by the Special Rapporteur is to task a special representative of the Secretary-General with addressing the root causes that led to sanctions and facilitating a policy dialogue between the source and target countries while also working to minimize the human rights implications of the sanctions.

47. The third recommendation is for the international community to come together to adopt an international declaration on unilateral coercive measures and the rule of law. The Special Rapporteur first proposed this idea in 2017 and continues to work with States to build a consensus around the idea of agreeing to minimum standards of behaviour when resorting to unilateral coercive measures, until such time as the international community can agree to eliminate them altogether.

48. The phrase “never again” has been used to galvanize the international community around the idea that total war, global war, has no place in civilized society. The Special Rapporteur believes the time has come to say the same about the use of unilateral sanctions, at least for the purpose of achieving political objectives and regime change. For unilateral sanctions are no longer an alternative to war; they are becoming a preamble thereto, or may amount to war by another name: they kill.

⁵¹ See Zamira Rahim, “Trump says war with Iran would cause ‘obliteration like you’ve never seen before’”, Independent, 22 June 2019.

Annex 4

IMF, *World Economic Outlook: Global Manufacturing Downturn, Rising Trade Barriers*, October 2019

Excerpts: p. 1, p. 60

INTERNATIONAL MONETARY FUND

WORLD ECONOMIC OUTLOOK

Global Manufacturing Downturn,
Rising Trade Barriers

2019
OCT



Annex Table 1.1.4. Middle East and Central Asia Economies: Real GDP, Consumer Prices, Current Account Balance, and Unemployment

(Annual percent change, unless noted otherwise)

	Real GDP			Consumer Prices ¹			Current Account Balance ²			Unemployment ³		
	2018	Projections		2018	Projections		2018	Projections		2018	Projections	
	2018	2019	2020	2018	2019	2020	2018	2019	2020	2018	2019	2020
Middle East and Central Asia	1.9	0.9	2.9	9.9	8.2	9.1	2.7	-0.4	-1.4	...	...	...
Oil Exporters⁴	0.6	-0.7	2.3	8.5	6.9	8.0	5.9	1.6	0.1	...	...	...
Saudi Arabia	2.4	0.2	2.2	2.5	-1.1	2.2	9.2	4.4	1.5	6.0	...	...
Iran	-4.8	-9.5	0.0	30.5	35.7	31.0	4.1	-2.7	-3.4	14.5	16.8	17.4
United Arab Emirates	1.7	1.6	2.5	3.1	-1.5	1.2	9.1	9.0	7.1	...	...	...
Iraq	-0.6	3.4	4.7	0.4	-0.3	1.0	6.9	-3.5	-3.7	...	...	...
Algeria	1.4	2.6	2.4	4.3	2.0	4.1	-9.6	-12.6	-11.9	11.7	12.5	13.3
Kazakhstan	4.1	3.8	3.9	6.0	5.3	5.2	0.0	-1.2	-1.5	4.9	4.9	4.9
Qatar	1.5	2.0	2.8	0.2	-0.4	2.2	8.7	6.0	4.1	...	...	...
Kuwait	1.2	0.6	3.1	0.6	1.5	2.2	14.4	8.2	6.8	1.3	1.3	1.3
Oman	1.8	0.0	3.7	0.9	0.8	1.8	-5.5	-7.2	-8.0	...	...	...
Azerbaijan	1.0	2.7	2.1	2.3	2.8	3.0	12.9	9.7	10.0	5.0	5.0	5.0
Turkmenistan	6.2	6.3	6.0	13.2	13.4	13.0	5.7	-0.6	-3.0	...	...	...
Oil Importers⁵	4.4	3.8	3.9	12.7	10.7	11.3	-6.6	-6.0	-5.3	...	...	...
Egypt	5.3	5.5	5.9	20.9	13.9	10.0	-2.4	-3.1	-2.8	10.9	8.6	7.9
Pakistan	5.5	3.3	2.4	3.9	7.3	13.0	-6.3	-4.6	-2.6	6.1	6.1	6.2
Morocco	3.0	2.7	3.7	1.9	0.6	1.1	-5.4	-4.5	-3.8	9.8	9.2	8.9
Uzbekistan	5.1	5.5	6.0	17.5	14.7	14.1	-7.1	-6.5	-5.6	...	...	...
Sudan	-2.2	-2.6	-1.5	63.3	50.4	62.1	-13.6	-7.4	-12.5	19.5	22.1	21.0
Tunisia	2.5	1.5	2.4	7.3	6.6	5.4	-11.1	-10.4	-9.4	15.4	...	...
Jordan	1.9	2.2	2.4	4.5	2.0	2.5	-7.0	-7.0	-6.2	18.3	...	...
Lebanon	0.2	0.2	0.9	6.1	3.1	2.6	-25.6	-26.4	-26.3	...	...	...
Afghanistan	2.7	3.0	3.5	0.6	2.6	4.5	9.1	2.0	0.2	...	...	...
Georgia	4.7	4.6	4.8	2.6	4.2	3.8	-7.7	-5.9	-5.8	12.7	...	...
Tajikistan	7.3	5.0	4.5	3.8	7.4	7.1	-5.0	-5.8	-5.8	...	...	...
Armenia	5.2	6.0	4.8	2.5	1.7	2.5	-9.4	-7.4	-7.4	18.2	17.7	17.5
Kyrgyz Republic	3.5	3.8	3.4	1.5	1.3	5.0	-8.7	-10.0	-8.3	6.6	6.6	6.6
<i>Memorandum</i>												
Caucasus and Central Asia	4.2	4.4	4.4	8.3	7.6	7.6	0.3	-1.3	-1.7	...	...	...
Middle East, North Africa, Afghanistan, and Pakistan	1.6	0.5	2.7	10.1	8.3	9.3	2.9	-0.3	-1.4	...	...	...
Middle East and North Africa	1.1	0.1	2.7	11.0	8.4	8.9	3.8	0.1	-1.3	...	...	...
Israel ⁶	3.4	3.1	3.1	0.8	1.0	1.3	2.7	2.4	2.5	4.0	4.0	4.0
Maghreb ⁷	3.0	1.4	2.7	4.3	2.3	3.7	-7.3	-8.6	-9.1	...	...	...
Mashreq ⁸	4.8	5.0	5.4	18.8	12.5	9.1	-6.7	-6.9	-6.2	...	...	...

Note: Data for some countries are based on fiscal years. Please refer to Table F in the Statistical Appendix for a list of economies with exceptional reporting periods.

¹Movements in consumer prices are shown as annual averages. Year-end to year-end changes can be found in Tables A6 and A7 in the Statistical Appendix.

²Percent of GDP.

³Percent. National definitions of unemployment may differ.

⁴Includes Bahrain, Libya, and Yemen.

⁵Includes Djibouti, Mauritania, and Somalia. Excludes Syria because of the uncertain political situation.

⁶Israel, which is not a member of the economic region, is included for reasons of geography but is not included in the regional aggregates.

⁷The Maghreb comprises Algeria, Libya, Mauritania, Morocco, and Tunisia.

⁸The Mashreq comprises Egypt, Jordan, and Lebanon. Syria is excluded because of the uncertain political situation.

Annex 5

**U.S. Department of the Treasury, Update to OFAC's SDN List,
20 September 2019**

Iran-related Designations; Counter Terrorism Designations

 [treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190920.aspx](https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190920.aspx)

OFFICE OF FOREIGN ASSETS CONTROL

Specially Designated Nationals List Update

The following entities have been added to OFAC's SDN List:

ETEMAD TEJARATE PARS CO., No. 101 Sohrevardi St., Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [SDGT] (Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

NATIONAL DEVELOPMENT FUND OF IRAN (a.k.a. NATIONAL DEVELOPMENT FUND OF ISLAMIC REPUBLIC OF IRAN (Arabic: صندوق توسعه ملی جمهوری اسلامی ایران)), No. 25 Gandhi St., Building National Development Fund of Iran, Tehran 15176-55911, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: MINISTRY OF DEFENSE AND ARMED FORCES LOGISTICS).

The following changes have been made to OFAC's SDN List:

BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN), PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran; 213 Ferdowsi Avenue, Tehran 11365, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [IRAN]. -to- **BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN (Arabic: بانک مرکزی جمهوری اسلامی ایران)), PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran; 213 Ferdowsi Avenue, Tehran 11365, Iran; Mirdamad Blvd, 144 - P.O. Box 15875/7/77, Tehran, Iran; Additional Sanctions Information - Subject to Secondary Sanctions [IRAN] [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE; Linked To: HIZBALLAH).**

Annex 6

**U.S. Department of the Treasury, *Financial Channels to Facilitate Humanitarian Trade with Iran and Related Due Diligence and Reporting Expectations*,
25 October 2019**

Financial Channels to Facilitate Humanitarian Trade with Iran and Related Due Diligence and Reporting Expectations

The U.S. Government has levied unprecedented economic pressure to disrupt the Iranian regime's ability to covertly and illicitly access the international financial system to finance terrorism abroad, increase its domestic oppression, support the brutal Assad regime, procure ballistic missile technology, and broadly destabilize the Middle East. These U.S. government efforts are directed at the Iranian regime. They are not directed at the people of Iran, who themselves are victims of the regime's oppression, corruption, and economic mismanagement.

The United States maintains broad exceptions and authorizations for the sale of agricultural commodities, food, medicine, and medical devices to Iran by U.S. and non-U.S. persons, provided such transactions do not involve persons designated in connection with Iran's proliferation of weapons of mass destruction (WMD), or Iran's support for international terrorism. These exceptions and authorizations are clearly outlined by Treasury's Office of Foreign Assets Control (OFAC) in [Frequently Asked Questions \(FAQs\) regarding Iran sanctions, Guidance on Humanitarian Assistance and Related Exports to the Iranian People \(2013\)](#), and [Guidance on the Sale of Food, Agricultural Commodities, Medicine, and Medical Devices by Non-U.S. Persons to Iran \(2013\)](#).

Unfortunately, the U.S. government has seen the Iranian regime abuse the goodwill of the international community, including by using so-called humanitarian trade to evade sanctions and fund its malign activity. The U.S. government also knows that the regime and its proxies are looking for new ways to generate funds and launder money. In fact, we have grown increasingly concerned as we have uncovered Iranian and Iranian-proxy schemes to access illicitly the international financial system under the cover of seemingly humanitarian organizations or through shell companies or exchange houses.

Today, October 25, 2019, the U.S. Departments of the Treasury and State announced a new humanitarian mechanism to ensure unprecedented transparency into humanitarian trade with Iran. Given the Iranian regime's history of squandering its wealth on corruption and terrorism instead of supporting the Iranian people, we have developed a framework to guard against such theft and assist foreign governments and foreign financial institutions in establishing a payment mechanism to facilitate legitimate humanitarian exports to Iran. Through this mechanism, no revenue or payment of any kind will be transferred to Iran.

Importantly, this path restricts the Central Bank of Iran's (CBI) role in facilitating humanitarian trade, which is critical because the CBI and its senior officials have facilitated significant funds transfers to terrorist organizations. Iran's deceptive financial practices and its deficient anti-money laundering and countering the financing of terrorism (AML/CFT) regimes can make it extremely difficult to determine who is on the other end of an Iranian transaction. Our designation of CBI under Executive Order 13224 puts governments and financial institutions on notice that engaging in transactions with the CBI may make them complicit in the CBI's support of terrorism.

This mechanism, designed solely for the purpose of commercial exports of agricultural commodities, food, medicine, and medical devices to Iran, will provide unprecedented transparency into humanitarian trade to Iran and help ensure that humanitarian goods go to the Iranian people, and are not diverted by the Iranian regime to fund its nefarious purposes. To achieve this transparency, participating governments and financial institutions must commit to conducting enhanced due diligence to mitigate the higher risks associated with transactions involving Iran. Such stringency is merited given Iran's status as the largest state sponsor of terrorism, as well as its continued failure to implement key AML/CFT safeguards established by the Financial Action Task Force (FATF), the global standard-setting body for combating money laundering and the financing of terrorism and proliferation. The enhanced due diligence requirements are informed by appropriate FATF standards.

As set forth below in greater detail, this framework will enable foreign governments and foreign financial institutions to seek written confirmation from Treasury that the proposed financial channel will not be exposed to U.S. sanctions in exchange for foreign governments and financial institutions committing to provide to Treasury robust information on the use of this mechanism on a monthly basis.

If foreign governments or financial institutions detect any potential abuse of this mechanism by Iranian customers, or the involvement of designated individuals or entities, they will be required to immediately restrict any suspicious transactions and provide relevant information to Treasury.

This mechanism also can be used by U.S. persons and U.S.-owned or -controlled foreign entities, as well as other non-U.S. persons. Of course, U.S. persons and U.S.-owned or -controlled entities must still comply with existing requirements under the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) for humanitarian exports to Iran, as implemented through OFAC's regulations.

Enhanced Due Diligence and Reporting Expectations

Provided that foreign financial institutions commit to implement stringent enhanced due diligence steps, the framework will enable them to seek written confirmation from Treasury that the proposed financial channel will not be exposed to U.S. sanctions

Host nation foreign financial institutions and their governments, as appropriate, will be expected to collect, maintain, and report to Treasury, with appropriate disclosure and use restrictions, a great deal of information on a monthly basis. Treasury will evaluate the information it receives in making any determination about whether the transactions continue to meet the stated due diligence and reporting expectations. Treasury will seek to protect information identified by the submitter, consistent with applicable laws and regulations.

The following is an illustrative list of documentation and information that Treasury and State may require depending on the nature of transactions:

1. The information used to identify the Iranian customers and to verify their identities and beneficial ownership;
 - a. For legal persons or arrangements, this would include the information used to identify and verify the existence of the entity or arrangement (company name, legal form and status, proof of incorporation, basic regulating powers, the registered address, list of directors, and principal place of business), and information sufficient to understand the nature of the Iranian customers' business, ownership, and control structure;
 - b. For legal persons, information sufficient to identify and verify the identities of the natural person(s) who are beneficial owners. For legal arrangements, information sufficient to identify and verify the identities of the natural person(s) who are the settlor, trustee(s), protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the legal arrangements;
2. The information used by both the host nation's foreign financial institutions and any Iranian financial institution involved to understand the purpose and intended nature of the business relationship between the seller of the humanitarian goods and the Iranian customer;
3. Monthly statement balances with the value, currency, and balance date of any account of an Iranian financial institution held at the participating host nation's foreign financial institutions that is being used for humanitarian transactions, in .csv format;
4. A list of Iranian designated individuals or entities¹ with which the Iranian customers indicate they currently have business relationships;
5. Detailed information regarding the commercial elements and logistics of the transaction that would be transmitted between the seller of humanitarian goods and the customer in the normal course of financial messaging, which could include:
 - a. customer information, including the identities of all consignees and intermediaries involved in the transactions;
 - b. information about the Iranian customer and the seller of the humanitarian goods and the Iranian financial institution's payment order explanation or narrative linked to the contracts for the sale of humanitarian goods;

¹ Persons designated on the List of Specially Designated Nationals and Blocked Persons under a program other than solely the Iranian Transactions and Sanctions Regulations (31 C.F.R. Part 560), and carrying a tag other than solely the "[IRAN]" tag.

- c. order transaction amount and currency;
 - d. date of transaction order;
 - e. names of all involved financial institutions;
 - f. bills of lading, airway bills and invoices, as well as other relevant documents that verify the export to and entry into Iran of the goods;
 - g. the beneficiary's identity; and
 - h. the beneficiary's bank.
6. A written commitment from any Iranian distributors involved in the transactions that they will not allow the goods to be sold or resold to Iranian designated individuals or entities and that the Iranian distributor will impose this obligation on downstream customers;
 7. Additional information obtained regularly throughout the course of the host nation foreign financial institutions' ongoing due diligence of the business relationship that is necessary to verify the consistency of the transaction with the purposes of the humanitarian channel, including host nation's foreign financial institutions' knowledge of the Iranian customers and their business and risk profiles;
 8. If, through the course of the host nation's foreign financial institutions' enhanced due diligence, Iranian customers are found to have attempted, or are suspected of, misuse of the humanitarian channel, the participating host nation's foreign financial institution will immediately restrict any suspicious transactions and provide relevant information to Treasury when permitted; and
 9. If a host nation foreign financial institution finds that an Iranian customer had previous ties (within five years) to U.S.-, U.N.-, or EU-designated entities or individuals, the host nation foreign financial institution will provide to Treasury detailed information regarding any changes to those ties, such as a change in beneficial ownership or control of the Iranian customer.

In certain circumstances, Treasury and State may require other information.

Interested foreign governments and foreign financial institutions should reach out to Treasury for more information or with any questions.

Annex 7

**Letter from the Permanent Representative of the Islamic Republic of Iran to the
United Nations addressed to the President of the Security Council,
UN Doc. S/2015/550, 20 July 2015**



Security Council

Distr.: General
20 July 2015

Original: English

Letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council


I have the honour to enclose herewith a text entitled “Statement of the Islamic Republic of Iran following the adoption of United Nations Security Council resolution 2231 (2015) endorsing the Joint Comprehensive Plan of Action” (see annex).

I should be grateful if you would arrange for the circulation of the present letter and its annex as a document of the Security Council.

(Signed) Gholamali **Khoshroo**
Ambassador
Permanent Representative

15-12237 (E) 240715



Please recycle 



Annex to the letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council

Statement of the Islamic Republic of Iran following the adoption of United Nations Security Council resolution 2231 (2015) endorsing the Joint Comprehensive Plan of Action

1. The Islamic Republic of Iran considers science and technology, including peaceful nuclear technology, as the common heritage of mankind. At the same time, on the basis of solid ideological, strategic and international principles, Iran categorically rejects weapons of mass destruction and particularly nuclear weapons as obsolete and inhuman, and detrimental to international peace and security. Inspired by the sublime Islamic teachings, and based on the views and practice of the late founder of the Islamic Revolution, Imam Khomeini, and the historic *Fatwa* of the leader of the Islamic Revolution, Ayatollah Khamenei, who has declared all weapons of mass destruction (WMD), particularly nuclear weapons, to be *Haram* (strictly forbidden) in Islamic jurisprudence, the Islamic Republic of Iran declares that it has always been the policy of the Islamic Republic of Iran to prohibit the acquisition, production, stockpiling or use of nuclear weapons.

2. The Islamic Republic of Iran underlines the imperative of the total elimination of nuclear weapons, as a requirement of international security and an obligation under the Treaty on the Non-Proliferation of Nuclear Weapons. The Islamic Republic of Iran is determined to engage actively in all international diplomatic and legal efforts to save humanity from the menace of nuclear weapons and their proliferation, including through the establishment of nuclear-weapon-free zones, particularly in the Middle East.

3. The Islamic Republic of Iran firmly insists that States parties to the Treaty on the Non-Proliferation of Nuclear Weapons shall not be prevented from enjoying their inalienable rights under the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of the Treaty.

4. The finalization of the Joint Comprehensive Plan of Action (JCPOA) on 14 July 2015 signifies a momentous step by the Islamic Republic of Iran and the E3/EU+3 to resolve, through negotiations and based on mutual respect, an unnecessary crisis, which had been manufactured by baseless allegations about the Iranian peaceful nuclear programme, followed by unjustified politically motivated measures against the people of Iran.

5. The JCPOA is premised on reciprocal commitments by Iran and the E3/EU+3, ensuring the exclusively peaceful nature of Iran's nuclear programme, on the one hand, and the termination of all provisions of Security Council resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015) and the comprehensive lifting of all United Nations Security Council sanctions, and all nuclear-related sanctions imposed by the United States and the European Union and its member States, on the other. The Islamic Republic of Iran is committed to implement its voluntary undertakings in good faith contingent upon same good-faith implementation of all undertakings, including those involving the removal of sanctions and restrictive measures, by the E3/EU+3 under the JCPOA.

6. Removal of nuclear-related sanctions and restrictive measures by the European Union and the United States would mean that transactions and activities referred to under the JCPOA could be carried out with Iran and its entities anywhere in the world without fear of retribution from extraterritorial harassment, and all persons would be able to freely choose to engage in commercial and financial transactions with Iran. It is clearly spelled out in the JCPOA that both the European Union and the United States will refrain from reintroducing or reimposing the sanctions and restrictive measures lifted under the JCPOA. It is understood that reintroduction or reimposition, including through extension, of the sanctions and restrictive measures will constitute significant non-performance which would relieve Iran from its commitments in part or in whole. Removal of sanctions further necessitates taking appropriate domestic legal and administrative measures, including legislative and regulatory measures to effectuate the removal of sanctions. The JCPOA requires an effective end to all discriminatory compliance measures and procedures as well as public statements inconsistent with the intent of the agreement. Iran underlines the agreement by JCPOA participants that immediately after the adoption of the Security Council resolution endorsing the JCPOA, the European Union, its member States and the United States will begin consultation with Iran regarding relevant guidelines and publicly accessible statements on the details of sanctions or restrictive measures to be lifted under the JCPOA.

7. The Islamic Republic of Iran will pursue its peaceful nuclear programme, including its enrichment and enrichment research and development, consistent with its own plan as agreed in the JCPOA, and will work closely with its counterparts to ensure that the agreement will endure the test of time and achieve all its objectives. This commitment is based on assurances by the E3/EU+3 that they will cooperate in this peaceful programme consistent with their commitments under the JCPOA. It is understood and agreed that, through steps agreed with the International Atomic Energy Agency (IAEA), all past and present issues of concern will be considered and concluded by the IAEA Board of Governors before the end of 2015. The IAEA has consistently concluded heretofore that Iran's declared activities are exclusively peaceful. Application of the Additional Protocol henceforth is intended to pave the way for a broader conclusion that no undeclared activity is evidenced in Iran either. To this end, the Islamic Republic of Iran will cooperate with the IAEA, in accordance with the terms of the Additional Protocol as applied to all signatories. The IAEA should, at the same time, exercise vigilance to ensure full protection of all confidential information. The Islamic Republic of Iran has always fulfilled its international non-proliferation obligations scrupulously and will meticulously declare all its relevant activities under the Additional Protocol. In this context, the Islamic Republic of Iran is confident that since no nuclear activity is or will ever be carried out in any military facility, such facilities will not be the subject of inspection.

8. The Joint Commission established under the JCPOA should be enabled to address and resolve disputes in an impartial, effective, efficient and expeditious manner. Its primary role is to address complaints by Iran and ensure that effects of sanctions lifting stipulated in the JCPOA will be fully realized. The Islamic Republic of Iran may reconsider its commitments under the JCPOA if the effects of the termination of the Security Council, European Union or United States nuclear-related sanctions or restrictive measures are impaired by continued application or the imposition of new sanctions with a nature and scope identical or similar to those

that were in place prior to the implementation date, irrespective of whether such new sanctions are introduced on nuclear-related or other grounds, unless the issues are remedied within a reasonably short time.

9. Reciprocal measures, envisaged in the dispute settlement mechanism of the JCPOA, to redress significant non-performance are considered as the last resort if significant non-performance persists and is not remedied within the arrangements provided for in the JCPOA. The Islamic Republic of Iran considers such measures as highly unlikely, as the objective is to ensure compliance rather than provide an excuse for arbitrary reversibility or means for pressure or manipulation. Iran is committed to fully implement its voluntary commitments in good faith. In order to ensure continued compliance by all JCPOA participants, the Islamic Republic of Iran underlines that in case the mechanism is applied against Iran or its entities and sanctions, particularly Security Council measures, are restored, the Islamic Republic of Iran will treat this as grounds to cease performing its commitments under the JCPOA and to reconsider its cooperation with the IAEA.

10. The Islamic Republic of Iran underlines the common understanding and clearly stated agreement of all JCPOA participants that affirms that the provisions of Security Council resolution 2231 (2015) endorsing the JCPOA do not constitute provisions of the JCPOA and can in no way impact the performance of the JCPOA.

11. The Government of the Islamic Republic of Iran is determined to actively contribute to the promotion of peace and stability in the region in the face of the increasing threat of terrorism and violent extremism. Iran will continue its leading role in fighting this menace and stands ready to cooperate fully with its neighbours and the international community in dealing with this common global threat. Moreover, the Islamic Republic of Iran will continue to take necessary measures to strengthen its defence capabilities in order to protect its sovereignty, independence and territorial integrity against any aggression and to counter the menace of terrorism in the region. In this context, Iranian military capabilities, including ballistic missiles, are exclusively for legitimate defence. They have not been designed for WMD capability, and are thus outside the purview or competence of the Security Council resolution and its annexes.

12. The Islamic Republic of Iran expects to see meaningful realization of the fundamental shift in the Security Council's approach envisaged in the preamble of Security Council resolution 2231 (2015). The Council has an abysmal track record in dealing with Iran, starting with its acquiescing silence in the face of a war of aggression by Saddam Hussain against Iran in 1980, its refusal from 1984 to 1988 to condemn, let alone act against, massive, systematic and widespread use of chemical weapons against Iranian soldiers and civilians by Saddam Hussain, and the continued material and intelligence support for Saddam Hussain's chemical warfare by several of its members. Even after Saddam invaded Kuwait, the Security Council not only obdurately refused to rectify its malice against the people of Iran, but went even further and imposed ostensibly WMD-driven sanctions against these victims of chemical warfare and the Council's acquiescing silence. Instead of at least noting the fact that Iran had not even retaliated against Saddam Hussain's use of chemical weapons, the Council rushed to act on politically charged baseless allegations against Iran and unjustifiably imposed a wide range of sanctions against the Iranian people as retribution for their resistance to coercive pressures to abandon their peaceful nuclear programme. It is important to remember that these sanctions,

which should not have been imposed in the first place, are the subject of removal under the JCPOA and Security Council resolution 2231 (2015).

13. Therefore, the Islamic Republic of Iran continues to insist that all sanctions and restrictive measures introduced and applied against the people of Iran, including those applied under the pretext of its nuclear programme, have been baseless, unjust and unlawful. Hence, nothing in the JCPOA shall be construed to imply, directly or indirectly, an admission of or acquiescence by the Islamic Republic of Iran in the legitimacy, validity or enforceability of the sanctions and restrictive measures adopted against Iran by the Security Council, the European Union or its member States, the United States or any other State, nor shall it be construed as a waiver or a limitation on the exercise of any related right the Islamic Republic of Iran is entitled to under relevant national legislation, international instruments or legal principles.

14. The Islamic Republic of Iran is confident that the good-faith implementation of the JCPOA by all its participants will help restore the confidence of the Iranian people, who have been unduly subjected to illegal pressure and coercion under the pretext of this manufactured crisis, and will open new possibilities for cooperation in dealing with real global challenges and actual threats to regional security. Our region has long been mired in undue tension while extremists and terrorists continue to gain and maintain ground. It is high time to redirect attention and focus on these imminent threats and seek and pursue effective means to defeat this common menace.

Annex 8

Letter from the International Court of Justice to the United States, 23 July 2018



150756

23 July 2018

Sir,

With reference to the Request for the indication of provisional measures filed on 16 July 2018 by the Islamic Republic of Iran in the case concerning Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America), I have the honour to inform you that the President of the Court has decided to exercise his power under Article 74, paragraph 4, of the Rules of Court and has instructed me to transmit to you, for information, a copy of the communication which he addressed to the Secretary of State of the United States of America.

Accept, Sir, the assurances of my highest consideration.



Philippe Couvreur
Registrar

Mr. M.H. Zahedin Labbaf
Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

cc: Mr. Seyed Hossein Sadat Meidani
Deputy-Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

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INTERNATIONAL COURT OF JUSTICE

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Le Président

The President

COPY

150755

23 July 2018

Sir,

I have the honour to refer to the Request for the indication of provisional measures filed on 16 July 2018 by the Islamic Republic of Iran in the case concerning Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America).

Acting in conformity with Article 74, paragraph 4, of the Rules of Court, I hereby call the attention of the United States of America to the need to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects.

A copy of this communication will be sent today, for information, to the Agent of the Islamic Republic of Iran.

Accept, Sir, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Abdulqawi Ahmed Yusuf'.

Abdulqawi Ahmed Yusuf
President

His Excellency
Mr. Michael R. Pompeo
Secretary of State
United States Department of State
Washington D.C.
United States of America

Annex 9

Letter from the Agent of I.R. Iran to the International Court of Justice, 4 June 2019

Annexes omitted



AGENT OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

The Hague

IN THE NAME OF GOD

Mr. Philippe Couvreur
Registrar
International Court of Justice
Peace Palace
The Hague

4 June 2019

Re: Case concerning Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)

Excellency,

I have the honour to refer to the Deputy-Registrar's letter of 29 March 2019 (no. 152014) regarding the case concerning *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights*, as well as to the Deputy-Registrar's letter of 13 March 2019 (no. 15196), transmitting a letter of 12 March 2019 from the Agent of the United States of America (the "United States" or "U.S.") to the President of the Court.

The Deputy-Registrar's letter of 29 March 2019 contained notification that, on the same date, on the instructions of the Court given under Article 78 of the Rules, he had written to the Agent of the United States "*to request that her Government provide detailed information on measures that have been taken by it to implement the provisional measures indicated by the Court in its Order of 3 October 2018*". The Deputy-Registrar also stated that the Islamic Republic of Iran ("Iran") was requested to "*provide any information it may have in that regard*".

Recalling its communication of 19 February 2019, Iran welcomes the Court's decision to exercise its authority, under Article 78 of the Rules, to call on the United States to provide "*detailed information*" on the specific measures that have been and are being taken to implement the *dispositif* of the Court's Order of 3 October 2018.

As Iran recalled in its previous communication, at paragraph 89 of its Order, the Court recognised that:

"it has become difficult if not impossible for Iran, Iranian companies and nationals to engage in international financial transactions that would allow them to purchase items not covered, in principle, by the measures, such as foodstuffs, medical supplies and medical equipment."

At the outset, Iran makes the following observations on the letter from the Agent of the United States dated 12 March 2019:

- (a) First, the United States asserts that it has “*repeatedly reiterated publicly that our sanctions are not intended to, and do not, target humanitarian-related transactions*”, and refers to limited exceptions and authorisations under U.S. law concerning primarily U.S. persons and applicable to humanitarian-related transactions and a licensing policy involving Iran. However, these are not steps taken to implement the Court’s Order of 3 October 2018. For instance, the United States specifically refers to OFAC Frequently Asked Questions (FAQs) No. 637 which in turn refers to two specific guidance documents, both of which were last updated in 2013. The Court will recall that the United States had publicly made such statements *prior* to the Court’s Order and, indeed, relied on the exceptions and general licenses under U.S. sanctions laws regarding humanitarian related transactions and civil aircraft during the hearing of Iran’s Request for Provisional Measures. So far as Iran is aware, neither OFAC nor other agencies of the United States have taken any steps to comply with the Court’s Order by way of new guidance, clarification, or general or specific license since 3 October 2018.
- (b) Second, with respect to the U.S. reference to “*transactions that come fully within the scope of the applicable general license*”, the relevant general licenses predate the Court’s Order.¹ Moreover, the United States omits to mention that General License I on the importation of related parts and services for passenger aircraft to Iran was revoked with effect from 3 October 2018, the same date as the Court’s Order. The U.S. likewise disregards the well-known fact that the scope and complexity of its measures targeting different sectors of the Iranian economy as well as associated services—including but not limited to the insurance, banking, transportation and shipping industries – have undermined the utility of such licenses in practice.
- (c) Third, the United States also claims that it has granted specific licences, but even if this were correct, it can provide no reassurance in light of United States’ stated unwillingness to produce such documents or even to explain the nature, scope and date of the licenses it claims to have granted. In this connection, Iran also recalls that, at paragraph 92 of its Order of 3 October 2018, the Court rejected the U.S. offer of assurances that were “*limited to an expression of best endeavours and to co-operation between departments and other decision-making agencies*” as “*not adequate to address fully the humanitarian and safety concerns raised by the Applicant. Therefore, the Court is of the view that there remains a risk that the measures adopted by the US, as set out above, may entail irreparable consequences.*” As a result, the Court called upon the United States to remove any impediments arising from the U.S. sanctions announced on 8 May 2018 to the free exportation to Iran of the humanitarian items.
- (d) Fourth, regrettably, instead of providing information regarding the specific steps taken to implement the Court’s Order, the U.S. has used the invitation made to it as an opportunity to make grave prejudicial and irrelevant accusations against Iran, all of which are entirely without basis and are strenuously denied. The same prejudicial

¹ For example, General License E authorising the export of certain humanitarian services to or relating to Iran to directly benefit the Iranian people issued on 10 September 2013.

arguments were, again, advanced by the United States during the hearing on provisional measures and of course did not prevent the Court from making its Order, which is binding on the United States. The Court has held that the U.S. measures are making it impossible for Iranian nationals and companies to purchase goods which are supposedly exempt from the U.S. measures under U.S. law. It is of no assistance to the Court for the United States to act as if it were otherwise.

Iran remains deeply concerned that, to date, the United States has failed to explain the specific steps that have been and are being taken to implement the Court's Order of 3 October 2018 including with respect to the extreme difficulty experienced by Iran, Iranian companies and nationals in engaging in international financial transactions that would enable them to purchase items which are supposedly exempt from the U.S. measures.

The United States should, of course, be readily able to explain what steps, if any, it has taken to implement the Court's Order. Regrettably, however, it has consistently refused to do so both in the context of these proceedings and more generally. For example, as Iran noted in its communication of 19 February 2019, a number of members of the U.S. Congress had asked the United States Department of State to respond to specific questions, including the specific steps taken to ensure that the Iranian people are able to access life-saving medicines and humanitarian goods.² The U.S. Department of State responded on 15 February 2019, failing to provide the specific information requested and simply stating:

“The United States maintains broad authorizations and exceptions that allow for the sale of agricultural commodities, food, medicine, and medical devices by U.S. and non-U.S. persons to non-designated persons in Iran. The Administration understands the importance of these activities for the Iranian people, and U.S. policy does not target this type of trade. Moreover, the sanctions architecture that is in place ensures that revenue that is denied the regime for destructive purposes remains available to it in what are essentially escrow accounts it may use for non-sanctioned humanitarian trade. As a result, the facts bear out that the Iranian government alone bears the responsibility for the economic hardships of its people.”³

Not only has the U.S. refused to provide the information requested by the Court, but it has also threatened foreign companies, warning them not to do business with Iran. For example, a senior U.S. State Department official has publicly stated, as reported in a press report, that U.S. policy is to ensure that companies working with Iran understand that “*the rules may change and may change quickly*” and “[t]omorrow, next week or next month you may find yourself conducting business that may be legal today that isn't in the future.”⁴

In light of the approach adopted by the United States, unfortunately, Iran is limited in its ability to provide the further information requested by the Court. So far as concerns information of which Iran is aware, in addition to what Iran has said in its previous letter, Iran draws attention to the following recent developments and materials.

² A copy of the letter is available at <https://www.niacouncil.org/letter-pompeo-iran-sanctions-humanitarian-exemptions/>.

³ A copy of the letter is available at <https://www.niacouncil.org/state-department-response-congressional-sanctions-concerns/>.

⁴ Al-monitor, “Trump officials warn more Iran sanctions are coming”, 14 March 2019, available at <https://www.al-monitor.com/pulse/originals/2019/03/trump-officials-warn-iran-sanctions.html>.

First, notwithstanding the purported general licenses, U.S. and most non-U.S. banks do not accept or process payments relating to humanitarian-related trade with Iran.⁵ The reluctance of banks and other entities to engage in transactions relating to Iran, even if formally permissible under U.S. humanitarian-related licenses, is attributable to U.S. regulatory risks, including (i) the ambiguities and complexities concerning the scope and application of U.S. sanctions, (ii) U.S. failure to provide explicit assurances about compliance with U.S. sanctions laws to persons interested in or involved with Iran-related transactions, (iii) repeated warnings issued by the U.S. Government about the risks of doing business with Iran, and (iv) the addition of many Iranian parties to the SDN List, meaning that even transactions which are otherwise supposedly exempt from the U.S. measures are sanctionable, and creating a chilling effect on persons interested in commerce and trade with Iran because of the possibility that they may face sanctions for dealing with persons included on the SDN list or entities which are majority owned or controlled by designated or identified persons.⁶ These concerns have been heightened by the assertion of U.S. jurisdiction by OFAC and other U.S. sanctions enforcement agencies over foreign entities and transactions on the grounds that they caused U.S. financial institutions or other U.S. persons to violate U.S. sanctions or that they were involved in a conspiracy to violate U.S. sanctions.

Second, as Iran has already identified, in light of the U.S. measures, numerous foreign companies have ceased cooperation with respect to transactions for the import of medicines, medical products and foodstuffs. The situation has only been exacerbated by the inclusion on the SDN list of numerous Iranian banks including the Central Bank of Iran, Sina Bank, and Parsian Bank, a major private bank which is well-known as having previously facilitated much of Iran's humanitarian imports, on 16 October – 13 days after the Court's Order.⁷ As noted by a number of Members of the U.S. Congress, this designation “*is likely to accelerate the negative humanitarian impact of U.S. sanctions on Iran*.”⁸ By way of some illustrative examples:

- (a) On 17 October 2018, a Taiwan-based manufacturer of medical devices, wrote to an Iranian company stating that “*starting from October 17, 2018 they are no longer able to accept any payment [via] swift from Iranian bank*” due to the designation of Parsian Bank and “[*t*]he upcoming sanctions which will come into force on November 4th 2018”.⁹
- (b) On 10 November 2018, a Turkish medical supplier, informed an Iranian company, Zist Gostaran Kosha LTD, that “*due to US sanctions on your country we are no longer able to support your company*”.¹⁰

⁵ Letter from Sina Bank to Centre for International Legal Affairs dated 1 December 2018 [Annex 1].

⁶ See e.g., Sec. 560.211 of Iranian Transactions and Sanctions Regulations available at https://www.ecfr.gov/cgi-bin/text-idx?SID=d66be3998fdc12f41c79a91141a98d6e&mc=true&node=se311.3.560_1211&rgn=div8

⁷ See e.g. The Washington Post, ‘Fresh sanctions on Iran are already choking off medicine imports, economists say’, 17 November 2018, available at: https://www.washingtonpost.com/world/middle_east/fresh-sanctions-on-iran-are-already-choking-off-medicine-imports-economists-say/2018/11/17/c94ce574-e763-11e8-8449-1ff263609a31_story.html?noredirect=on&utm_term=.d2b9e435b328.

⁸ A copy of the letter is available at <https://www.niacouncil.org/letter-pompeo-iran-sanctions-humanitarian-exemptions/>.

⁹ Letter from a foreign pharmaceutical company to Chalian Teb Co. dated 17 October 2018 (redacted). [Annex 2].

¹⁰ Letter from a foreign pharmaceutical company to Zist Gostaran Kosha LTD dated 10 November 2018 (redacted) [Annex 3].

- (c) On 1 December 2018, Sina Bank (an Iranian company) notified Iran that, as a result of the U.S. measures, the inability to transfer funds had led to “serious restrictions” on “the importation of foodstuffs and agricultural products” from Europe, difficulties in transporting such goods from the CIS region, a “dramatic” reduction in the opening of letters of credit and the issuance of bank drafts in Rupee for the purpose of importing medicine from India.¹¹ Sina Bank also explained that the decision by Bank of Kunlun (Chinese) to cease cooperation, including its refusal to issue new financial instruments, has impeded the importation of medicine from China.
- (d) On 9 January 2019, in their response to an inquiry on the impacts of the re-imposition of the U.S. sanctions on the foodstuff importation into Iran, the Iran-Brazil Joint Chamber of Commerce confirmed impediments to the importation of meat from Brazil and Paraguay and declared that “*international shipping companies including MAERSK, MSC, CMA CGM have refused to provide the exporting companies with containers for shipments destined to the ports of the Islamic Republic of Iran*”. They further added that “*transfer of funds for the importation of meat ... confronts severe problems*”.¹² Press reports also confirm that shipments of foodstuffs to Iran have been delayed, and in some instances cancelled, due to difficulties in making payments to global trading companies.¹³
- (e) On 19 January 2019, an Iranian company which supplies raw materials for pharmaceutical products informed the Head of the Iran and Oman Joint Chamber of Commerce, Industries, Mines and Agriculture that “*due to [the] re-imposition of the US sanctions, two of the contracts concluded by this company [by suppliers in France and USA/The Netherlands] ... have been cancelled*”.¹⁴
- (f) On 25 February 2019, Mölnlycke Health Care (Swedish) informed EB Home (a non-profit Iranian company supporting patients with Epidermolysis bullosa, a potentially life-threatening genetic disease) that, with sincere regret, “*due to the US Economic sanctions in force Mölnlycke Healthcare have decided not to conduct any business in relation to Iran for the time being. This also applies to any business conducted under any form of exemption to the US Economic sanctions*”.¹⁵ As a result, patients suffering from EB have been unable to obtain the special dressings they require since then.¹⁶

Third, similarly, in its communication of 19 February 2019, Iran also informed the Court that “[n]umerous foreign companies have considered it necessary in light of the U.S. sanctions to cease cooperation with Iran[ian] airlines (including Iran Air) and terminated existing contracts for the supply of goods (including fuel) and services (including on-airport fuelling outside Iran and training services)”. By way of further illustrative examples:

¹¹ Letter from Sina Bank to Centre for International Legal Affairs dated 1 December 2018. [Annex 1].

¹² Letter from Iran-Brazil Joint Chamber of Commerce dated 9 January 2019 [Annex 4].

¹³ Reuters, ‘Global traders halt new Iran food deals as U.S. sanctions bite – sources’, 21 December 2018, available at <https://uk.reuters.com/article/uk-iran-nuclear-food-exclusive/exclusive-global-traders-halt-new-iran-food-deals-as-u-s-sanctions-bite-sources-idUKKCN1OK1P4>.

¹⁴ Letter from Iranian company to Iran and Oman Joint Chamber of Commerce, Industries and Mines dated 19 January 2019 [Annex 5].

¹⁵ Letter from Mölnlycke Health Care in response to EB Home’s letter dated 25 February 2019 [Annex 6].

¹⁶ Letter from EB Home to Centre for International Legal Affairs dated 29 April 2019 [Annex 6].

- (a) On 5 November 2018, a fuel supplier informed Iran Air that “[d]ue to the imposed sanctions against Iran, our supplier ... will not carry out any further fuel deliveries at Hamburg Airport ... our hands are tied”;¹⁷
- (b) On 11 November 2018, Airbus informed Zagros Airlines that “due to Export Control Restrictions” it was unable to provide access to Air-nav Maintenance support services;¹⁸
- (c) On 17 November 2018, Zagros Airlines wrote to Boeing, noting the Court’s Order of 3 October 2018, and requesting maintenance data.¹⁹ In its reply of 20 November 2018, Boeing stated: “the export license that Boeing had been using to provide conditional support to Iranian airlines expired in June 2017 and has not been renewed by the United States Government. ... Boeing cannot respond to your request because at the present time we are not authorized to provide any technical support or technology exports to Iran”;²⁰
- (d) On 13 December 2018, in response to a request with respect to engineering services, Airbus wrote to Zagros Airlines stating “We regret to inform you that due to export control sanctions and embargoes regulations, we are not in a position to provide you with the requested information”;²¹
- (e) On 31 January 2019, a foreign airline company wrote a set of letters to Iran Air terminating certain aviation services agreements, specifically because of the re-imposition of the U.S. sanctions since 5 November 2018;²² and
- (f) On 9 April 2019, Honeywell (a U.S. company) informed Kish Air (an Iranian airline) that its request for assistance with a “safety issue” “will not be proceeded with further as Honeywell will not pursue, enter into or participate in business or financial activities, directly or indirectly in any way, with any Iran[ian] legal entity or with any business located in Iran, due to commercial and other business reasons”.²³

Fourth, a further illustrative example concerns the comments of the international and Iranian agencies engaged in humanitarian relief efforts in relation to the recent widespread flooding which severely affected at least 23 out of 31 provinces across Iran. On 25 March 2019, the OCHA issued a statement in which it recognised that “challenges caused by unilateral sanctions will affect the UN response and the accountability of UN to deliver the appropriate support”.²⁴ Similarly, in an Emergency Plan of Action dated 29 March 2019, the International Federation of the Red Cross and Red Crescent Societies (the “IFRC”) stated that “[d]ue to sanctions currently in place, there is a risk that the funds may not be transferred to the National Society”.²⁵ On or around 7 April 2019, the IFRC reiterated this risk and also

¹⁷ Email from a foreign company to Iran Air dated 5 November 2018 (redacted) [Annex 7].

¹⁸ Letter from Airbus to Zagros Airlines dated 11 November 2018 [Annex 8].

¹⁹ Email from Zagros Airlines to Boeing dated 17 November 2018 [Annex 9].

²⁰ Email from Boeing to Zagros Airlines dated 20 November 2018 [Annex 9].

²¹ Letter from Airbus to Zagros Airlines dated 13 December 2018 [Annex 10].

²² Letters from a non-U.S. airline company to Iran Air, 31 January 2019 (redacted) [Annex 11].

²³ Email from Honeywell to Kish Air dated 9 April 2019 [Annex 12].

²⁴ OCHA, ‘IRAN: Golestan and Fars provinces floods’, Flash Update No. 1 (as of 25 March 2019), available at <https://reliefweb.int/sites/reliefweb.int/files/resources/Flash%20Update%20No%201%20%20Iran%20Golest%20and%20Fars%20Floods%2026-03-2019.pdf>.

²⁵ IFRC, ‘Emergency Plan of Action (EPoA) Iran: Floods’, 29 March 2019, available at

noted that “[t]he economic sanctions imposed on Iran have the potential to affect the efficiency of the relief and recovery efforts, e.g. for the flow of supplies (e.g. 6 out of the 23 relief and rescue helicopters of IRCS not being operational due to the unavailability of spare parts)”²⁶.

This risk quickly became a reality, as the Iranian Red Crescent Society confirmed in the statement issued on 7 April 2019:

“No foreign cash aids have been made to the Iranian Red Crescent Society, as there are basically no financial channels for such purpose. Even though, certain countries and organisations have announced their readiness to offer cash contributions, given the inhumane USA sanctions against Iran, there is no channel for cash aids to be sent to IRCS as of this date. ... Following the requests of Iranian expatriates in other countries to support the flood-affected people, Iranian Red Crescent opened a channel for receiving cash donations which was immediately blocked due to the USA sanctions. At present, there is no way for Iranian expatriates to donate cash aids. ... For now, the only way for Iranian expatriates in other countries to send their assistance is through an account number of the German Red Cross. ... Despite claims by American authorities, the USA sanctions have not only made it harder for IRCS to offer relief services in the recent disaster, they have also prevented the Society of upgrading its logistical capabilities, especially in its air relief operation. It is now impossible for the IRCS to purchase helicopters through normal channels because of the sanctions, however the Iranian Red Crescent is offering air relief services with 24 choppers, which in the recent flooding, considerably speeded up the relief operations. However, IRCS faces numerous troubles for maintaining its current fleet of helicopters.”²⁷ (emphasis added)

Senior U.S. officials have sought to blame the widespread floods on Iran’s “*mismanagement in urban planning and in emergency preparedness*” and have responded to questions regarding the effect of U.S. measures in impeding humanitarian aid by simply reiterating that such transactions are exempt and stating that:

“[T]he burden is on Iran ... to open up its dark economy so that banks around the world have more confidence that when they facilitate a humanitarian transaction, that the humanitarian goods will actually reach the people. And the regime makes it very difficult to facilitate humanitarian goods and services.”²⁸ (Mr. Palladino)

Finally, Iran draws the Court’s attention to the fact that, on 5 November 2018, the UN Special Rapporteur on the negative impact of Unilateral Coercive Measures on the enjoyment of human rights wrote to the United States, “[n]oting the obligations which arise from the 3 October 2018 Order of the International Court of Justice ... and noting the concerns raised by Member States regarding the sufficiency of existing published guidance which aims to provide assurance that the sale of agricultural commodities, food, medicine, or medical devices to Iran are not sanctionable (unless involving sanctioned Iranian individuals,

<https://reliefweb.int/sites/reliefweb.int/files/resources/MDRIR002.pdf>.

²⁶ IFRC, ‘Emergency Plan of Action (EPoA) IRAN: Floods’, 7 April 2019, page 5 [Annex 13].

²⁷ Iranian Red Crescent Society, ‘No Cash Donations from International Donors: IRCS’, 7 April 2019, available at <http://en.rcs.ir/no-cash-donations-from-international-donors-ircs/>.

²⁸ U.S. Department of State, Department Press Briefing, 2 April 2019, available at <https://www.state.gov/r/pa/prs/dpb/2019/04/290841.htm>.

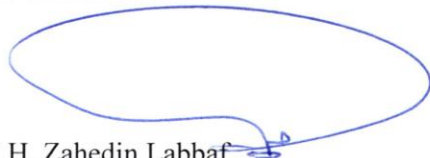
organizations or financial institutions)". The Special Rapporteur requested the United States to:

“indicate what measures are being taken to address these concerns, including those regarding the ‘chilling effect’ which continues to cause over-compliance by the international financial sector, and by multinational medical vendors in particular, to address the demonstrated unavailability of certain medicines, or the prohibitive rise in their costs which is leading to violations of the right to health.”²⁹

Iran is unable to provide any information regarding the existence or content of any response issued by the United States.

I trust that the information referred to above will be of assistance to the Court.

Please accept, Excellency, the assurances of our highest consideration.



M.H. Zahedin Labbaf
Co-Agent of the Government of the
Islamic Republic of Iran

²⁹ Letter from the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, 5 November 2018, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24188>.

Annex 10

**Letter from the Agent of the United States to the International Court of Justice,
4 June 2019**

Original in Persian and translation

152273

5 June 2019

Sir,

With reference to the case concerning Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America), I have the honour to acknowledge receipt of a letter (with attachment) from Mr. M.H. Zahedin Labbaf, Co-Agent of the Islamic Republic of Iran, dated 4 June 2019 and received in the Registry on the same day. By his letter, the Co-Agent provided information on the implementation by the United States of America of the provisional measures indicated by the Court in its Order of 3 October 2018.

A copy of the above-mentioned letter (with attachment) has been communicated to the other Party.

I. I further have the honour to transmit to you herewith a copy of a letter from Mr. Richard C. Visek, Agent of the United States of America, dated 4 June 2019 and received in the Registry on the same day. By his letter, the Agent provided his Government's response to the Court's request for information on the measures that have been taken by the United States of America to implement the provisional measures indicated by the Court in its Order of 3 October 2018.

Accept, Sir, the assurances of my highest consideration.



Philippe Couvreur
Registrar

Mr. M. Mohebi
Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

cc: Mr. M.H. Zahedin Labbaf
Co-Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

Mr. Seyed Hossein Sadat Meidani
Deputy-Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague



United States Department of State

Washington, D.C. 20520

June 4, 2019

Sir,

I write in reference to your letter of March 29, 2019 (No. 152015) regarding the case concerning *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights* and the request, given under Article 78 of the Court's Rules, for the United States to provide detailed information on measures taken to implement the provisional measures indicated by the Court in its Order of October 3, 2018 ("Order").

I. Introductory Observations and Summary of Issues

The United States recalls its letter of March 12, 2019, which addressed Iran's letter of February 19, 2019, and explained that Iran's request was entirely unfounded. The United States further recalls that, in its letter, the United States requested that Iran particularize any transaction-specific impediments and restrictions by the United States that are of concern, and that Iran alleges come within the scope of the Court's Order. Iran has not provided any such information to the United States or the Court in the months since its initial letter. Although Iran, in its Memorial dated May 24, 2019, has made certain references to alleged impediments to humanitarian-related transactions that it attributes to the measures announced on May 8, 2018, most of those allegations remain of a highly general nature, often by reference to pre-October 3, 2018 developments. It is noteworthy that Iran has failed to provide further information regarding issues that it claims to be of genuine concern.

The United States affirms that it is acting in accordance with the Court's Order. In this regard, the United States recalls that the Order addressed "impediments arising from the measures announced on 8 May 2018" to the free exportation to the territory of Iran of goods and services "required for humanitarian needs ... [and] for the safety of civil aviation" and "licenses and necessary authorizations" and "payments and other transfers of funds" "in so far as they

relate to” such goods and services. Order at ¶¶ 98. As detailed below, the United States’ actions, including affirmative steps taken in the period after October 3, 2018, are fully consistent with the Order.

The United States notes that Iran, in its Memorial (see, *inter alia*, paragraphs 1.27 and 4.88) asserts that the United States “has ... not complied with” and “has in fact taken no specific measures in compliance with” the Court’s Order. These allegations are, however, caveated by the disclaimer “based on the information currently available to Iran.” Not only are the allegations incorrect, as will be seen from what follows, but the caveat is disingenuous insofar as Iran, as noted above, has refused to particularize its allegations with tangible examples of claimed breaches of the Order, examples that would surely be known to Iran, and at a level of specificity. This failure by Iran to particularize its allegations not only makes it difficult for the United States to engage meaningfully with Iran’s assertions, and with the Court’s request, but it also poses challenges for the United States in addressing the allegations at a more general level, given that the United States is bound by obligations of confidentiality in respect of individual license applicants. Iran, it may be assumed, as a general proposition, would not be so constrained. The effect of Iran’s failure to particularize thus has the effect of turning the Court’s request into an exercise in which the United States is in effect expected to rebut a presumed, but unproven, violation. The United States respectfully submits that this appreciation should be in the forefront of the Court’s mind when it comes to consider the Parties’ responses to the Court’s request.

Following the Court’s Order, the Legal Adviser of the U.S. Department of State took immediate steps to draw the Order to the attention of relevant departments and agencies of the U.S. Government concerned with Iran sanctions issues. The United States noted the care with which the Order addressed the issue of impediments in respect of goods required for humanitarian needs and goods and services required for the safety of civil aviation, and the linked issue of licenses and authorizations and payments and transfers in so far as they relate to such goods and services. It is plain from the Court’s reasoning that the United States could not be expected simply to rubber stamp license applications and authorization requests, and remove all restrictions on payments and funds transfers, as some measure of scrutiny and control is fundamental to an assessment of whether particular goods or services are in fact required for

humanitarian needs and the safety of civil aviation and licenses, authorizations, payments or transfers in fact relate to the goods and services in question. In this regard, the Court will appreciate that potential dual use and end use concerns are issues that go to the core of any national licensing system. The United States was mindful both of the terms of the Court's Order and of its own legitimate imperatives in respect of the matters addressed by the Order.

Against this background, in addition to maintaining in effect pre-existing critical authorizations and exemptions going to the matters addressed in the Court's Order, the United States took a number of affirmative steps in the period following the Court's Order. In particular, the United States has issued licenses for the export of humanitarian-related items that come within the scope of the Court's Order. Similarly, the United States has also issued licenses for the exportation or re-exportation of goods, services, and technology for the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft.

The United States has also issued a waiver, under the Iran-Iraq Arms Non-Proliferation Act of 1992 (IIANPA), that has the effect of facilitating the export to Iran of certain categories of U.S.-origin items that are necessary for the safety of civil aviation, where such exports or re-exports are authorized by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC).

Of some importance, as it goes to enhancing both the understanding of legal compliance experts and broader public awareness and transparency of relevant U.S. practices and procedures, the United States, in the period after October 3, 2018, re-issued public guidance with respect to exports of humanitarian-related goods to Iran. The United States also responded to numerous inquiries to explain the scope of the existing general licenses as well as the applicable exceptions to statutory sanctions authorities. These general licenses and applicable statutory exceptions are of particular importance as they enable individuals and entities to proceed without further recourse to U.S. government departments and agencies. The United States understands that individuals and entities are in fact availing themselves of these general licenses, specific licenses, exemptions, waiver, and guidance.

It also bears emphasis that, since the date of the Court's Order, OFAC has denied only one license application, relating to the provision of brokering services in connection with the export to Iran of certain humanitarian-related items.

The United States notes that the primary mechanism for allowing activities that would otherwise be prohibited by U.S. sanctions is through the issuance of licenses by OFAC. The licensing mechanism is available to affirmatively authorize transactions with Iran that involve U.S. persons, the U.S. financial system, or U.S.-origin goods, services or technology, and can come in the form of general or specific licenses. For transactions that do not involve U.S. persons, the U.S. financial system, or U.S.-origin goods, services, or technology, OFAC does not have jurisdiction to issue licenses. Instead, in such circumstances, the explicit exclusions or exemptions in the sanctions authorities operate to provide assurance that U.S. sanctions do not impede the transaction.

These United States actions, and those set out in greater detail below, must be understood in light of the overall U.S. legal and regulatory architecture for implementation of sanctions measures. Although Iran asked the Court to indicate provisional measures suspending the United States' re-imposition of certain sanctions measures announced on May 8, 2018, and allowing the full implementation of transactions already licensed for the sale or leasing of aircraft to Iranian airlines, the Court's Order plainly did not go this far.

The United States—like many other countries—has maintained for many years reasonable export control regulations and related limitations on the export of certain goods (including some goods that may come within the scope of the Court's Order) that, because of the nature of the goods or the identity of the proposed end user, pose a risk of diversion for military, terrorist, or proliferation-sensitive uses. Such regulations are not unique to the United States, are not unique to goods that come within the scope of the Court's Order, and were generally in effect during the period prior to May 8, 2018.

Against this background, the United States turns to address specific U.S. actions in accordance with the Court's Order.

II. Specific U.S. Actions in Accordance with the Court's Order

In what follows, the United States provides further information in respect of the following types of actions in accordance with the Court's Order:

1. general license authorizations with respect to the export of medicines, medical devices, agricultural commodities, and foodstuffs and with respect to services in support of non-governmental organizations' activities in Iran;
2. exemptions in U.S. laws that allow for export of medicines, medical devices, agricultural commodities, and foodstuffs and related financial transactions;
3. specific license authorizations with respect to humanitarian-related items;
4. safety of civil aviation-related licensing actions;
5. waiver under the Iran-Iraq Arms Non-Proliferation Act to allow for certain aviation-related exports; and
6. public guidance and responding to inquiries.

1. ***General License Authorizations with Respect to the Export of Medicines, Medical Devices, Agricultural Commodities, and Foodstuffs and with Respect to Services in Support of Non-Governmental Organizations' Activities in Iran***

Since the Court's Order, the United States has continued to maintain in effect several general licenses that go to the heart of the Court's Order. It is important to emphasize that a general license is the mechanism the Department of the Treasury uses to "authorize[] a particular type of transaction for a class of persons without the need to apply for a license." See OFAC FAQs: General Questions, FAQ #74.¹ In other words, if a transaction is within the scope of the OFAC general license, there is no requirement to apply for further U.S. government authorization to conduct the transaction. Relatedly, there is no additional administrative action for the United States to take for such transactions, nor any impediment arising from U.S. sanctions measures that is within the United States' control to remove. Accordingly, the United States does not typically have detailed information on the nature or volume of transactions that proceed under these general licenses. Moreover, where a particular transaction does not come fully within the terms of a general license, for example, because it involves the export of certain items that could be used for other sensitive purposes (such as fertilizers, which could be used for explosives, or certain biocontainment and filtration systems, which could have chemical and biological weapon applications), such

¹ https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/ques_index.aspx.

transactions can still be considered on a case-by-case basis for a specific license, as discussed in section 3 below.

- a. **General License with Respect to Export and Re-Export of Medicines, Medical Devices, Agricultural Commodities, and Foodstuffs.** With respect to the Court's Order, applicable general licenses reflected in U.S. regulations have the effect of broadly authorizing transactions involving U.S. persons, or U.S.-origin goods, for the export or re-export of medicines, medical devices (including certain related software and services), agricultural commodities, and foodstuffs to Iran as well as related financial transactions. *See* 31 C.F.R. § 560.530 (general license with respect to commercial sales, exportation, and re-exportation of agricultural commodities, medicine, medical devices, and certain related software and services); 31 C.F.R. § 560.532 (general license with respect to payment for and financing of exports and re-exports of agricultural commodities, medicine, and medical devices and certain related software and services); 31 C.F.R. § 560.533 (general license with respect to brokering sales of agricultural commodities, medicine, and medical devices).

Notably, the authorization in Section 560.530 encompasses the export or re-export of such goods and medicine and medical devices "to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing." Moreover, the authorization also encompasses the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, shipping of the goods, receipt of payment, and the entry into contracts (including executory contracts).

This authorization is followed by a detailed general license authorization with respect to payment for and financing of such sales, which includes several categories for authorized payment mechanisms. *See* 31 C.F.R. § 560.532. This authorization also makes clear that specific licenses could be issued on a case-by-case basis for payment terms and trade financing not authorized under the general licenses.

b. **General License with Respect to Services in Support of Non-Governmental Organizations' Activities in Iran.** In addition to these general licenses relating to exports and re-exports of medicines, medical devices, agricultural commodities, and foodstuffs, the United States has also maintained in effect since the Court's Order a general license authorizing the export or re-export of certain services to or related to Iran by non-governmental organizations (NGOs) that are designed to directly benefit the Iranian people. This general license allows for several categories of services by such NGOs, including "activities related to humanitarian projects to meet basic human needs in Iran, including but not limited to, the provision of donated health-related services; operation of orphanages; provision of relief services related to natural disasters; distribution of donated articles, such as food, clothing, and medicine, intended to be used to relieve human suffering; and donated training in any of the foregoing activities." See General License E, issued pursuant to the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560.² This license would be applicable, for example, to certain NGO activities such as the provision of donated health clinic services that would not be covered by the general license in 31 C.F.R. § 560.530, which applies to commercial sales of certain categories of humanitarian-related goods and only covers certain types of related services.

The United States understands that entities have been availing themselves of the above-mentioned general licenses.

2. ***Exemptions in U.S. Laws that Allow for Export of Medicines, Medical Devices, Agricultural Commodities, and Foodstuffs and Related Financial Transactions***

With respect to transactions that do not involve U.S. persons, the U.S. financial system, or U.S.-origin goods or services, there are broad exceptions or exemptions in U.S. sanctions laws and related regulatory authorities that make clear that foreign persons do not face sanctions exposure for engaging in transactions for the export to Iran of medicines, medical

² https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_ule.pdf.

devices, agricultural commodities, and foodstuffs, including related financial transactions, provided that such transactions do not involve Iranian persons designated under U.S. proliferation or terrorism-related authorities. For example, section 1245(d)(2) of the National Defense Authorization Act for Fiscal Year 2012 provides that the President “may not impose sanctions under [section 1245(d)(1) of the Act] with respect to any person for conducting or facilitating a transaction for the sale of agricultural commodities, food, medicine, or medical devices to Iran.” The effect of these statutory exceptions and exemptions is that there is no need for further U.S. government approval or action for such transactions to occur, similar to the effect of a general license.

While the United States does not have detailed information on the nature or volume of transactions that may be proceeding under these exemptions, because they do not require further U.S. government authorization, the United States understands that entities have been engaging in non-sanctionable humanitarian trade, including in respect of banking and financial transactions with non-designated Iranian financial institutions in connection with such trade.

3. Specific License Authorizations with Respect to Humanitarian-Related Items

For the non-aviation humanitarian-related items that come within the Court’s Order but are not authorized under an applicable general license (for example, for proposed exports of goods that could be used for sensitive, non-humanitarian purposes), OFAC has broad authority to issue, and does issue, specific licenses authorizing such exports on a case-by-case basis, and related financial transactions that are ordinarily incident and necessary to give effect to the licensed exports are generally authorized. *See* 31 C.F.R. § 560.516. Under the established process for consideration of such specific license requests, OFAC typically solicits views from the Department of State on whether issuance of such a license would be in the foreign policy interest of the United States. OFAC will also engage directly with the applicant, to the extent necessary, to ensure that the agency has all required information related to consideration of the license application. While specific licenses are issued on a case-by-case basis, the United States makes it a priority to process humanitarian-related cases in an efficient and expedited manner.

Since the Court's Order, OFAC has issued at least 20 such specific licenses for various exports, including to authorize the export or re-export of medical devices that do not fall within the scope of the aforementioned general licenses. It bears emphasis, further, that, during that same period, namely, since the Court's Order, OFAC has denied only one license request, relating to the provision of brokering services in connection with the export to Iran of certain humanitarian-related items. While we cannot provide specific information on the reasons for specific licensing decisions, considerations that OFAC takes into account include the nature of the proposed activities; the proposed end user; and particular characteristics of the transaction.

4. *Safety of Civil Aviation-Related Licensing Actions*

- a. **Licensing Policy and Issuance of Specific Licenses for Exports to Ensure Safety of Civil Aviation.** With respect to goods, services, and technology to ensure civil aviation safety, the United States has maintained a policy that allows for issuance of specific licenses "on a case-by-case basis for the exportation or re-exportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft." 31 C.F.R. § 560.528. This policy is reflected in the Iranian Transactions and Sanctions Regulations, which are accessible by reference on OFAC's website and current as of May 2019. The case-by-case review and issuance process allows for thorough consideration of each proposed transaction, which can involve aviation-related goods, technology, or software that can be used for sensitive purposes. As Iran well knows, it is important to keep in mind that even during the period in which the United States was implementing the Joint Comprehensive Plan of Action (JCPOA), prior to the May 8 decision, the United States was only committed to a favorable licensing policy with respect to commercial passenger aircraft to be used exclusively for civilian end use, and that the policy preserved this essential element of case-by-case review.

Under the present licensing policy in Section 560.528 for the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft, this case-by-case

review is aimed at evaluating whether the proposed exports are of a type that could be diverted to military applications, such as use in missile development, and whether the intended end-use relates in fact to civil aviation safety. This process also allows for the careful evaluation of the proposed end-users of the aviation-related goods, technology, or software, as there are Iranian airlines that have been designated under U.S. counter-terrorism sanctions authorities. Indeed, it is well recognized that certain so-called civilian airlines in Iran are engaged in the transport of weapons and military equipment to Syria and other conflict zones in the region.³

In the period following the Court's Order, OFAC has issued several specific licenses under the safety of flight licensing policy that pertain to the export of U.S.-origin goods, services, and technology to Iran for commercial passenger aircraft repairs. While the United States reserves the right to deny such license applications in appropriate circumstances (e.g., where there are concerns about diversion of sensitive items or involvement of end users designated under counter-terrorism or other U.S. sanctions authorities) and reiterates that its review of each application proceeds on a case-by-case basis, it notes that since the Court's Order, OFAC has not denied any specific license applications with respect to the safety of civil aviation.

Finally, with respect to the aviation-related licenses that were issued during the period of U.S. implementation of the JCPOA, Iran not only considerably overstated the certainty that all of these intended deals would have been consummated through the point of delivery, but also offered no support for its broad insinuation in its Memorial that all of these licenses should be considered as transactions that would be "necessary for the safety of civil aviation," or even that the entities involved sought to present the transaction as such following revocation of the relevant licenses. Indeed, much of the documentation Iran offers in its Memorial as purported support for its

³ See, for example, "Germany bans Iranian airline, Mahan Air, from its airports," *Euronews*, Jan. 21, 2019, at <https://www.euronews.com/2019/01/21/germany-bans-iranian-airline-mahan-air-from-its-airports>; "France bans Iran's Mahan Air for flying arms, troops to Syria, elsewhere," *Reuters*, March 25, 2019, at <https://www.reuters.com/article/us-iran-sanctions-france-airline/france-bans-irans-mahan-air-for-flying-arms-troops-to-syria-elsewhere-idUSKCN1R6103>.

claims are responses to direct inquiries by Iranian entities to aviation-related entities for information, data, or other support with no indication of a license request (Memorial, Annexes 273, 274). Still others lack any clear connection to safety of civil aviation, such as the response by Airbus that it could not provide Zagros Airlines with unspecified requested information (Memorial, Annex 275) or the letters of termination regarding an array of business arrangements, including codeshare agreements and direct billing arrangements (Memorial, Annex 276). These examples are no reflection on whether the United States is implementing the statement of licensing policy for the safety of civil aviation and the safe operation of U.S.-origin commercial passenger aircraft referenced above.

- b. **General License for Re-Export to Iran of Certain Aircraft on Temporary Sojourn.** More generally, the United States has also maintained in effect a general license that authorizes the re-exportation to Iran of certain civil aircraft that are not registered in Iran on temporary landing stops (known in the aviation industry as “temporary sojourn”), subject to specified conditions. *See* General License J-1, issued pursuant to the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560, at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_gl_j_1.pdf. This general license encompasses the re-exportation by a non-U.S. person to Iran of “usual and reasonable quantities of industry standard onboard supplies of civil aircraft equipment, spare parts, components, and technology for permanent use on the Eligible Aircraft,” provided that such goods and technology are “ordinarily incident to and necessary for the proper operation of the Eligible Aircraft” authorized by this general license and, in the case of U.S.-origin goods or technology, come within certain export-control classification categories. *Ibid.* Similarly, this general license authorizes “the reexportation by a non-U.S. person to Iran of technology for purposes of emergency maintenance on and/or repairs to an Eligible Aircraft” under this general license, where such technology “is necessary to restore the aircraft to an airworthy condition and, in the case of U.S.-origin technology,” comes within the specified export control classification category. *Ibid.*

5. *Waiver Under the Iran-Iraq Arms Non-Proliferation Act to Allow for Certain Aviation Related Exports*

On January 11, 2019, the Department of State issued a waiver, under section 1606 of IANPA, that has the effect of facilitating the export to Iran of certain categories of U.S.-origin items that are necessary for the safety of civil aviation, where such exports or re-exports are authorized by OFAC. This categorical waiver has the effect of lifting an otherwise applicable prohibition under section 1603 of IANPA to the export or re-export to Iran of equipment, software, and related technology that are on the U.S. Department of Commerce's export control list, in this case as relates to exports under 25 categories – known as “Export Control Classification Numbers (ECCNs)” – provided that such exports or re-exports are licensed by OFAC. These categories encompass, for example, composite materials for repair patches, instructions for in-service repair of minor damage to fuselage, airborne radar equipment (such as traffic collision avoidance systems), software for aircraft communications addressing and reporting systems (ACARS), and pressurized breathing equipment. Issuance of a categorical waiver under IANPA to cover exports or re-exports of these types of items, provided they are further authorized by OFAC, was intended to and has the effect of streamlining the authorization process for exports of these items. The waiver, coupled with an OFAC license, allows these exports to proceed.

6. *Public Guidance and Responding to Inquiries*

While Iran appears to dismiss U.S. public messaging about the humanitarian-related exceptions and authorizations under U.S. authorities, such public guidance is of great importance to enhance public awareness and transparency of relevant U.S. practices and procedures.

- a. **General Guidance.** As noted in the United States' letter of March 12, 2019, the United States has repeatedly reiterated publicly that our sanctions are not intended to, and do not, target humanitarian assistance and exports of humanitarian-related goods to Iran. OFAC maintains detailed public guidance on its website, which was re-issued on November 5, 2018 in relevant part. It explains: “The United States

maintains broad authorizations and exceptions under U.S. sanctions that allow for the sale of agricultural commodities, food, medicine, and medical devices to Iran from the United States or by U.S. persons or U.S.-owned or -controlled foreign entities. U.S. sanctions laws provide similar allowances for sales of food, agricultural commodities, medicine, and medical devices to Iran by non-U.S. persons.” *See* OFAC Frequently Asked Questions (FAQs) 637.

Moreover, the re-issued guidance refers the public to two additional, even more fully detailed documents regarding (1) the sale to Iran of food, agricultural commodities, medicines, and medical devices by non-U.S. persons, and (2) humanitarian assistance and related exports to the Iranian people. The detailed document on humanitarian assistance and related exports clearly states that: “under U.S. law, the sale and export of nearly all types of food and medicine to Iran are broadly authorized, and require no specific license or special authorization ... The sale and export of basic medical supplies are likewise broadly authorized. Other types of humanitarian exports may be authorized pursuant to a specific license.” *See* OFAC Clarifying Guidance, “Humanitarian Assistance and Related Exports to the Iranian People,” Feb. 6, 2013.⁴ The former of these two documents specifically notes that: “the U.S. maintains broad authorizations and exceptions that allow for the sale of food, medicine, and medical devices by U.S. persons or from the United States to Iran. U.S. sanctions laws provide similar allowances for sales of food, agricultural commodities, medicine, and medical devices to Iran by non-U.S. persons.” *See* OFAC Guidance on the Sale of Food, Agricultural Commodities, Medicine, and Medical Devices by Non-U.S. Persons to Iran, July 25, 2013.⁵

Additionally, with respect to civil aviation safety, the applicable regulatory framework under the Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560, is publicly available and accessible by reference on OFAC’s website, which

⁴ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/hum_exp_iran.pdf.

⁵ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_guidance_med.pdf.

reflects that it is current and inclusive of all changes as of February 2019. *See* 31 C.F.R. 560.528.⁶

- b. **Responses to Specific Inquiries.** The United States has responded to numerous inquiries, including since the date of the Court's Order, by explaining the scope of the existing general licenses as well as the applicable exceptions to statutory sanctions authorities. OFAC maintains a hotline and email account to answer questions and provide clarifications about the application of U.S. sanctions from the public and the regulated community, such as financial institutions. Since the Court's Order and up to the beginning of May 2019, OFAC has provided dozens of written letters regarding the scope and potential application of these general licenses in response to particular inquiries. Both U.S. and non-U.S. persons may write to OFAC for interpretive guidance on the application of U.S. sanctions to proposed transactions.

III. Iran's Own Actions Foster Private Sector Reluctance to Engage with Iran

The preceding notwithstanding, as noted in the United States' letter of March 12, 2019, the United States is mindful that, despite the steps it has taken, the authorizations and exemptions it has maintained, the specific licenses it has issued, and the related policies and public guidance it has made available, some entities will independently decide that it is not in their interest – including for fundamental business reasons such as profitability, reputational risk, and legal risk related to anti-money laundering and countering the financing of terrorism compliance – to engage with Iran, even in the types of humanitarian-related transactions encompassed within the Court's Order. Responsibility for these private decisions, as well as for the decisions of Iranian entities as to the sources, types, volumes, and distributions of humanitarian-related goods, cannot be laid at the feet of the United States. The United States cannot comment on the specific decision-making processes of those entities.

At the same time, it is noteworthy that Iran has repeatedly failed to complete its commitments to the global standard-setting body for anti-money laundering and combatting

⁶ https://www.ecfr.gov/cgi-bin/text-idx?SID=95f148a3da0a7c012728461151576e58&mc=true&node=se31.3.560_1528&rzn=div8.

the financing of terrorism, the Financial Action Task Force (FATF), to address its strategic anti-money laundering and counter-terrorist finance deficiencies. Despite Iran committing to an Action Plan with the FATF in June 2016, the last of Iran's Action Plan deadlines expired in January 2018 with the vast majority being incomplete. As of the FATF's last Plenary in February 2019, the FATF noted that Iran still had not addressed critical action items, including: (1) adequately criminalizing terrorist financing, including by removing an exemption for designated groups "attempting to end foreign occupation, colonialism and racism"; (2) identifying and freezing terrorist assets in line with the relevant United Nations Security Council resolutions; and (3) ensuring an adequate and enforceable customer due diligence regime. Iran's resistance to adhere to FATF standards has significant practical repercussions in the global financial community. FATF has therefore issued a Public Statement after multiple recent Plenary Sessions where it has consistently voiced that it remains "concerned with the terrorist financing risk emanating from Iran and the threat this poses to the international financial system." The FATF follows this warning by calling on "its members and urges all jurisdictions to continue to advise their financial institutions to apply enhanced due diligence with respect to business relationships and transactions with natural and legal persons from Iran."⁷

Moreover, the U.S. Department of the Treasury has repeatedly documented publicly the Iranian regime's use of deceptive financial practices to covertly and illicitly access the international financial system. As the United States has exposed, the Central Bank of Iran (CBI) – the banker of the Iranian government and supervisor of all Iranian banks – and senior CBI officials have engaged in terrorist financing and other illicit financial activity that would cause grave concern to anyone in the private sector. In one recent example, in November 2018, Treasury exposed an illicit international network that the Iranian regime was using to convert oil into funds that were then handed off to the regime's terrorist proxy groups. Central to the scheme was a purported pharmaceutical company that was used to mask the Central Bank of Iran's involvement in this activity. The scheme also involved CBI senior officials who played a critical role in this arrangement. See Department of the Treasury Press Release, "Treasury Designates Illicit Russia-Iran Oil Network Supporting the Assad Regime, Hizballah, and

⁷ See, e.g. FATF Plenary Public Statement Feb. 2019 at <https://www.fatf-yaafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/public-statement-february-2019.html>.

HAMAS,” November 20, 2018.⁸ Furthermore, the Islamic Revolutionary Guard Corps (IRGC), its Basij militia, and other nefarious actors that are directly responsible for terrorist activities, destabilizing activities in the region, and serious human rights abuses maintain an extensive presence in Iran’s economy. Treasury’s October 2018 designation of a vast network of Iranian businesses providing financial support to the IRGC’s Basij militia revealed how the IRGC employed at least 20 corporations and financial institutions to mask its ownership and control over multi-billion dollar businesses. Such behavior, in which the Iranian regime obfuscates its illicit financial activity and terrorist financing through the use of an ostensible humanitarian company or other front companies, surely reinforces the reluctance of many financial institutions to engage in humanitarian-related transactions with Iran, notwithstanding the authorization and exceptions under U.S. authorities. These examples demonstrate that as a general matter, there remains a pervasive and endemic lack of transparency in the Iranian economy and in the Iranian regime’s international financial activity, and companies and financial institutions world-wide are rightly conscious of the resulting risks that are inherent in dealing with the regime.

IV. Conclusion

In its letter of March 29, 2019, the Court requested, in accordance with Article 78 of its Rules, “detailed information on measures that have been taken” by the United States to implement the Court’s Order. As set out above, in addition to the maintenance of broadly applicable and critical pre-existing authorizations and exemptions, the United States has taken a number of affirmative actions in the period since October 3, 2018. It has re-issued public guidance and responded to particular inquiries to explain the scope of existing general licenses and applicable statutory exceptions. It has issued licenses for the export of humanitarian-related items within the scope of the Court’s Order and denied only one license request, relating to the provision of brokering services in connection with the export to Iran of certain humanitarian-related items. It has issued licenses for the exportation or re-exportation of goods, services, and technology for the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft and not denied any license request under this licensing policy since the Court’s

⁸ <https://home.treasury.gov/news/press-releases/sm553>.

Order. It has issued a waiver to facilitate the export to Iran of certain categories of U.S.-origin items that are necessary for the safety of civil aviation.

The United States appreciates the Court's consideration of the information detailed above provided in response to the Court's request, acting under Article 78, regarding United States actions in accordance with the October 3, 2018 Order.

A handwritten signature in black ink, appearing to read "Richard C. Visek". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Richard C. Visek
Agent

Mr. Philippe Couvreur
Registrar,
International Court of Justice,
Peace Palace
The Hague

Annex 11

**Letter from the International Court of Justice to the United States and I.R. Iran,
19 June 2019**

152411

19 June 2019

Sir,

With reference to the case concerning Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America), I have the honour to inform you of the following.

The Court has taken due note of the responses provided by the Parties to its request, made on 29 March 2019, for information on the implementation by the United States of America of the provisional measures indicated by the Court in its Order of 3 October 2018. In this regard, the Court considers that any issues relating to the implementation of the provisional measures indicated by the Court may be addressed at a later juncture, if the case proceeds to the merits.

Finally, the Court wishes to again remind the Parties of the binding nature of the provisional measures indicated in its Order of 3 October 2018.

Accept, Sir, the assurances of my highest consideration.



Philippe Couvreur
Registrar

Mr. M. Mohebi
Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

cc: Mr. M.H. Zahedin Labbaf
Co-Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

Mr. Seyed Hossein Sadat Meidani
Deputy-Agent of the Islamic Republic of Iran
before the International Court of Justice
Agent Bureau of the Embassy of the Islamic Republic of Iran
in the Netherlands
The Hague

Annex 12

Letter from the Agent of I.R. Iran to the International Court of Justice, 6 August 2019



AGENT OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

The Hague

IN THE NAME OF GOD

6 August 2019

Mr. Philippe Gautier
Registrar
International Court of Justice
Peace Palace
The Hague

Re: Case concerning *Alleged violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v. United States of America)*

Dear Mr. Gautier,

The Islamic Republic of Iran thanks the Registrar for the copy of the letter dated 4 June 2019 from the United States to the Court, setting out the U.S. response to the Court's request for information on the measures that have been taken by the U.S. to implement the provisional measures indicated by the Court in its Order of 3 October 2018.

Many of the points that could be made about the U.S. response were anticipated and addressed in Iran's letter to the Court, dated 4 June 2019. They will not be repeated here. But as the Court considers the U.S. response, Iran wishes to draw attention to a particular difficulty in the implementation of the Court's Order.

The United States is presenting two pictures of its sanctions against Iran. On the one hand its letter of 4 June 2019 appears to be calculated to reassure the Court that the U.S. is doing whatever it can to comply with the Court's Order and to minimize the impact of the sanctions on supplies of 'humanitarian-related items'. On the other hand, the U.S. continues to broadcast publicly its intention to continue with its program of tightening still further the crippling sanctions that it says are already succeeding in their objective of wrecking the Iranian economy.¹ The United States seems proud to assert that the Iranian people are already

¹ See <https://www.washingtontimes.com/news/2019/jul/10/us-threatens-iran-sanctions-emergency-iaea-meeting/>

“going through hell”.² In short, the United States wishes to appear to the Court to be treating Iran with care and compassion, and to appear to other audiences to be strangling the entire Iranian economy with an unrelenting, vice-like grip. It is against that background that the U.S. response was made and is to be understood.

The U.S. response includes a series of excuses for the failure to submit a more detailed response concerning its implementation of the Order. It suggests that it lacks detailed information on the nature and volume of transactions affected by its sanctions, and is inhibited by considerations of ‘confidentiality’ from disclosing details of license applications, and has no control over decisions made by private enterprises, and that some actions may be justifiable as applications of money-laundering or terrorism-financing controls, for example. But the sanctions are not an objective problem facing the United States: they are deliberately created by the U.S. itself, and the suggestion that the U.S. cannot be expected control their effects is tantamount to a denial by the U.S. of responsibility for its actions.

The United States gives particular emphasis to its pleas that Iran’s complaints are vague and unparticularized and that Iran engages in “deceptive financial practices to covertly and illicitly access the international financial system”. Those arguments are disingenuous. The U.S. is seeking to inflict the most severe harm upon the entire economy of Iran. It is absurd to expect Iran to identify, for the benefit of the U.S., the areas in which the U.S. sanctions are causing the very greatest damage. To do so would encourage even more harmful sanctions. It is absurd to complain that, even while the United States tries to close Iran more and more completely out of international commercial and financial markets, Iran is trying “covertly to access the international financial system.” The U.S. is trying to ensure that anything like normal engagement with the financial system is made impossible for Iran. Indeed, by adding all Iranian banks including Central Bank of the Islamic Republic of Iran to the SDN List, the U.S. has evidently excluded them from any transactions even for humanitarian-related goods and services.³

Iran did not seek provisional measures as a merely formal procedural step. It needed to obtain an Order for provisional measures in order to reduce the irreparable harm that is being inflicted upon ordinary citizens of Iran by the most egregiously harmful and blatantly unjustifiable U.S. sanctions. That need persists, and it remains grave and urgent. The ostensible ‘implementation’ of the Order by the U.S. clearly does not meet Iran’s critical humanitarian needs, as is shown by the documents and information submitted to the Court through Iran’s letter of 4 June 2019 and its Memorial.

Iran does not raise these points by way of a rebuttal of the US response. It raises them here because they indicate a serious practical obstacle to making the Court’s Order effective. For that reason, and in view of the U.S. aggravation of the dispute through imposing more


² See <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-49/>

³ See, Frequently Asked Questions Regarding the Re-Imposition of Sanctions Pursuant to the May 8, 2018 National Security Presidential Memorandum Relating to the Joint Comprehensive Plan of Action (JCPOA), Last Updated on August 6, 2018, p. 8 (“Broadly speaking, transactions for the sale of agricultural commodities, food, medicine, or medical devices to Iran are not sanctionable unless they involve certain persons on the SDN List, including designated Iranian financial institutions”), https://www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_winddown_faqs.pdf; See also, Guidance on the Sale of Food, Agricultural Commodities, Medicine, and Medical Devices by Non-U.S. Persons to Iran (“To further assist non-U.S. persons, including banks and medical suppliers, in fully understanding these allowances, this Guidance underscores that these sales to Iran do not trigger sanctions under U.S. law. The financing or facilitation of such sales by non-U.S. persons likewise does not trigger sanctions, so long as the transaction does not involve certain U.S.- designated persons (such as Iran’s Islamic Revolutionary Guard Corps (IRGC) or a designated Iranian bank) or proscribed conduct.”) https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_guidance_med.pdf

sanctions against Iran⁴ in violation of the Order of 3 October 2018, Iran reserves its rights to request for further appropriate measures to ensure the effective implementation of the Order.

Please accept, Sir, the assurances of our highest consideration.

Respectfully submitted,


M.H. Zahedin Labbaf
Co-Agent of the Islamic Republic of Iran

⁴ See the attached table

Some of the US Sanctions Imposed after 3 October 2018

No.	Description	Date
1	<p align="center">Adding 20 Iranian Entities to the OFAC's SDN List Including further Iranian Banks (Parsian, Sina, Mellat) and Iranian Automotive Companies (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20181016.aspx)</p>	10/16/2018
2	<p align="center">Amending Iranian Transactions and Sanctions Regulations, 31 C.F.R. part 560 In furtherance of the President's May 8, 2018 decision to cease the United States' participation in the Joint Comprehensive Plan of Action (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20181102_33.aspx)</p>	11/2/2018
3	<p align="center">Implementing 2nd phase of U.S. Sanctions and Adding more than 700 Individuals, Entities, Aircraft, and Vessels to the OFAC's SDN List (https://home.treasury.gov/news/press-releases/sm541)</p>	5/11/2018
4	<p align="center">Adding 14 Iranian Individuals and 17 Iranian Entities to the OFAC's SDN List (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190322.aspx)</p>	3/22/2019
5	<p align="center">Adding 9 Iranian Individuals and 11 Iranian Entities to the OFAC's SDN List (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190326.aspx)</p>	3/26/2019
6	<p align="center">Refusing to Grant any Significant Reduction Exceptions (SRE) (https://www.state.gov/advancing-the-u-s-maximum-pressure-campaign-on-iran/)</p>	4/22/2019
7	<p align="center">Advancing Maximum Pressure Campaign by Restricting Iran's Nuclear Activities (https://www.state.gov/advancing-the-maximum-pressure-campaign-by-restricting-irans-nuclear-activities/)</p>	5/3/2019
8	<p align="center">Imposing Sanctions on Iran's Metal Industry (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190508.aspx)</p>	5/8/2019
9	<p align="center">Adding Persian Gulf Petrochemical Industries Company and Its Network of 39 Subsidiary Petrochemical Companies and Foreign-Based Sales Agents (https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190607.aspx)</p>	7/7/2019

Annex 13

**Note verbale No. 211543 from I.R. Iran to the Government of the United States,
2 October 2019**

Original in Persian and translation



جمهوری اسلامی ایران

وزارت امور خارجه

شماره: ۶۴۶/۳۷۸/۲۱۱۵۴۳

تاریخ: ۱۳۹۸/۰۷/۱۰

پیوست: دارد

وزارت امور خارجه جمهوری اسلامی ایران با اظهار تعارفات خود به سفارت سوئیس (دفتر حفاظت منافع خارجی) در تهران، احتراماً اشعار می‌دارد:

موجب امتنان خواهد بود متن پیام جمهوری اسلامی ایران به دولت ایالات متحده آمریکا را به شرح زیر به مقصد آن منتقل نمایند. در ضمن ترجمه غیر رسمی پیام پیوست می‌باشد.

“دولت جمهوری اسلامی ایران پیرو یادداشت شماره ۴۹۷۴۰۵۷ / ۲۸۹ / ۳۸۱ مورخ ۲۲ / ۰۸ / ۱۳۹۷ و ضمن تاکید بر مفاد آن، یادآوری می‌نماید که علی‌رغم وضعیت حاکم بر روابط بین دو کشور و اقدامات مستمر خصمانه و غیرقانونی ایالات متحده آمریکا علیه مردم و دولت ایران، ترتیبات عهدنامه مودت، روابط اقتصادی و حقوق کنسولی ۱۳۳۴ فیما بین دو کشور از زمان اجرای عهدنامه در طول سال‌های گذشته در حمایت از حقوق ناشی از فعالیت‌های اقتصادی و تجاری اتباع و شرکت‌های طرفین بر آزادی تجارت و کشتیرانی بین دو دولت، بر روابط تجاری بین اتباع، شرکت‌ها و سرزمین‌های بین دو کشور حاکم بوده است و عملکرد غیرقانونی ایالات متحده آمریکا و نقض مکرر ترتیبات عهدنامه از سوی آن کشور با معاذیر واهی موجد حقی برای دولت آن کشور به منظور عدم اجرای مفاد عهدنامه مذکور نمی‌باشد.

عدم مسئولیت‌پذیری حقوقی و عدم تمکین آن دولت به تعهدات بین‌المللی خود از جمله تعهدات آن دولت وفق عهدنامه ۱۳۳۴ مودت، روابط اقتصادی و حقوق کنسولی فیما بین دو کشور، با توجیحات بی‌اساس و مغایر با اصول حقوق بین‌الملل، خدشه‌ای به حقوق مکتسبه دولت، اتباع و شرکت‌های ایرانی و همچنین صلاحیت دیوان بین‌المللی دادگستری در خصوص دعاوی علیه آن کشور بر مبنای عهدنامه مذکور نخواهد گذاشت.

علاوه بر این، دولت جمهوری اسلامی ایران بر این باور است که کلیه تحریم‌های یکجانبه و غیرقانونی ایالات متحده آمریکا علیه مردم و دولت ایران ناقض تعهدات بین‌المللی و قراردادی آن کشور از جمله تعهدات ناشی از منشور ملل متحد و عهدنامه ۱۳۳۴ مودت، روابط اقتصادی و حقوق کنسولی فیما بین دو کشور و بیانیه

- های الجزایر بوده و با اصول و قواعد شناخته شده حقوق بین الملل به ویژه اصول مندرج در منشور ملل متحد و پذیرفته شده توسط جامعه بین المللی از جمله اصل برابری حاکمیت دولت ها، عدم مداخله در امور داخلی سایر
- کشورها و آزادی تجارت و کشتیرانی مغایرت داشته و همچنین ناقض پاراگراف ۱۰۲ دستور موقت دیوان بین المللی دادگستری مورخ ۳ اکتبر ۲۰۱۸ می باشد و مجموعه اعمال متخلفانه ارتكابی مورد اشاره از سوی دولت ایالات متحده، مسئولیت بین المللی آن دولت را در پی داشته است.

بر این اساس، لازم و ضروری است دولت ایالات متحده آمریکا در اسرع وقت همه اقدامات لازم را به منظور توقف اعمال متخلفانه خود و رفع آثار ناشی از آنان اتخاذ نموده و نسبت به جبران زیان های ناشی از آن اقدام نماید. بدیهی است دولت جمهوری اسلامی ایران هم چنان حقوق خود را برای پیگیری اقدامات متخلفانه ارتكابی دولت ایالات متحده آمریکا محفوظ دانسته و بر اساس قواعد قابل اعمال حقوق بین الملل و اسناد لازم الرعایه، آنها را مورد پیگیری قرار می دهد.

سفارت سوئیس (دفتر حفاظت منافع خارجی) - تهران

Unofficial Translation

The Diplomatic Note No. 211543

The Ministry of Foreign affairs of the Islamic Republic of Iran

The Ministry of Foreign affairs of the Islamic Republic of Iran presents its compliments to the Embassy of Switzerland (Foreign Interest Section) in Tehran and respectfully states that, it would be appreciated to convey the message of the Islamic Republic of Iran to the United States of America, as follows:

“Reaffirming the Verbal Note No. 381/289/4974057 dated November 13, 2018, the Islamic Republic of Iran recalls that, regardless of the situation governing the relations between the two countries and the persistent belligerent and illegal measures of the United States against the people and government of Iran, the arrangements of the 1955 Treaty of Amity, Economic Relations, and Consular Rights between the two countries which support the rights of nationals and companies of the parties arising from economic and commercial activities, and as well as freedom of commerce and navigation, have been governing the commercial relations between the nationals, companies and territories of the parties during the past years since the entry into force of the Treaty. Thus, the illegal acts of the United States and its recurrent violations of the provisions of the Treaty on groundless pretexts do not create any right for the United States to refrain from implementing the provisions of the Treaty.

Legal irresponsibility of the United States and its disregard for its international obligations including its obligations under the 1955 Treaty of Amity, Economic Relations, and Consular Rights between the two countries under false pretexts contrary to the principles of international law in no way prejudice the already acquired rights of the Iranian government, nationals and companies as well as the jurisdiction of the International Court of Justice in relation to the claims against the United States in accordance with the said Treaty.

Furthermore, the Islamic Republic of Iran believes that the unilateral and illegal sanctions of the United States against the Iranian government and people all violate the United States' international and contractual obligations including the obligations arising from the United Nations Charter and the 1955 Treaty of Amity,

Economic Relations and Consular Rights between the two countries and the Algiers Accords. They also are contrary to the recognized principles and rules of international law especially the principles enshrined in the UN Charter and well-accepted by the international community, including the principle of sovereign equality of States, non-intervention in the internal affairs of other States and freedom of commerce and free navigation. These sanctions violate paragraph 102 of the Provisional Measures as ordered by the International Court of Justice on 3 October 2018 and therefore has entailed international responsibility of the United States.

In the light of the above, it is imperative and obligatory that the United States immediately takes all necessary measures in order to cease its wrongful acts and remove the effects arising thereof, and makes full reparation for the injury caused. Clearly, the Islamic Republic of Iran, in accordance with the applicable rules of international law and legally binding instruments, preserves its right to pursue such wrongful acts perpetrated by the United States."

Annex 14

**Transcript: Secretary of State Mike Pompeo on “Face the Nation”, *www.cbsnews.com*,
22 September 2019**

Transcript: Secretary of State Mike Pompeo on "Face the Nation," September 22, 2019

 [cbsnews.com/news/transcript-secretary-of-state-mike-pompeo-on-face-the-nation-september-22-2019](https://www.cbsnews.com/news/transcript-secretary-of-state-mike-pompeo-on-face-the-nation-september-22-2019)

CBS News September 22, 2019, 10:32

AM

The following is a transcript of the interview with Secretary of State Mike Pompeo that aired Sunday, September 22, 2019, on "Face the Nation."

MARGARET BRENNAN: Good morning and welcome to "Face the Nation" in New York, where world leaders face a number of critical challenges at the annual United Nations General Assembly. Late Friday, the Pentagon announced the U.S. will deploy additional troops and military equipment to Saudi Arabia and the United Arab Emirates. Increasing security in the region after last week's attack on oil fields in Saudi Arabia. The Trump administration has placed blame for those attacks squarely on Iran and announced on Friday a new round of sanctions against Iran's national bank. President Trump has not ruled out military strikes but it seems he is holding off on them for now. We begin this morning with Secretary of State Mike Pompeo who called the oil field attacks, "an act of war." Mr. Secretary, good morning.

SECRETARY OF STATE MIKE POMPEO: Margaret, it's good to be with you again.

MARGARET BRENNAN: You are the only U.S. official who has directly and definitively blamed every single part of these attacks on Iran. Is there any question that the attack was launched from Iran?

SEC. POMPEO: No reasonable person doubts precisely who conducted these strikes. And it is the intelligence community's determination that is likely the case that these were launched from Iran. You- you've seen the pictures--

MARGARET BRENNAN: Likely.

SEC. POMPEO: --that came from the north- that came from the north. It was a sophisticated attack. These weapons systems had ranges that could not have come from the Houthis. It is crazy for anyone to assert that they did. I mean it is literally nuts on its face to make an assertion that this was an attack by the Houthis. This was Iran true and true, and the United States will respond in a way that reflects that act of war by this Iranian revolutionary regime.

MARGARET BRENNAN: It was launched from Iran?

SEC. POMPEO: This was an attack by Iran on the world. This was an act of war. I'm here at the U.N.

MARGARET BRENNAN: Okay. Because the president hasn't--

1/6

SEC. POMPEO: The U.N.- the U.N.- the U.N.'s- the U.N.'s primary--

MARGARET BRENNAN: --been that specific--

SEC. POMPEO: --the U.N's primary charter--

MARGARET BRENNAN: --and other countries haven't either.

SEC. POMPEO: --is to prevent state on state attack--

MARGARET BRENNAN: And Saudi Arabia hasn't either.

SEC. POMPEO: The U.N.'s primary charter is to protect peace around the world. This was a state on state act of war.

MARGARET BRENNAN: Iran's foreign minister as you may have heard has repeatedly denied any part played by Iran in this attack. Will the U.S. release evidence that proves he's lying?

SEC. POMPEO: Well, we already have. There- there's already ample evidence that demonstrates that he's lied. You saw the Saudis showing these were Iranian systems built- built and manufactured inside of Iran.

MARGARET BRENNAN: But they haven't--

SEC. POMPEO: We know- we know where--

MARGARET BRENNAN: --given evidence or said it--

SEC. POMPEO: --we know where they attacked.

MARGARET BRENNAN: --was launched from Iran.

SEC. POMPEO: Look, look, don't- I don't know why anybody listens to the Iranian foreign minister. He has nothing to do with Iranian foreign policy, and he's lied for decades and then he resigned. It- it's just- it's not even worth- it's not even worth responding to him. It's- it's been- it's beneath the dignity of anyone in the world to listen to someone who repeatedly makes the claim that the Houthis launched this attack.

MARGARET BRENNAN: Saudi Arabia has shown itself incapable of defending its most--

SEC. POMPEO: No that's- that's--

MARGARET BRENNAN: --prized--

SEC. POMPEO: --that's not true.

MARGARET BRENNAN: --asset and it is America's best customer when it comes to buying American made weapons. U.S. intelligence also didn't warn of this attack happening. Are you concerned about the stability of the kingdom that they were this vulnerable?

SEC. POMPEO: Yeah, you don't have all your facts quite right, but you saw the announcement that the secretary defense made on Friday. We're going to continue to reinforce. We're looking for a diplomatic resolution to this, unlike the Iranians who apparently--

MARGARET BRENNAN: What part of the facts is wrong?

SEC. POMPEO: --who are apparently blood--

MARGARET BRENNAN: Saudi Arabia was not able to defend itself.

SEC. POMPEO: Apparently the Iranians are bloodthirsty and looking for war. President Trump and I, we're looking for a diplomatic resolution to this.

MARGARET BRENNAN: What does that mean?

SEC. POMPEO: We had a- we had a nation state attack, another nation state the largest attack on the global energy supply I think in all of recorded history. The good news? When I walked in there this morning Brent crude was traded at 64 bucks a barrel and the world has responded in a way that has made sure that there's ample supply in the system. But make no mistake about it we're- we're prepared to do the things we need to do to try to deter Iran from this kind of behavior.

MARGARET BRENNAN: What does a diplomatic resolution mean? The attack happened.

SEC. POMPEO: Yeah, so the resolution looks like this: Iran becomes a normal nation. We lay it out, now a year ago in May--

MARGARET BRENNAN: These are your 12 steps?

SEC. POMPEO: No- no missile strikes. No- no capacity to build out their nuclear weapons program, broadly speaking. Stop the assassination. They're- they're killing people in Europe. They have an assas- assassination campaign in Europe. This is not a normal nation and we hope- we hope the Iranian people, who we think are demanding that their country stop this kind of behavior, act in a way that causes the Iranian regime's behavior to change. That's our mission sense. That's what President Trump is determined to achieve. First and foremost through diplomatic means.

MARGARET BRENNAN: But the president hasn't laid those things out publicly as you just did.

SEC. POMPEO: He- he and I fully understand the mission set. I- I- I know it because he's told it to me.

MARGARET BRENNAN: If you look at just the things that have happened over the past few months, the U.S. has been very clear that it places blame for the shooting down of that American drone on Iran, the attack on the oil tanker in the UAE on Iran. This attack

on Iran. It seems Iran's behavior is getting worse not better, based on the Trump administration's campaign. You've been very aggressive with these sanctions. Why do you think sanctioning them leads to better behavior?

SEC. POMPEO: Margaret, you- you start the clock at the wrong point. Nineteen-seven--

MARGARET BRENNAN: I'm talking about what happened this summer.

SEC. POMPEO: 1979 is the trajectory of the Iranian revolution. 40 years of terror. 40 years- the previous administration chose to arm them, to provide the wealth and resources that have underwritten these very attacks that we're seeing today. They were able to build up these missile systems--

MARGARET BRENNAN: So you think--

SEC. POMPEO: --they were able to improve. They were--

MARGARET BRENNAN: --the Trump administration policy is working is what you're saying, despite the fact that these attacks are continuing to happen because--

SEC. POMPEO: It's work--

MARGARET BRENNAN: --Liz Cheney, Lindsey Graham, Republican allies of the president have said the failure to carry out some kind of obvious retaliation or a military strike looks like weakness.

SEC. POMPEO: Yeah, we've responded in a number of ways. This is not about weakness. This strategy is working. We- we sanctioned the Central Bank on Friday. Margaret, you have to remember that the sanctions that we've put in- put in place that ultimately will cause the Iranian regime to shrink by between 10 and 15 percent in the year ahead, only went in place in May of this year. They're- they're five months on. We're at the beginning of that sanctions campaign, but I- I don't think anyone should mistake President Trump for having the resolve to make sure we get this right and when the moment calls for it I am confident the president will take all appropriate actions.

MARGARET BRENNAN: But I- I guess, fundamentally, the question is why do you think sanctions will be preventative and not just punitive? Why do you think making Iran more desperate will get them to act more responsible?

SEC. POMPEO: It'll deny them the resources to foment the exact kind of strikes that we have seen over this past summer. It will deny them the money, the wealth, the resources. They're operating today in five countries. It's expensive. They've already had to make difficult decisions about whether they're going to feed their people, provide medicine to their people or they're going to launch missiles into Saudi Arabia. I am convinced that the Iranian people see those choices being made. And as time goes on they will continue to see that those conditions worsen and they'll demand- they'll demand that their leadership not bring their brothers and sisters back home in body

bags, but rather use those resources. The- the- the Iranian people are great people. We- we stand with them and I am- I'm confident they will demand that their leadership behave in a way that reflects the great history of this place.

MARGARET BRENNAN: Are you considering cyber attacks? Would that be a less obvious, less direct form of retaliation?

SEC. POMPEO: President talked about our use of those previously, but I'm certainly not going to forecast what we'll do as we move forward.

MARGARET BRENNAN: But suffice it to say, building up defensive presence and sanctions are not the limit of what the Trump administration will do?

SEC. POMPEO: Oh goodness, no.

MARGARET BRENNAN: I want to also ask you about Ukraine. The president's personal attorney Rudy Giuliani is publicly calling for an investigation by the Ukrainian government into Joe Biden, who is obviously a- a political opponent of the president. Is it appropriate for the president's personal attorney to be inserting himself in foreign affairs like this?

SEC. POMPEO: If there was election interference that took place by the vice president, I think the American people deserve to know. We- we know there was interference in the 2016 election and if it's the case that there was something going on with the president or his family that caused a conflict of interest and Vice President Biden behaved in a way that was inconsistent with the way leaders ought to operate, I think the American people deserve to know that.

MARGARET BRENNAN: So you think it's appropriate for Rudy Giuliani to be doing that? Has the U.S. Embassy in Ukraine been providing support- the State Department been supporting what he's doing?

SEC. POMPEO: So I'm not- I'm not going to talk about that other- other than to say this. We have consistently worked to support the Ukrainian people. I remember the previous administration. I would- Margaret, you'll remember, I was a member of Congress and Barack Obama refused to provide defensive weapons systems to the Ukrainian people. He sent them blankets. This president, much to the consternation of Vladimir Putin who- you know there's this storyline about Russia and we're weak on Russia- this president sent defensive weapons systems to the Ukrainians so they could defend themselves while Barack Obama allowed one-fifth of Ukraine to be stolen by Vladimir Putin. This administration is working to develop a great relationship with Ukraine. We'll see President Zelensky this week here in New York, I think, and we're looking forward to that.

MARGARET BRENNAN: Will you ask him or have you asked him to open an investigation?

SEC. POMPEO: I've talked to Foreign Minister now a couple of times. We talk about the important relationship between our two countries and how we can make Ukraine stronger and have great economic commerce between our two great nations.

MARGARET BRENNAN: Secretary Pompeo you've got a very busy week. Thank you for joining us.

SEC. POMPEO: Thank you very much, Margaret.

Annex 15

Laura Rozen, “Sanctions experts say new US Treasury measure could inhibit humanitarian trade with Iran”, *Al-Monitor*, 25 October 2019

Sanctions experts say new US Treasury measure could inhibit humanitarian trade with Iran

The US Treasury's new Iran "humanitarian" mechanism is seen by experts as a tool to inform new sanctions on the country.

October 25, 2019

URL: www.al-monitor.com/pulse/originals/2019/10/sanctions-us-treasury-inhibit-humanitarian-aid-iran.html

Author: Laura Rozen

WASHINGTON — Several former US government sanctions experts said a new, supposed Iran “humanitarian” transparency mechanism announced today by the Treasury Department is likely to be seen as an intelligence-gathering mechanism to inform new US sanctions rather than facilitate Iran’s purchase of food and medicine.

“This does not help, and in fact probably makes the situation worse,” Brian O’Toole, a former official at the Treasury Department’s Office of Foreign Assets Control, wrote on Twitter. “It’s like they’re trying to force Europe to scream and pound the table.”

“Today, the US Departments of the Treasury and State announced a new humanitarian mechanism to ensure unprecedented transparency into humanitarian trade with Iran,” the Treasury Department said in a press release today. “This mechanism will help the international community perform enhanced due diligence on humanitarian trade to ensure that funds associated with permissible trade in support of the Iranian people are not diverted by the Iranian regime to develop ballistic missiles, support terrorism, or finance other malign activities.”

“Concurrently, Treasury’s Financial Crimes Enforcement Network

(FinCEN) identified Iran as a jurisdiction of primary money laundering concern under Section 311 of the USA PATRIOT Act, and issued a new rulemaking to protect the US financial system from malign Iranian financial activities,” the Treasury Department release continued.

The real story today from the Treasury announcement is the Section 311 determination, said Tyler Cullis, an attorney who specializes in sanctions law with Ferrari & Associates.

“Section 311 is the legal obligation imposed on a US financial institution to conduct special due diligence on foreign banks that maintain accounts with Iran,” Cullis told Al-Monitor. “The effect of that is, the US banks will send around questionnaires to their correspondent financial institutions and ask them if they maintain accounts for or on behalf of Iranian financial institutions. And if the answer is yes, they will stop or terminate the account.”

“Not a single banker in the world will look at that and say, ‘yeah, we will do that.’ Not a single one,” Cullis said, referring to the option of reporting monthly to Treasury on the special due diligence that would be required to maintain a correspondent relationship with a foreign bank that has an account on behalf of an Iranian bank.

Swiss banks have told Treasury that if it goes forward with the Section 311 finding they will terminate the accounts they maintain with Iranian banks to permit humanitarian trade, Cullis said.

Announcing the humanitarian “transparency” mechanism in the context of the Treasury determination that Iran is a primary money laundering jurisdiction will increase suspicions that it is a sanctions trap, agreed former State Department sanctions expert and Iran nuclear negotiator Richard Nephew.

“In the context of the 311 finding AND general atmosphere, I suspect most will see this mechanism less as a humanitarian channel and more as an intelligence gathering function to enable additional US sanctions,” Nephew, now with Columbia University, tweeted. “For those of us seeking a real channel, this ain’t it.”

Al-Monitor understands that the Treasury announcement spinning the 311 finding as a special humanitarian transparency measure may also be an attempt to preempt negative publicity from an anticipated forthcoming report from a human rights group on the humanitarian impact of US sanctions on Iran.

“I think this will probably have a chilling effect on the few people who are still exporting these [humanitarian] goods, especially those

in Europe,” O’Toole told Al-Monitor. “It flies directly in the face of the EU blocking regulation, and could actually expose European companies trying to use this mechanism to legal jeopardy.”

“So this, coupled with the [recent] Central Bank of Iran designation under counterterrorism authorities really just adds to the complexity of making these [humanitarian] exports happen,” O’Toole, now a non-resident fellow at the Atlantic Council, said.

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Annex 16

Maya Lester QC, “New US Iran humanitarian mechanism & FinCEN Iran designation”, *www.europeansanctions.com*, 29 October 2019

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New US Iran humanitarian mechanism & FinCEN Iran designation

October 29th, 2019 | [Maya Lester QC](#)



Last week (25 October), FinCEN (US Financial Crimes Enforcement Network) [designated](#) Iran as a "jurisdiction of primary money laundering concern" under Section 311 of the [US PATRIOT Act](#) (see [Final Rule](#)). This rule prohibits correspondent accounts in the US on behalf of Iranian financial institutions, and prohibits foreign financial institutions from processing transactions involving Iranian banks.

The US has at the same time announced a new "humanitarian mechanism" to allow foreign financial institutions and companies to engage in humanitarian trade with Iran, with written confirmation from

OFAC that their financial channel will not attract US secondary sanctions. Treasury [press release](#).

Participation in the mechanism would require reporting a "substantial and unprecedented amount of information" to OFAC monthly, including suspected misuses of the humanitarian channel, in exchange for written assurances. Information required would include: Iranian customer identities, the Iranian entity's finances, the logistics and intermediaries involved in transactions, and any relationships with designated entities. See [fact sheet](#) for further requirements.

[Iran](#) [United States](#)

[Iran, USA](#)

About Maya Lester QC

Maya Lester QC is a senior barrister (Queen's Counsel) at Brick Court Chambers with a wide-ranging practice in public law, European law, competition law, international law, human rights & civil liberties. She has a particular expertise in sanctions. The legal directories say she is the...

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