



HUMAN
RIGHTS
WATCH

“Maximum Pressure”

US Economic Sanctions Harm Iranians' Right to Health

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“Maximum Pressure” US Economic Sanctions Harm Iranians’ Right to Health

Summary 1

Recommendations9

- To the US Government.....9
- To the US Treasury Department, Office of Foreign Asset Control.....9
- To the US State Department..... 10
- To the US Congress 10
- To the European Union and Member States 10
- To the Iranian Government11

Methodology 12

I. Timeline of US Economic Sanctions on Iran 14

II. Iran’s Medical Market and Responses to Facilitate Medical Imports 21

III. US Sanctions Restricting Financing of Iranian Humanitarian Imports..... 25

IV. Current Access to Medicines in Iran.....30

- Overview 30
- Impact on patients..... 31
 - Patients with Epidermolysis Bullosa (EB) 33
 - Cancer Patients 33
 - Epileptic Patients..... 34
 - Universal Health Coverage 35

V. International Legal Obligations..... 37

- Economic Sanctions and the Right to Health 37

Acknowledgments40

Appendix I: Letter to Pharmaceutical and Medical Companies That Have Sold Products in Iran..... 41

Appendix II: Letter to US Department of Treasury Office of Foreign Asset Control (OFAC) 43

Appendix III: Letter to US Department of State46

Appendix IV: Letter to Dr. Javad Zarif49

Summary

In May 2018, the Trump administration formally withdrew from the international nuclear agreement with Iran, known as the Joint Comprehensive Plan of Action (JCPOA), agreed upon by the Obama administration in July 2015. Over the next 120 days, until November 5, 2018, the US government re-imposed all economic sanctions related to Iran's nuclear program that had been previously lifted, including "secondary sanctions" on non-US entities that conduct financial or commercial transactions with Iran.

Though the US government has built exemptions for humanitarian imports into its sanction regime, broad US sanctions against Iranian banks, coupled with aggressive rhetoric from US officials, have drastically constrained Iran's ability to finance such humanitarian imports. The consequences of redoubled US sanctions, whether intentional or not, pose a serious threat to Iranians' right to health and access to essential medicines—and has almost certainly contributed to documented shortages—ranging from a lack of critical drugs for epilepsy patients to limited chemotherapy medications for Iranians with cancer.

At the core of the harmful knock-on effects of renewed US sanctions on Iran is that in practice, these sanctions have largely deterred international banks and firms from participating in commercial or financial transactions with Iran, including for exempted humanitarian transactions, due to the fear of triggering US secondary sanctions on themselves. As a result, Iranians' access to essential medicine and their right to health is being negatively impacted, and may well worsen if the situation remains unchanged, thereby threatening the health of millions of Iranians.

On several occasions, US officials have indicated that the pain US sanctions are causing for ordinary Iranians is intentional, part of a strategy to compel Iranian citizens to demand their autocratic government to "change behavior" – a recipe for collective punishment that infringes on Iranians' economic rights. For instance, on February 14, 2019, US Secretary of State Mike Pompeo told CBS News, "Things are much worse for the Iranian people [with the US sanctions], and we are convinced that will lead the Iranian people to rise up and change the behavior of the regime." The US Treasury Department itself predicted that US policies would lead to Iran's "mounting financial isolation and economic stagnation."

The Trump administration, beyond re-imposing economic sanctions that had been suspended under the JCPOA, has repeatedly targeted Iranian financial institutions. On October 16, 2018, for example, the Office of Foreign Assets Control (OFAC) of the US Treasury Department further restricted Iran's access to global financial markets by adding about 20 Iranian institutions to the list of Specially Designated Global Terrorists (SDGTs) for "supporting military force that recruits and trains child soldiers."

Then, with the total re-imposition of sanctions suspended under the JCPOA, in November 2018, the US Treasury Department added at least 37 Iranian governmental and privately-owned banks, as well as Iran's national oil company, to the Specially Designated Nationals and Blocked Persons List (SDN) of individuals subject to sanctions. Any company subject to US jurisdiction, US as well as non-US, that engages in transactions with SDNs can be subject to prosecution in the US, creating a significant risk for businesses, banks and global financial institutions essential for facilitating the import of essential medicines and medical equipment into Iran.

Previously, the US government had lifted sanctions on non-US entities as part of the JCPOA. The serious regulatory and due diligence requirements placed on international firms trading with Iran have left only a limited number of companies and banks with the capacity to finance trade with Iran and willing to accept the increased financial and legal risks of US secondary sanctions that come with those transactions.

These restrictions on financing, combined with the sharp depreciation of the Iranian currency, the rial, have resulted in severely limiting Iranian companies and hospitals from purchasing essential medicines and medical equipment from outside Iran that residents depend upon for critical medical care. Moreover, renewed US sanctions have directly impacted families' purchasing power, contributing to inflation rates of around 30 percent in the past year. Iran's nearly universal health care coverage currently absorbs a significant portion of health care costs. But the failure of this system, which is already under serious financial stress, will likely have devastating effects on millions of patients.

In July 2019, the UN Special Rapporteur on the situation of human rights in Iran said that he is "not only concerned that sanctions and banking restrictions will unduly affect food security and the availability and distribution of medicines, pharmaceutical equipment and

supplies, but is also concerned at their potential negative impact on United Nations and other operations and programs in the country.”

Human Rights Watch found that current economic sanctions, despite the humanitarian exemptions, are causing unnecessary suffering to Iranian citizens afflicted with a range of diseases and medical conditions. Some of the worst-affected are Iranians with rare diseases and/or conditions that require specialized treatment who are unable to acquire previously available medicines or supplies. This includes people with leukemia, epidermolysis bullosa (EB, a type of disease that causes fragile, blistering skin), or epilepsy, and individuals with chronic eye injuries from exposure to chemical weapons during the Iran-Iraq war.

The consequences for these individuals can be catastrophic: people with severe forms of EB are now unable to access specialized bandages and are at significantly increased risk for bacterial infections, sepsis, fusion of fingers, and contractures of joints. Individuals with epilepsy who are resistant to common treatments and unable to access foreign-made medicines may suffer frequent, uncontrolled seizures that risk injury and result over time in severe, permanent brain damage. Shortages of essential medicines can affect a much broader range of patients as well. For example, an Iranian journalist has reported on severe complications after a Caesarean section believed to be related to the use of a “non-standard” anesthesia medicine because of lack of access to higher quality medication.

The abusive consequences of secondary sanctions, demonstrated by research conducted by Siamak Namazi, an Iranian-American analyst, on the sanctions regime during the Obama Administration prior to the JCPOA, have inevitably recurred with the re-imposition of sanctions by the Trump administration. But the difference now with the Trump Administration’s Iran sanctions is “that the US has re-imposed the sanctions it lifted pursuant to the nuclear deal and it has layered on many more, including doing things like designating some Iranian financial institutions not previously designated and that were previously used to facilitate food, medicine and medical imports,” Elizabeth Rosenberg, a former US Treasury Department sanctions official, told NPR. As Rosenberg pointed out, “most of the big Iranian banks are designated” – i.e., under sanction – and smaller banks “may have less capacity to handle cross-border financial transactions.” Iran is currently able to conduct business through a very limited number of banks and financial institutions closely affiliated with countries that had initially received waivers from the US to continue

purchasing Iran's oil, notably China, India and Turkey. These banks used Iran's oil revenues, held in escrow accounts, to execute financial transactions for imports of medicine and other items prioritized by the Iranian government as essential goods.

Moreover, the tone of US government officials in public and private concerning economic transactions with Iranian institutions has contributed to companies and banks' hesitation to engage in trade with Iran. For instance, Richard Grenell, the US Ambassador to Germany, told a German paper on May 6, 2019 that, "You can do as much business as you want in Iran, but we have a say with regards to your visa." "Because if you do something, we're not going to agree to let you enter our country," he added.

Excessive caution or "overcompliance" by banks and pharmaceutical companies wary of falling afoul of US sanctions is a significant factor in limiting Iran's access to funds for imports of medicines and medical equipment. As former French ambassador to Washington Gérard Araud told a Hudson Institute gathering in October 2018, "the fact is that banks are so terrified by the sanctions that they don't want anything to do with Iran." In the case of the specialized bandages needed for patients with epidermolysis bullosa, Human Rights Watch found evidence that a European company refused to sell the bandages as a result of sanctions despite the humanitarian exemption. In two other instances, Human Rights Watch reviewed correspondence from banks refusing to authorize humanitarian transactions with Iran after the imposition of sanctions.

This fear has even caused problems for humanitarian actors supporting thousands of Afghan refugees in Iran. The Norwegian Refugee Council (NRC) is the largest of five international NGOs working in Iran, where they have implemented programs in areas like education for over seven years. However, they are now facing similar hurdles financing their operations due to sanctions. "We have now, for a full year, tried to find banks that are able and willing to transfer money from donors [for our humanitarian operations]," said NRC head Jan Egeland in August 2019, "but we are hitting a brick wall on every side. Norwegian and other international banks are afraid of US sanctions to transfer the money that governments have given for our vital aid work."

According to individuals familiar with international humanitarian trade with Iran, the broad restrictions on financing of Iran-related trade have forced Iranian pharmaceutical companies to reroute even transactions that are fully authorized under US sanctions law

through the hawala system, an informal remittance network that relies on existing family or other relationships of trust to make payments without transferring money. But, use of the hawala system often results in increased transaction costs and is difficult to use due to Iranian government health regulations, doctors and importers say. This has led importers to choose alternative pharmaceuticals and equipment of lower quality. In interviews with Human Rights Watch, as well as in posts on social media, patients reported suffering from serious side-effects when they had to choose medical alternatives after they either could not find or could not afford their usual medication in the market. Human Rights Watch is not able to independently verify the reported medical side effects resulting from the use of lower quality medicine or medical equipment.

The Trump administration's broad use of "terrorist" designations further threatens humanitarian trade with Iran. The US has failed to clarify its April 15 designation of the Islamic Revolutionary Guard Corps (IRGC), a formal part of Iran's military force, as a Foreign Terrorist Organization (FTO), which could impact up to 11 million Iranians. Even though medicines are exempted from sanctions, "they do become prohibited if they are found to be going to a designated actor or entity," Richard Nephew, a former State Department office, told the BBC. Referring to such a designation, Jan Egeland from NRC told the audience in a conference on humanitarian aid that while governments in Washington, London, and Bern may not intend to sabotage his organization's work with refugees, "no one is able to tell me that if you do [your operation] this way, [neither] you nor your staff will be in violations of our rules."

The Trump administration's September 20, 2019 decision to impose further sanctions on Iran's Central Bank under its "counterterrorism authority" severely restricts the last remaining Iranian financial institution able to engage in foreign exchange transactions involving humanitarian imports, rendering the "humanitarian exemption" meaningless. According to Brian O'Toole, a former senior advisor to the director of OFAC, its impact "will be to further impair the delivery of food and medicine to the Iranian people." On October 14, a representative of Iran's drug importers association told Iranian media that after the US declared these sanctions, South Korean banks have suspended their relations with Iran.

On October 25, 2019, the US Departments of the Treasury and State announced a further escalation of US financial sanctions against Iran by the Financial Crimes Enforcement

Network (FinCEN) bureau of the Treasury department, while at the same time announcing a new mechanism to “increase transparency of permissible trade” with Iran. The FinCEN action is aimed at depriving the Iranian government the ability to use “so-called humanitarian trade to evade sanctions and fund its malign activity” by designating Iran as a “jurisdiction of primary money laundering concern under Section 311 of the USA PATRIOT Act.” This designation is known colloquially as the “financial death penalty” because of the severe restrictions it places on a country’s financial institutions.

At the same time, the Treasury and State Departments also appeared to acknowledge the need to mitigate the consequences of the September 2019 US sanctions designation of the Central Bank of Iran (CBI) by jointly offering a humanitarian “mechanism” for humanitarian transactions in exchange for a commitment by companies and banks to conduct “enhanced due diligence.” The requirement for enhanced due diligence includes information about customers, including the identities of all consignees and intermediaries involved in the transactions, as well as 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. Moreover, the entity hoping to use the mechanism should provide 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. It is, however, not clear from the guidance if complying with these burdensome requirements would be feasible for companies and whether it will supersede the prohibition on any trade, including humanitarian trade, with designated entities under terrorism provisions.

The impact of these parallel policy pronouncements remains to be seen. To many close observers of US sanctions policy, the humanitarian mechanism appeared unlikely to actually increase humanitarian exports to Iran. Instead, the combination of onerous requirements and a thinly veiled intelligence gathering function appeared aimed at garnering publicity rather than realistically confronting the humanitarian problems caused by US sanctions against Iran.

For example, a sanction lawyer familiar with the issue told Human Rights Watch that the requirement for foreign banks to provide far-reaching monthly reports to the US Treasury

department with respect to any humanitarian transactions involving Iran in exchange for comfort letters from OFAC as to their sanctions exposure is a “new bureaucratic hurdle for humanitarian trade with Iran.”

Two former US and Treasury department officials with close knowledge of the US sanctions regime on Iran also reacted to this announcement by expressing skepticism about its effects. Brian O’Toole reacted to the announcement on Twitter by writing, “This does not help, and in fact probably makes the situation worse.” Richard Nephew also tweeted that “in the context of the 311 finding [USA Patriot Act money laundering provision] 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 U.S. sanctions. For those of us seeking a real channel, this ain't it.”

A country or coalition of states enforcing economic sanctions should consider the impact on the human rights of the affected population, especially regarding their access to goods essential to life, including medicines and food. Open-ended and comprehensive sanctions such as those that the Trump administration has imposed on Iran have negatively impacted the humanitarian needs and the enjoyment of human rights of Iran’s general population. Human Rights Watch opposes sanctions that have a disproportionately negative impact on the enjoyment of human rights by civilian populations, or create unnecessary suffering, in particular for vulnerable populations.

The harmful effect of US sanctions on Iranians’ access to food and medicine should not be a surprise in light of similar effects observed in other sanctions regimes. The multilateral sanctions on Iraq in the 1990s, for example, notoriously decimated the Iraqi economy and “had a detrimental effect on the health of the population,” according to several health researchers.

The US government should take immediate steps to ensure humanitarian exemptions are effective in facilitating Iranians’ access to medicine and medical equipment. Most importantly, the US government should publicly clarify at the highest level that banks and companies face no legal or financial risks in exporting or financing exempted humanitarian goods to Iran. On August 6, 2019, OFAC issued “Guidance Related to the Provision of Humanitarian Assistance and Support to the Venezuelan People,” stating that OFAC “is committed to ensuring that humanitarian support can flow” to Venezuela and

“encourag[ing] US persons to avail themselves to these authorizations,” including remittances. OFAC should issue an equivalent public “guidance” for Iran and adopt it as policy.

The imposition of sanctions does not diminish the human rights obligations of the targeted state. The Iranian government needs to take steps "to the maximum of its available resources" to provide the greatest possible protection for the rights of each individual within its jurisdiction. While sanctions inevitably diminish Iran’s capacity to meet the needs of its residents, the government is obligated to ensure that citizens and residents can enjoy their right to health without discrimination and should take all possible measures, including negotiations with other states, to reduce to a minimum the negative impact of sanctions on vulnerable groups. This includes the government’s obligation to prevent corruption and misuse of resources. In order to reduce obstacles to other states’ establishing humanitarian trade mechanisms with Iranian financial institutions, Iran should also ratify UN counterterrorism financial transparency initiatives.

Recommendations

To the US Government

- Publicly clarify at the highest level that banks or companies face no legal or financial risks in exporting or financing exempted humanitarian goods to Iran.
- Establish a mechanism to expedite financing of humanitarian exports to Iran.
- Encourage other states to establish mechanisms for financing humanitarian imports to Iran, such as the INSTEX mechanism proposed by several European states.
- The US should initiate diplomatic efforts, including direct talks with Iran, to ensure that humanitarian channels remain open for Iran to import essential medicine and medical equipment in order to safeguard Iranians' right to health.

To the US Treasury Department, Office of Foreign Assets Control

- Establish a due diligence assistance program for companies wanting to export humanitarian goods to Iran
- Authorize a financial channel for humanitarian trade, either directly or through governments that have expressed interest, such as the Swiss government.
- Issue clear guidance regarding protection of humanitarian trade with Iran in light of the US designation of the Central Bank of Iran (CBI) as a Specially Designated National (SDN).
- Publish the list of licenses granted for humanitarian trade and other steps taken to address the humanitarian need of Iranians since August 2018 and going forward publish monthly information on humanitarian trade licenses.
- Dedicate resources for direct outreach to companies and financial institutions to clarify humanitarian exemptions.
- Publicly clarify that US and non-US banks and companies face no legal risks if transactions with Iran involve only exempted humanitarian goods.
- Put in place and make public humanitarian exemption provisions for the Central Bank of Iran and other Iranian banks involved in financing imports of medicines and other humanitarian goods.

To the US State Department

- Clarify and issue guidance regarding the implications for humanitarian trade of the State Department's designation of Iran's Islamic Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization and issue clear guidance regarding the continued facilitation of humanitarian trade.
- Appoint a designated staff with authority to ensure continuation of humanitarian trade with Iran.

To the US Congress

- Request the Government Accountability Office to conduct a study on the impact of the United States government's economic sanctions on the humanitarian situation in Iran.
- Pass legislation obligating the US Treasury Department to establish a mechanism to finance humanitarian exports to Iran.
- Pass legislation requiring the US Treasury Department to put in place humanitarian exemption provisions for the Central Bank of Iran and other Iranian banks involved in financing imports of medicines and other humanitarian goods.
- Request OFAC to publish the list of licenses granted for humanitarian trade and other steps taken to address the humanitarian needs of Iranians since August 2018 and publish monthly information about licenses and exemptions issued for humanitarian trade and any other steps taken to mitigate the negative impact of sanctions on Iranians' right to health.
- Hold public hearings on the impact of US sanctions on the impact of sanctions on the health of Iranians and their access to medicines.

To the European Union and Member States

- Operationalize a viable trade exchange mechanism to support humanitarian trade with Iran.
- Press the US government to create or support the creation of a viable channel of financial transactions for humanitarian trade.

To the Iranian Government

- Prioritize allocations of resources for imports of medicine, raw materials for production of medicine, and medical equipment.
- Improve programs providing safety nets for Iran's most marginalized populations, including people with disabilities.
- Combat corruption and misuse of public funds in accordance with international human rights standards.
- Take all possible measures, including negotiations with other states and ratification of counterterrorism financial transparency initiatives such as the Financial Action Task Force (FATF), to reduce obstacles to other states' establishing humanitarian trade mechanisms.
- Allow independent international organizations access to Iran to conduct research on key health and human rights concerns including thorough follow-up assessments of the impact of sanctions on the Iranian population.

Methodology

The Iranian government has rarely allowed international human rights organizations such as Human Rights Watch to enter the country to conduct independent investigations. Iranian citizens are often wary of carrying out extended conversations on human rights issues via telephone or email, fearing government surveillance that is widespread across social media platforms such as Facebook, Twitter, and the Telegram messaging application. Authorities often accuse critics inside Iran, including human rights activists, of being agents of foreign states or entities and prosecute them under vaguely-defined national security charges in the country's penal code.

During several meetings with Iranian officials in New York as well as through an official letter on April 25, 2019, Human Rights Watch requested permission to travel to Iran to conduct this research. Iranian authorities did not respond to Human Rights Watch's request to visit Iran or subsequent requests for information.

Between November 2018 and October 2019, Human Rights Watch interviewed six Iranian medical professionals, four former or current employees of Iranian and international pharmaceutical companies, two importers of medicines, two lawyers and four trade specialists familiar with humanitarian trade with Iran, three NGO workers with firsthand knowledge about the challenges of humanitarian operations in Iran, two experts on international sanctions law, and four other experts on US government policymaking on Iran and US sanctions policy. Some of the interviewees live in Iran, and many of those interviewed either previously lived in Iran and/or continue to travel to Iran but reside outside the country. Human Rights Watch interviewed US government policy experts with direct or indirect experience of working on Iran issues. A Human Rights Watch researcher also corresponded with several Iranians who had commented on social media about the inaccessibility of needed medicine for themselves or their family members.

Human Rights Watch reached out to 27 pharmaceutical and medical equipment companies that have sold products in the Iranian market, requesting information on the impact of re-imposed sanctions on their exports to the Iranian market. At the time of publication, three companies had declined to provide any information while the others failed to respond altogether. A copy of the letter sent to these companies is available in Appendix I.

All interviewees were informed of the purpose of the interview and the ways in which the information would be used, and when requested they were given assurances of anonymity. This report uses pseudonyms for all interviewees and withholds other identifying information for individuals and companies to protect their privacy and security. None of the interviewees received financial compensation or other incentives for speaking with Human Rights Watch.

Human Rights Watch relied on available Iranian and US government official statements and analyzed economic and trade data produced by Iran's Central Bank, Iran's Food and Drug Administration (Sazman-e-Ghaza-va-Daroo), and Eurostat, the statistical office of the European Union based in Luxembourg.

On May 30, 2019, Human Rights Watch wrote to the US Treasury Department's Office of Foreign Assets Control (OFAC) requesting clarification on steps the US has taken to mitigate the harm of US sanctions to the Iranian people. The office acknowledged receipt of the letter, but as of time of publishing has not responded. A copy of the original correspondence is available in Appendix II. On October 16, 2019, Human Rights also wrote a similar letter to the Deputy Assistant Secretary for Counter Threat Finance and Sanctions at the Bureau of Economic and Business Affairs of the US State Department. A copy of this letter is available in Appendix III. Additionally, Human Rights Watch wrote to Iranian Foreign Minister Dr. Mohammad Javad Zarif; a copy of the letter is available in Appendix IV.

I. Timeline of US Economic Sanctions on Iran

US economic sanctions on Iran go back to the early years of US relations with the Islamic Republic, dating back to the embassy hostage crisis of 1979-81. Washington designated Iran a “state sponsor of terrorism” after the October 1983 bombing of the US Marine barracks in Beirut, banning US sales of weapons and dual-use items, as well as financial assistance, to countries that provide military goods to Iran. Various US laws and executive orders bar conventional arms transfers and transfers of technology that could have military applications, or ban transactions with Iranian entities alleged to support terrorist groups. These sanctions were not suspended by the JCPOA.¹ In addition, the United States has imposed sanctions on designated individuals and institutions for various purposes, including human rights abuses, that were not suspended under the JCPOA. Finally, entities seen as violating US sanctions by exporting to Iran or conducting financial transactions with Iran themselves risk being subject to so-called secondary sanctions.

In 1995, the Clinton administration banned US trade with and investments in Iran, and in 1997 prohibited US exports to other countries that would be incorporated into products imported by Iran. The 1996 Iran and Libya Sanctions Act authorized penalties against firms of other countries involved in Iran’s petroleum sector.² In 2012, the Iran Threat Reduction and Syria Human Rights Act, as well as Executive Order 13622, extended these restrictions to oil purchases from Iran, oil-export related insurance, and financial transactions involving the US financial system. Congress added provisions to the National Defense Authorization Act for the 2012 fiscal year that penalized foreign banks conducting a “significant financial transaction” with the Central Bank of Iran or any Iranian bank under US sanctions.³ Since the US dollar is the prevailing international currency, these sanctions impaired Iran’s ability to repatriate hard currency. A 2013 executive order extended sanctions to Iran’s automotive sector.

¹ Unless otherwise noted, for details in this and following paragraphs see Congressional Research Service, “Iran Sanctions” [updated April 22, 2019] <https://fas.org/sgp/crs/mideast/RS20871.pdf> (accessed July 3, 2019). Another useful resource is International Crisis Group, “Spider Web: The Making and Unmaking of Iran Sanctions,” February 25, 2013, <https://www.crisisgroup.org/middle-east-north-africa/gulf-and-arabian-peninsula/iran/138-spider-web-making-and-unmaking-iran-sanctions> (accessed July 2, 2019).

² It became the Iran Sanctions Act after Libya was dropped in 2006.

³ In November 2008, “the Department of the Treasury broadened restrictions on Iran’s access to the US financial system by barring US banks from handling any transactions with foreign banks” that are “on behalf of an Iranian bank.” (CRS p. 30)

Following the passage of UN Security Council Resolution 1929 (June 2010), dealing with Iranian nuclear activities, the European Union imposed sanctions “nearly as extensive” as those of the United States.⁴ The EU suspended these sanctions as part of the JCPOA in 2016 and as of this writing they remain suspended.

The US Treasury Department’s Office of Foreign Assets Control (OFAC) has issued general licenses that permit the export to Iran of “certain food items, medicines, and basic medical supplies to Iran” without requiring further specific authorization.⁵ These provisions also authorize financial transactions to support Iranian imports of these categories of goods from the United States or from a third country. General licenses, however, are capped at \$500,000. According to the guidance OFAC issued on July 25, 2013, “the financing or facilitation of such sales by non-U.S. persons 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.”⁶

The definition of drugs under US export regulations includes prescription and over-the-counter medicines and medical devices, but certain vaccines, biological and chemical products, and medical devices (including medical supplies, instruments, equipment, equipped ambulances, institutional washing machines for sterilization, and vehicles carrying medical testing equipment) are not covered under the general license issued for humanitarian trade. Potential dual use of these substances and items in other industries such as manufacturing of weapons is the stated reason for this exclusion.

In July 2015, the UN Security Council endorsed the JCPOA and terminated the nuclear-related sanctions.⁷ In January 2016, under the terms of the JCPOA, the EU lifted all nuclear-related economic and financial sanctions on Iran. The US loosened restrictions to allow US imports of luxury goods from Iran such as carpets, but the ban on general trade, including oil, remained in place. Most significantly, the JCPOA waivers allowed foreign subsidiaries of US firms to engage in non-military trade with Iran, and the US Treasury Department

⁴ CRS p. 47.

⁵ See Specific Guidance on the Iran Sanctions, US Department of Treasury Resource Center, <https://www.treasury.gov/resource-center/sanctions/programs/pages/iran.aspx>.

⁶ Guidance on the Sale of Food, Agricultural Commodities, Medicine, and Medical Devices by Non-U.S. Persons to Iran, Department of Treasury, July 25, 2015, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/iran_guidance_med.pdf.

⁷ UNSC Resolution 2231 (2015), [https://undocs.org/S/RES/2231\(2015\)](https://undocs.org/S/RES/2231(2015)).

suspended its earlier efforts to convince foreign banks to refrain from financial transactions with Iranian banks.

Iranian oil exports subsequently resumed nearly to 2011 levels, but international banks “were slow to reenter the Iran market” owing to uncertainty about restrictions under non-nuclear sanctions unaffected by the JCPOA suspensions. Those banks that did re-enter have largely scaled back their Iran transactions since the US withdrawal from the JCPOA.⁸

President Trump’s May 8, 2018 announcement of the US withdrawal from the JCPOA set in motion 90-day and 120-day “wind-down periods” for US sanctions that had been lifted.⁹ On August 7, 2018, at the end of the 90-day “wind-down period,” the administration re-imposed sanctions on Iran’s automotive sector, trade in gold and precious metals, and US imports of Iranian luxury goods.¹⁰

On October 3, 2018, in a dispute concerning a 1955 treaty between Iran and the US on economic relations and consular rights, the International Court of Justice (ICJ), in response to an Iranian complaint, decided in an interim ruling that the United States should, as a provisional measure, “remove...any impediments arising from the measures announced on 8 May 2018” to exports to Iran of “medicines and medical devices, foodstuffs and agricultural commodities,” and spare parts and equipment necessary for the safety of civil aviation.¹¹ The ruling also determined that the United States should ensure that “payments and transfers of funds [for these goods and services] are not subject to any restriction.”¹²

The Court explained its ruling by saying “restrictions on the importation and purchase of goods required for humanitarian needs, such as foodstuffs and medicines, including life-saving medicines, treatment for chronic disease or preventive care, and medical

⁸ CRS p. 64.

⁹ President Donald J. Trump is Ending United States Participation in an Unacceptable Iran Deal, White House, May 8, 2019, <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-ending-united-states-participation-unacceptable-iran-deal/> (accessed August 11, 2019).

¹⁰ Executive Order 13846 of August 6, 2018 Reimposing Certain Sanctions with Respect to Iran, Federal Register Vol. 83, No. 152, August 7, 2018, https://www.treasury.gov/resource-center/sanctions/Programs/Documents/o8062018_iran_eo.pdf

¹¹ Alleged Violations of 1955 Treaty of Amenity, Economic Relations, and Consular Rights (Islamic Republic of Iran V. United States), Press Release, International Court of Justice, October 3, 2018, <https://www.icj-cij.org/files/case-related/175/175-20181003-PRE-01-00-EN.pdf>

¹² Alleged Violations of 1955 Treaty of Amenity, Economic Relations, and Consular Rights (Islamic Republic of Iran V. United States), Order, October 3, 2018, Conclusions and Measures to be Adopted, pp. 26-28. <https://www.icj-cij.org/files/case-related/175/175-20181003-ORD-01-00-EN.pdf>

equipment, may have a serious detrimental impact on the health and lives of individuals on the territory of Iran.”¹³

The US responded to the ICJ ruling the same day by pulling out of the treaty.¹⁴

Over the past year, the United States has imposed several other non-nuclear sanctions on Iran, designating a total of 1,000 persons and entities since the beginning of the Trump administration.¹⁵ For example, on October 16, 2018, in a move ostensibly unrelated to the nuclear-related sanctions, the US Treasury Department designated the Basij Cooperative Foundation, a network of some 20 firms and financial institutions, as Specially Designated Global Terrorists (SDGTs) subject to sanctions for, “among other malign activities,” supporting a paramilitary force that recruits child soldiers.¹⁶

On November 5, 2018, at the end of the 120-day “wind-down period,” remaining US nuclear-related sanctions, including petroleum-related transactions as well as transactions by foreign financial institutions with the Central Bank of Iran or “re-listed” Iranian banks, went back into force. Media reports indicated that after November 2018, companies halted food, medical, or agricultural trade with Iran because banks would not facilitate even authorized transactions for Iranian clients.¹⁷ The administration did issue six-month waivers allowing nine countries to continue purchasing Iranian oil – India, China, Turkey, Greece, Italy, Japan, South Korea, Taiwan and Iraq. With the exception of Iraq, those waivers were not renewed when they expired in May 2019.

¹³ Ibid.

¹⁴ US Withdraws from 1955 Treaty Normalizing Relations with Iran, The New York Times, October 3, 2018, <https://www.nytimes.com/2018/10/03/world/middleeast/us-withdraws-treaty-iran.html>.

¹⁵ Press Briefing with Brian Hook, U.S. Special Representative for Iran, and Victoria Coates, Senior Director for Middle Eastern Affairs, NSC, May 8, 2019. <https://www.state.gov/press-briefing-with-brian-hook-u-s-special-representative-for-iran-and-senior-policy-advisor-to-the-secretary-of-state-and-victoria-coates-deputy-assistant-to-the-president-senior-director-for-midd/>.

¹⁶ Treasury Sanctions Vast Financial Network Supporting Iranian Paramilitary Force That Recruits and Trains Child Soldiers, Press Release, US Department of Treasury, October 16, 2018, <https://home.treasury.gov/news/press-releases/sm524>. Specially Designated Global Terrorists (SDGTs) are entities designated under Executive Order 13224 (signed by President George W. Bush on 9/23/2001) and are a subset of SDNs (Specially Designated Nationals). OFAC takes the position that even humanitarian transactions are sanctionable if they “involve persons on the SDN List that have been designated in connection with Iran’s support for international terrorism or proliferation of weapons of mass destruction,” see FAQ #637, persons designated as SDNs under EO 13224, Treasury Resource Center. https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_iran.aspx#eo_reimposing.

¹⁷ Jonathan Saul, Parisa Hafezi, Exclusive: Global traders halt new Iran food deals as U.S. sanctions bite, Reuters, December 21, 2018, <https://www.reuters.com/article/us-iran-nuclear-food-exclusive/exclusive-global-traders-halt-new-iran-food-deals-as-u-s-sanctions-bite-sources-idUSKCN1OK10R>.

On April 15, 2019 the US State Department designated the Islamic Revolutionary Guard Corps (IRGC), a formal part of Iran’s military force, as a Foreign Terrorist Organization (FTO).¹⁸ As a consequence of this designation, “it is unlawful for a person in the United States or subject to the jurisdiction of the United States to knowingly provide material support or resources to a designated FTO.”¹⁹ The administration provided no guidance on the scope of this broad designation, which potentially covers up to 11 million members of the IRGC and affiliate organizations.²⁰ Richard Nephew, who worked on implementing Iran sanctions under the Obama administration, told the BBC that while the sanctions do not apply to medicines, “they do become prohibited if they are found to be going to a designated actor or entity.”²¹

On May 8, 2019 the Trump administration announced sanctions against Iran’s industrial metals sector, representing an additional 10 percent of export revenues.²² On May 23, India and Turkey announced separately that they had stopped purchasing Iranian oil as a result of the end of US waivers. Banks in both countries had played an important role in facilitating transactions for pharmaceuticals, experts told Human Rights Watch.²³

Chinese officials have publicly opposed “unilateral” sanctions on Iran, and as of late July China was continuing to import Iranian crude oil and LPG.²⁴ On July 22 the United States

18 Statement from the President on the Designation of the Islamic Revolutionary Guard Corps as a Foreign Terrorist Organization, Press Release, April 8, 2019, <https://www.whitehouse.gov/briefings-statements/statement-president-designation-islamic-revolutionary-guard-corps-foreign-terrorist-organization/>, Designation of the Islamic Revolutionary Guard Corps, Office of the Spokesperson, Department of State, <https://www.state.gov/designation-of-the-islamic-revolutionary-guard-corps/>, April 8, 2019, <https://www.state.gov/designation-of-the-islamic-revolutionary-guard-corps/>.

19 Foreign Terrorist Organization (FTO), Congressional Research Service, January 15, 2019. <https://fas.org/sgp/crs/terror/IF10613.pdf>.

20 Edward Wong and Eric Schmitt, Trump Designates Iran’s Revolutionary Guards a Foreign Terrorist Group, The New York Times, April 8, 2019, <https://www.nytimes.com/2019/04/08/world/middleeast/trump-iran-revolutionary-guard-corps.html>.

21 Anahita Shams & Reality Check team, “Iran sanctions: What impact are they having on medicines?” BBC News, August 8, 2019, <https://www.bbc.com/news/world-middle-east-49051782> (accessed September 27, 2019).

22 Humeyra Pamuk, Jonathan Landay, Trump slaps new U.S. sanctions on Iran’s metals industry, Reuters, <https://www.reuters.com/article/us-usa-iran-sanctions/trump-slaps-new-us-sanctions-on-irans-metals-industry-idUSKCN1SE1SL>, May 8, 2019.

23 Human Rights Watch Interviews with 2 importers of medicine and a doctor who is the head of a medical hospital in Tehran May 2019.

24 China continued Iran oil imports in July in teeth of U.S. sanctions, Reuters, August 9, 2019, <https://www.reuters.com/article/us-china-iran-oil/china-continued-iran-oil-imports-in-july-in-teeth-of-u-s-sanctions-analysts-idUSKCN1UY11S> (accessed August 11, 2019).

imposed sanctions on a Chinese company and a top executive for transporting Iranian oil.²⁵

After a Gibraltar court released a seized Iranian oil tanker in August 2019, Brian Hook, the US Secretary of State's Special Representative for Iran, announced that "the US would offer rewards of up to \$15 million for information that disrupts the financial operations of the IRGC and its foreign arm, the Quds Force, encouraging the maritime community to provide the US government with information on illicit Iranian oil transfers."²⁶

On September 20, 2019, in response to an attack on Saudi Arabian oil installations which the US government attributed to Iran, the US Treasury "under its counterterrorism authority" imposed further sanctions on the Central Bank of Iran (CBI).²⁷ "From here on out," wrote former OFAC official Brian O'Toole, "any humanitarian trade with Iran cannot involve the CBI, which is a major impediment to such trade given the CBI's role in the economy and in foreign exchange markets."²⁸

OFAC has not published the number of licenses issued for humanitarian trade with Iran after the re-imposition of sanctions in November 2018. Publicly available data shows that during the period between October 2014 and September 2016, out of 1,595 applications filed by US entities for a license for humanitarian trade with Iran, OFAC issued 556 specific licenses. Out of the 1,595 requests filed, 108 applications (28 granted) were for export of medicine and 1,246 (499 granted) were for medical equipment.²⁹ An October 2019 study conducted by the US Government Accountability Office (GAO) on the effectiveness of sanctions as a policy tool acknowledged that sanctions may also have unintended

²⁵ U.S. Punishes Chinese Company Over Iranian Oil, New York Times, July 22, 2019, <https://www.nytimes.com/2019/07/22/world/asia/sanctions-china-iran-oil.html> (accessed August 11, 2019).

²⁶ Special Briefing with Special Representative for Iran and Senior Advisor to the Secretary Brian Hook, September 4, 2019, <https://www.state.gov/special-representative-for-iran-and-senior-advisor-to-the-secretary-brian-hook/>.

²⁷ "Treasury Sanctions Iran's Central Bank and National Development Fund," US Treasury press release, September 20, 2019, <https://home.treasury.gov/news/press-releases/sm780>, (accessed September 25, 2019).

²⁸ Brian O'Toole, "Iran central bank designation – what does it mean?" Atlantic Council, September 20, 2019 <https://atlanticcouncil.org/blogs/new-atlanticist/iranian-central-bank-designation-what-does-it-mean/>, (accessed September 25, 2019).

²⁹ Office of Foreign Assets Control Biennial Report of Licensing Activities Pursuant to the Trade Sanction Reform and Export Enhancement Act of 2000, Department of Treasury, August 19, 2019, <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/8biennial.pdf> (accessed October 7, 2019).

consequences for targeted countries, such as negative impacts on human rights or public health.³⁰

³⁰ Agencies Assess Impacts on Targets, and Studies Suggest Several Factors Contribute to Sanctions' Effectiveness, Report to Congressional Requesters, United States Government Accountability Office, October 2, 2019, <https://www.gao.gov/assets/710/701891.pdf>, (accessed October 10, 2019).

II. Iran's Medical Market and Responses to Facilitate Medical Imports

According to the head of Iran's Drug and Food Organization (Sazman-e-Ghaza-va-Daroo), the country produces 97 percent of the medicines consumed in Iran.³¹ However, this statistic obfuscates the serious risk external sanctions pose in restricting access essential medicine and medical treatment. A third of the medications produced in Iran are actually dependent on imported materials, and imported medicine, while only three percent of the total market, constituted roughly 30 percent of the value of Iran's medical market in the period between March and November 2018.³² Significantly, the majority of these imported medicines are those required for treating rare diseases, as well as multiple forms of cancer.

Several experts on Iran's pharmaceutical market emphasized to Human Rights Watch the critical nature of ensuring Iran's ability to acquire imported medicines, as Iranian patients suffering from complicated and rare diseases are dependent on them and have limited or no alternatives. Analyzing the list of imported medicines during the period between March and November 2018 published by Iran's Food and Drug Administration, Human Rights Watch identified at least 240 imported drugs (of 433 total) on the World Health Organization's (WHO) list of essential medicines.³³

Iran's market for medical equipment is even more dependent on imports. According to the head of the Medical Equipment office in the Ministry of Health, 70 percent of the country's medical equipment is imported.³⁴ Imported equipment include electronic devices such

³¹ "97% of Medicine Needed in the Country is Produced Domestically/ We Don't Have Import of Radioactive Medicine," Young Journalists Club, November 20, 2018 <https://www.yjc.ir/ooSGFz> (accessed August 9, 2019).

³² Import of Raw Material for Medicine Reduced to 33 Percent, Iranian Student News Agency (ISNA), November 7, 2018, <https://www.isna.ir/news/97081607749/> (accessed August 9, 2019).

³³ For the WHO Model List of Essential Medicines see: World Health Organization, Model List of Essential Medicine, 21st list, 2019, <https://apps.who.int/iris/bitstream/handle/10665/325771/WHO-MVP-EMP-IAU-2019.06-eng.pdf?ua=1> (accessed August, 9, 2019).

³⁴ "We Have about 1000 Producers of Medical Equipment in the Country," National Medical Device Directorate, June 23, 2019, <http://www.imed.ir/Default.aspx?PageName=News&ID=2961&Language=1&title=%D8%AD%D8%AF%D9%88%D8%AF%D9%87%D8%B2%D8%A7%D8%B1-%D8%AA%D9%88%D9%84%DB%8C%D8%AF%DA%A9%D9%86%D9%86%D8%AF%D9%87-%D8%AA%D8%AC%D9%87%DB%8C%D8%B2%D8%A7%D8%AA-%D9%BE%D8%B2%D8%B4%DA%A9%DB%8C->

Iran's policies to mitigate the effects of sanctions on its citizens have been accompanied by allegations of government corruption.⁴⁵ Iranian media outlets have reported alleged misallocation and misuse of government-subsidized dollars by Iranian corporate elites.⁴⁶ Thirteen petrochemical industry executives are currently on trial for allegedly embezzling revenues from shell companies they had set up to circumvent pre-JCPOA sanctions.⁴⁷

⁴⁵ Lawmaker Says Sanction-Busting Corruption Is Part of Iran's Economic Structure, Radio Farda, May 11, 2019, <https://en.radiofarda.com/a/lawmaker-says-sanction-busting-corruption-is-part-of-iran-s-economic-structure/29935031.html> (accessed August 11, 2019).

⁴⁶ Mohammad Mosaed, 3 Billion Euros for Two Famous Families, Shargh Daily Paper, May 7, 2019, <http://www.sharghdaily.ir/fa/Main/Detail/220301> (accessed August 11, 2019).

⁴⁷ Golnar Motevalli, Iran Court Tries 13 in \$7 Billion Petrochemical Fraud Case: Mehr, Bloomberg News, March 5, 2019, <https://www.bloomberg.com/news/articles/2019-03-09/iran-court-tries-13-in-7-billion-petrochemical-fraud-case-mehr> (accessed August 13, 2019).

III. US Sanctions Restricting Financing of Iranian Humanitarian Imports

Iranian trade analysts and pharmaceutical industry professionals interviewed for this report told Human Rights Watch that the main obstacle to Iran's importing humanitarian materials officially exempted from US sanctions is that US sanctions themselves are restricting the means to finance these purchases.⁴⁸ Banks and financial institutions in other countries appear to be concerned about the risk of authorizing any business with Iran for fear of themselves incurring US sanctions, despite exemptions for humanitarian trade, a problem of excessive caution or "overcompliance" similar to the earlier period of US sanctions prior to the JCPOA.⁴⁹

During that earlier period when the US and other states imposed extensive sanctions on Iran, researchers noted widespread disruption in distribution and lack of access to vital medicine for Iranian patients with different types of cancers and blood disorders, including hemophilia.⁵⁰

Overcompliance is not limited to US banks and financial institutions. European banks have also refused to authorize transactions with Iranian companies since the Trump administration's re-imposition of sanctions, several experts told Human Rights Watch.⁵¹ "In the UK, for any transaction with Iranian companies, even the humanitarian ones that are exempted from sanction, I have to get involved in litigation on behalf of my clients who want to do business with Iran," a sanctions lawyer who has represented European

⁴⁸ For a good overview of humanitarian financing issues under sanctions, see Tayler Cullis and Amir Handjani, "The Anatomy of Humanitarian Trade with Iran," Lawfare Blog, <https://www.lawfareblog.com/anatomy-humanitarian-trade-iran> (accessed July 25, 2019).

⁴⁹ Siamak Namazi, Sanctions and Medical Shortage in Iran, Woodrow Wilson Center, February 2013, https://www.wilsoncenter.org/sites/default/files/sanctions_medical_supply_shortages_in_iran.pdf

⁵⁰ For a more comprehensive overview of the impact sanctions on health during prior to the 2015 nuclear agreement see Setayesh and Mackey, "Addressing the Impact of Economic Sanctions on Iranian Drug Shortages in the Joint Comprehensive Plan of Action: Promoting Access to Medicines and Health Diplomacy.," *Globalization and Health* (volume 12), Article number: 31 (2016), <https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-016-0168-6>, (accessed August 22, 2019). Shahabi, et al. The impact of international economic sanctions on Iranian cancer healthcare, *Health Policy*, Volume 119, Issue 10, October 2015, Pages 1309-1318, <https://doi.org/10.1016/j.healthpol.2015.08.012> (accessed August 22, 2019).

⁵¹ A UK-based business analyst November 2018, Nina (pseudonym), a UK-based sanctions lawyer, June 2019, Sayeh (pseudonym), employee of a Lebanese food and medical raw material company in Tehran May 2019.

companies trading with Iran explained. “Often when we threaten the bank with a lawsuit, the transaction moves forward, but sometimes we have to start the pre-litigation process. This process is time consuming and sometimes leads to [foreign] companies deciding to not trade with Iran.”⁵²

According to media reports, in the period between the US withdrawal from the JCPOA in May 2018 and the total re-imposition of sanctions in November 2018, at least two German, two Japanese, one Taiwanese, and one Austrian bank announced that they were ceasing their transactions with Iran.⁵³

Foreign Minister Mohammad Javad Zarif in November 2018 published screenshots of four emails sent by pharmaceutical companies announcing their preemptive termination of their contracts with Iran because of the sanctions.⁵⁴ On May 18, 2018, Roquette, a French producer of starch for medical uses, informed its Iranian counterparts in a letter that it had decided to cease to all trade and sales with Iran, noting that “this decision is as a result of the recent announcement by the United States of America, which if ignored by us, is expected to adversely affect our US operations.” The German branch of JRS Pharma, in a June 27, 2018 message, stated that “due to political circumstances out of our control, our banks can no longer accept any payments linked to Iran business[es].” Gentige, a Swedish manufacturer of hospital equipment, wrote on August 28, 2018 that “due to extended sanctions against the Republic of Iran we have been informed by our compliance dep. that we are not allowed to engage in any kind of business with Iranian based customers.” The Italian pharmaceutical company Recordati wrote on June 11, 2018: “We are very sorry to inform you that as a result of recent and severe restrictions on the operations with your country we will be unable to continue the business of our products from 01.08.2018.”⁵⁵

On August 5, 2019, Norwegian Refugee Council (NRC), a humanitarian NGO that carries out projects in Iran, including providing education and shelter to thousands of Afghan migrants and refugees in Iran, said the banks’ refusal to transfer money to aid agencies

⁵² Human Rights Watch phone interview with Nina (pseudonym), a UK-based sanction lawyer, June 2019.

⁵³ <https://uk.reuters.com/article/us-japan-iran-mufg/japans-mufg-bank-to-halt-iran-related-trade-due-to-u-s-sanctions-document-idUKKBN1K2oXo>, <https://www.reuters.com/article/taiwan-iran-mega-bank/refile-taiwans-mega-intl-commercial-bank-plans-to-end-taiwan-iran-clearing-mechanism-after-nov-sources-idUSB9N1UYooP>, <https://www.handelsblatt.com/finanzen/banken-versicherungen/sanktionen-helaba-stoppt-iran-zahlungsverkehr/22791348.html?ticket=ST-13614728-XcqclEL4UsTdxCmehelc-ap3>, <https://www.reuters.com/article/germany-iran-dz-bank/update-1-germanys-dz-bank-to-halt-iran-transactions-in-july-idUSL5N1SP5N8>, <https://www.reuters.com/article/us-oberbank-iran/austrias-oberbank-withdraws-from-iran-idUSKBN1J926D>.

⁵⁴ Javad Zarif, November 12, 2018, <https://twitter.com/JZarif/status/1062066259154685952> (accessed October 18, 2019).

⁵⁵ Javad Zarif, November 12, 2018, <https://twitter.com/JZarif/status/1062066259154685952>.

due to fear of sanctions has put their operation at risk.⁵⁶ “Humanitarian organizations are left hamstrung by politically motivated sanctions that now punish the poorest,” said NRC Secretary-General Jan Egeland, in a statement. Because no Norwegian banks have a direct relationship with banks in Iran, not only do they need to agree to authorize the transfer but they also need to find intermediary banks that are able and willing to transfer the funds to an Iranian bank. “We have now, for a full year, tried to find banks that are able and willing to transfer money from donors to support our work for Afghan refugees and disaster victims in Iran, but we are hitting brick walls on every side,” Egeland said.⁵⁷

On September 19, 2019, Egeland told a group of humanitarian experts in a conference in Washington DC that, “We [NRC] have spent hundreds of thousands of Euros extra on legal studies and advice to make it clear to banks that is perfectly alright to transfer money [to Iran] and still no banks risk transferring because they are so afraid of US sanctions.”⁵⁸

Human Rights Watch identified two main routes that Iranian companies have been using to import medical and other humanitarian goods. As the US expands sanctions, companies are finding it increasingly difficult to utilize either of these avenues to finance the import of critical medicines and medical equipment.

One route involves the limited number of banks based in or with branches in the countries that, until May 2019, had received waivers to continue purchasing Iran’s oil, particularly in South Korea, China, India, and Turkey. These banks held Iran’s oil revenues in escrow accounts to authorize financing imports of goods the Iranian government deemed essential. People who work in the pharmaceutical industry in Iran expressed fear that even these accounts will soon cease to operate. Even prior to the US decision in May 2019 to end most waivers, Human Rights Watch documented two instances where banks in these countries refused to authorize transactions for raw materials imports for pharmaceutical use.⁵⁹

⁵⁶ Future of aid work at risk in Iran due to U.S. sanctions, NRC, August 5, 2019, <https://www.nrc.no/news/2019/august2/aid-work-in-iran-at-risk-due-to-u.s.-sanctions/>. There are an estimated 3 million Afghan refugees in Iran.

⁵⁷ Ibid.

⁵⁸ Jan Egeland, Secretary General, Norwegian Refugee Council, Future of Humanitarian Aid, Center for Strategic and International Studies, September 19, 2019. <https://youtu.be/Mf5O8XTP7Nw>.

⁵⁹ An Iranian employee of a foreign company subsidiary said that her company could not find a European bank to authorize the import of medical grade lactose used in making tablets. Human Rights Watch also reviewed an email from a foreign bank refusing to authorize transactions for raw material for pharmaceutical products from another country.

In another case, an employee at a leading international distributor of specialty chemicals told Human Rights Watch that in July 2018, a European company cancelled a contract for selling medical lactose to Iran because of “pressure” from European banks refusing to process the transactions.⁶⁰ “After we were not able to supply the Iranian companies with medical lactose, they had to purchase it from other countries at a lower quality,” this person added. Similarly, in March 2019, a bank located in one of the countries that have received exemptions to buy Iranian oil told clients in an email that “raw materials which are used for production of medicine, are not a medicine,” citing US OFAC guidance. “Therefore, we can consider mediating such goods only if they are of [our country’s] origin,” the email added.⁶¹ This is contrary to OFAC guidance, which allows for the transfer of raw materials for humanitarian purposes regardless of country of origin.

On October 14, Amirhossein Moeeni Zand, the deputy head of Iran’s Drug Importer Association, told Shargh Daily newspaper that “a few days after the most recent sanctions on the Central Bank, South Korean banks have stopped their relations with Iranians, and South Korean companies are one by one letting their Iranian counterparts know that because banks do not allow them to conduct financial transactions with Iran, they cannot sell their medicine to Iran.”⁶² “Companies want to continue their collaboration, but financial restrictions in their country is preventing them,” Moeeni Zand added. On October 15, Gholamhossein Mehralian, the head of the drug and substance office at Iran’s Food and Drug Administration, told Fars News Agency that they can confirm that South Korea has stopped sales of drug and raw material to Iran.⁶³

Iranian pharmaceutical industry workers told Human Rights Watch that the other route to finance the purchase of medical imports is the informal system of money brokers known as hawala, but this option adds transaction costs and involves significant delays that many

⁶⁰ Human Rights Watch interview with an employee of a French subsidiary based in Tehran, May 2019.

⁶¹ Copy of email sent on May 1, 2019 available on file.

⁶² “And Now Medical Sanctions by Koreans,” Shargh Daily, October 14, 2019, <http://www.sharghdaily.ir/fa/Main/Detail/240970/%D9%88-%D8%AD%D8%A7%D9%84%D8%A7-%D8%AA%D8%AD%D8%B1%DB%8C%D9%85-%D8%AF%D8%A7%D8%B1%D9%88%DB%8C%DB%8C-%DA%A9%D8%B1%D9%87%E2%80%8C%D8%A7%DB%8C%E2%80%8C%D9%87%D8%A7>.

⁶³ South Korea Stopped Selling Drugs and Raw Material to Iran, Fars News Agency, October 15, 2019, <https://www.farsnews.com/news/13980723000414/>.

businesses cannot afford.⁶⁴ Also, due to the Iranian government's quality control and monetary policies, this route is not easily available for importing medicine.⁶⁵

When transactions include a US entity with an OFAC license, use of the hawala system seems almost unavoidable because most US banks will not authorize any transactions with Iran, even humanitarian ones.⁶⁶ One person who worked for a US-based relief organization with an OFAC license explained that money raised for disaster relief after devastating floods in Iran in March 2019 had to be transferred through the hawala system via Canada.⁶⁷

Iranian pharmaceutical and other health sector companies have the option of establishing an office outside Iran to access letters of credit from a limited number of banks outside Iran, but this adds costs that increase the price of medications.⁶⁸ Two people who worked on importing medicine to Iran said that the additional costs make this route is prohibitive for them.⁶⁹

⁶⁴ Human Rights Watch interviews with an Iranian importer, April 2019, an employee of a Lebanese company specialized in distributing specialty chemicals April 2019, and an employee of the biggest pharmaceutical company in Iran that represents a US pharmaceutical company, May 2019.

⁶⁵ Importers are required to receive proper licensing from Iran's Food and Drug Administration before importing medicine and have to use that permission to receive subsidized currency from domestic banks.

⁶⁶ The main problem is that the money first needs to be transferred out of the US by a US bank, and most US banks do not authorize such transactions when the destination is Iran.

⁶⁷ Human Rights Watch phone interview with a charity employer based in the US, May 2019.

⁶⁸ Tyler Cullis, Amir Handjani, *The Anatomy of Humanitarian Trade with Iran*, Lawfare, <https://www.lawfareblog.com/anatomy-humanitarian-trade-iran>, (accessed October 18, 2019).

⁶⁹ Human Rights Watch phone Interview with Mehrdad (pseudonym), a drug importer, May 2019. Interview with Maryam (pseudonym), a former employee of one of the biggest pharmaceutical companies in Iran, July 2019.

IV. Current Access to Medicines in Iran

Overview

The Iranian Central Bank's list of entities that receive a subsidized currency exchange rate shows that during the period between April 2018, when the government announced its new exchange rate policy, and April 2019, the government allocated over US\$3 billion in foreign currencies to pharmaceutical and medical entities.⁷⁹ Most of this amount (US\$1.7 billion) has been distributed in euros, while the other currencies that constitute a notable portion of the funds are Chinese yuan (US\$560 million), Indian rupee (US\$530 million) and Turkish lira (US\$243 million).

currency	num_of_transactions	total_amount_per_currency	Amount in USD
Iraqi dinar	2	2122552053	1780014.60
Russian ruble	24	554982317.10	8291435.82
Indian rupee	205	36904627593	515834432.20
Omani rial	1	3444901.43	8947793.86
Swiss franc	3	9965406.83	10163180.29
Danish krone	1	835358.36	124293.39
Turkish lira	182	1403108246	247318875
South Korean won	101	81641374456	67416997.78
Japanese yen	26	719168349	6753709.97
Chinese yuan	523	3856109121	547517211.50
euro	747	1611764667	1788647780
Total			3202795725

⁷⁹ Central Bank Statement, April 21, 2019, <https://www.cbi.ir/showitem/19036.aspx>.

One Iranian importer of medicine and a former employee of one of the biggest pharmaceutical importers in Iran told Human Rights Watch that while Iranian pharmaceutical companies used to purchase a majority of medicine for rare diseases from European companies and still try to do so, the increased caution of those European banks due to new sanctions, together with price increases, have pushed the Iranian companies to seek alternatives sourcing for raw material from Chinese and Indian companies, where material is cheaper and financing might be easier. Pharmaceutical experts who spoke to Human Rights Watch expressed concerns that this change in sourcing of raw material could affect the quality of medicine available in Iran for rare diseases.

According to Eurostat, the entity that publishes EU official economic and trade statistics, in 2018 EU countries exported to Iran about US\$807 million worth of medicine and US\$150 million worth of medical supplies.⁷¹ This represents a decrease of US\$40 million each for medicine and medical equipment in 2018, compared to 2016 and 2017, when JCPOA sanctions suspension was fully in force.

However, it is difficult to delineate a clear linkage between the time Iran distributes the currency and the time the trade is registered in the system. According to one expert, after receiving the currency, pharmaceutical companies have a period of six to nine months to import the medication.⁷² Statistical analysis conducted by Esfandyar Batmanghelidj, founder of Bourse and Bazaar, a media company that supports business diplomacy between Iran and the EU, suggests that the cost of European medical exports to Iran is significantly higher than the cost of European exports to peer countries such as Pakistan, which is comparable in economic size but is not under unilateral sanctions.⁷³

Impact on patients

Interviews with pharmaceutical experts and doctors in Iran indicate that while there is at present no acute nationwide lack of medications, patients with rare diseases that require imported medications for their treatment are facing increasing difficulty in accessing or

⁷¹ Data obtained from European Statistical Data Support in June 2019.

⁷² Human Rights Watch phone interview with Maryam (pseudonym), former employee of one the biggest importer of medicine in Iran, July 2019.

⁷³ Esfandyar Batmanghelidj, "Why Iran Pays More for Each Kilogram of European Medicine", Bourse & Bazar, October 3, 2019, <https://www.bourseandbazaar.com/articles/2019/10/3/mysterious-price-distortions-in-european-pharma-exports-to-iran>

completing their treatment.⁷⁴ A doctor and a researcher separately reported increasing difficulties in finding imported brands of eyedrops in the Iranian market, causing suffering for the large number of patients affected by chemical weapons during the Iran-Iraq war.⁷⁵ “Before the sanctions were imposed, companies were able to build up inventories, but the situation cannot continue for much longer,” said one pharmaceutical importer.⁷⁶ “If nothing changes in a year, Iranian patients will have significant challenges in accessing their most-needed treatments,” a doctor added.⁷⁷

Quite apart from the limited ability to import medicines, there is the issue of affordability. The International Monetary Fund estimated that the inflation rate in Iran was 31 percent in 2018 and predicted that it could reach 37 percent in 2019 if oil revenues continue to plummet.⁷⁸ The plunging value of the rial has affected the affordability of locally-produced as well as imported goods. According to the Statistical Center of Iran, the cost of health care for families rose by 18.8 percent over the past 12 months across the country.⁷⁹

A Tehran-based doctor told Human Rights Watch that “basic medication is still available in the market, but foreign-produced vitamins and supplements have been omitted from the list of [government] insurance-subsidized medications. This can particularly affect patients with special diseases such as multiple sclerosis and cancer, who need medical supplements in their treatment plans.”⁸⁰

A nurse who works at a government hospital in Tehran told Human Rights Watch that there are shortages, but so far, they have been temporary. “Recently we couldn’t find potassium,

⁷⁴ Human Rights Watch interview with Mehrdad (pseudonym), a drug importer, and Human Rights Watch interview with a member of emergency medicine board, April 2019; Human Rights Watch interview with a doctor who is head of a private hospital, May 2019.

⁷⁵ Correspondence with a researcher who worked with victims of Iran-Iraq war, April 2019. Interview with a doctor who owns a private hospital in Iran, May 2019.

⁷⁶ Human Rights Watch phone interview with Mehrdad (pseudonym), a drug importer, April 2019.

⁷⁷ Human Rights Watch phone interview with a doctor who is the head a private hospital in Tehran, May 2019.

⁷⁸ Inflation rate, average consumer prices, World Economic Outlook, International Monetary Fund, <https://www.imf.org/external/datamapper/PCPIPCH@WEO/OEMDC/ADVEC/WEOWORLD/IRN> (accessed October 19, 2019).

⁷⁹ Consumer Price Index in the Month of Farvardin of the Year 1398, https://www.amar.org.ir/Portals/1/1_Consumer%20Price%20Index%20in%20the%20Month%20of%20%20farvardin%20of%20the%20Year%201398.pdf

⁸⁰ Human Rights Watch interview with a doctor who is the head a private hospital in Tehran, November 2018.

then medicine for nuclear scanning, and after that injections for Magnetic Resonance Imaging (MRI) scans,” she said, noting that “the latter two are imported.”⁸¹

Some patients have reported that the lower quality of imported raw materials or domestic alternatives may be causing serious side effects. In May 2018, Ehsan Bodaghi, a journalist with Iran Newspaper, the government’s official news outlet, tweeted that his wife had experienced severe complications after a Caesarean section and was told by a family member who is a doctor that “the complications were likely caused by non-standard anesthesia being used because of sanctions and a lack of adequate medication.”⁸² Human Rights Watch has no way of determining how widespread such cases are.

Patients with Epidermolysis Bullosa (EB)

Human Rights Watch documented a case in which a European company refused to sell Iran medication required for patients who suffer from epidermolysis bullosa (EB), a rare genetic condition that results in blistering of the skin and mucous membranes, and which afflicts more than 800 persons in Iran. Through an NGO called EB Home, the Iranian government provided these patients with dressings for blisters free of charge. After the re-imposition of sanctions, the company stopped selling to Iran a special kind of foam dressing that reduces and protects the blisters. In March 2019, the company wrote to the director of EB home that due to the US economic sanctions, it had “decided not to conduct any business with relation to Iran for the time being. This also applies to business conducted under any form of exemptions to the US economic sanctions.”⁸³ A lawyer who represents EB Home told Human Rights Watch that domestic alternatives for the dressing “often gets attached to the blisters, causing additional excruciating pain for the patients.”⁸⁴

Cancer Patients

In November 2018, researchers affiliated with MAHAK Pediatric Cancer Treatment & Research Center, an NGO that treats children with cancer, published a list of drugs needed

⁸¹ Human Rights Watch interview with a nurse who worked at a public hospital in Tehran, June 2019.

⁸² Ehsan Bodaghi, May 28, 2019, <https://twitter.com/EhsanBodaghi/status/1133317115879002112>

⁸³ A letter sent by the company is available on file.

⁸⁴ Human Rights Watch interview with Hassan, a lawyer who represents the epidermolysis bullosa patients, April 2019.

to treat leukemia.⁸⁵ Documents reviewed by Human Rights Watch showed that in May 2019, the NGO lacked pegaspargase, mercaptopurine, and vinblastine, three chemotherapy medications, all of which are on the WHO list of essential medicines.⁸⁶

On July 30, Arasb Ahamdian, the head of MAHAK's hospital told Euro News Persian service: "When it comes to cancer, the significant portion of medicine that children under our care use fall under the 5 percent imported category that are very expensive and difficult to find."⁸⁷ Several foreign media outlets have reported about patients, particularly children with cancer, suffering from lack of access to vital medications.⁸⁸

"The ones who impose sanctions say that sanctions haven't targeted medical and humanitarian issues in Iran," Ahamdian said. "Its impact is visible in the lives of children with cancer."

Epileptic Patients

On January 5, 2019, the official Islamic Republic of Iran News Network quoted Nesbi Tehrani, executive director of Iran's Epilepsy Society, as saying that epilepsy patients face a shortage of medication as a result of sanctions.⁸⁹ "Some epilepsy patients are resistant to treatment and have to consume new foreign-made medicine that does not have a domestic alternative, but sanctions have caused a shortage in their medication," he said. According to a study conducted by Iranian researchers on 242 epilepsy patients in Iran, 72 percent of patients who used imported anti-epilepsy drugs reported significant difficulty in accessing their medication during the period between August 2018 and February 2019. In comparison, 30 percent of patients who used domestically produced medicine reported

⁸⁵ Mithra Ghalibafian, Shabnam Hemmati, Eric Bouffet, The silent victims of the US embargo against Iran, *The Lancet*, November 1, 2018, [https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045\(18\)30751-4/fulltext#%20](https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(18)30751-4/fulltext#%20) (accessed October 18, 2019).

⁸⁶ Copy of documents sent in April 2019, available on file.

⁸⁷ Impact of Sanctions on Cancer Patients in Iran, Euro News Persian Service and Associated Press, July 30, 2019, <https://fa.euronews.com/2019/07/30/iran-struggles-with-medicines-crisis> (accessed August 12, 2019).

⁸⁸ Vital drugs for cancer patients in short supply in Iran because of U.S. sanctions, CBS news, August 19, 2019, <https://www.youtube.com/watch?v=DxJMZTLf1xE>.

⁸⁹ "Sanctions have Caused Shortage in Epilepsy Medication," Islamic Republic News Agency, January 5, 2019, <https://www.irinn.ir/fa/news/657223/> (accessed August 15, 2019).

significant difficulty in accessing their essential medication during the same period.⁹⁰

Universal Health Coverage

As of 2015, around 90 percent of Iranian citizens were covered by some form of basic health insurance. Iran's health insurance system offers subsidized medications for most diseases while covering most costs of treatment for patients with rare diseases.⁹¹ In 2014, the Rouhani administration started implementing the Health Transformation Plan (HTP), aiming to achieve universal health coverage and reduce out of pocket expenditure.⁹² Several Iranian experts and government officials have warned about the increased financial burden on Iran's medical sector and dissatisfaction among the medical community as a result. Among doctors who spoke to Human Rights Watch, fears are growing that the decrease in government revenues as a result of sanctions will erode coverage. "One of the public hospitals located in the north of Tehran is already making patients buy necessary materials such as bandages and masks themselves from pharmacies outside the hospital," a doctor told Human Rights Watch. "According to the hospitals' regulations, the hospital should provide all the materials for the treatment."⁹³

Three people who work in the Iranian pharmaceutical industry, as well as a doctor who heads a private hospital in Tehran, told Human Rights Watch that since the re-imposition of sanctions, the list of medications that are covered by insurance has shrunk. In June, the Young Journalist Club news agency published a list of 79 medications that the Iran Food

⁹⁰ Ali A. Asadi-Pooya et al. Impacts of the international economic sanctions on Iranian patients with epilepsy, *Epilepsy & Behavior*, Volume 95, June 2019, Pages 166-168, [https://www.epilepsybehavior.com/article/S1525-5050\(19\)30236-7/fulltext](https://www.epilepsybehavior.com/article/S1525-5050(19)30236-7/fulltext).

⁹¹ Roshanak Ali Akbari Safa, Mohadese Safakish, "Benefiting from Health Service in the Country, 1393", *Statistics*, Third Edition No.6, Pp 9-14, <http://amar.srtc.ac.ir/article-۱۵۲-۱-fa.html> (accessed August 15, 2019). For an overview of Iran's health care system, especially in rural areas, see Kevan Harris, *A Social Revolution: Politics and the Welfare State in Iran* (University of California Press, 2017), Chapter 4. Despite making significant progress in expanding healthcare access, particularly for marginalized populations including refugees, the system suffers from mismanagement, inadequate funding, and a lack of accessibility for and discrimination against people with disabilities. See Human Rights Watch: <https://www.hrw.org/report/2018/06/26/i-am-equally-human/discrimination-and-lack-accessibility-people-disabilities-iran>.

⁹² Correspondent, "Rouhancare." Iranian president's unsung domestic success, *The Guardian*, September 4, 2017, <https://www.theguardian.com/world/2017/sep/04/rouhancare-iran-president-unsung-domestic-success-healthcare-hassan-rouhani> (accessed August 12, 2019).

⁹³ Human Rights Watch interview with a doctor who is the head of a private hospital in Tehran, May 2019.

V. International Legal Obligations

Economic Sanctions and the Right to Health

The International Covenant on Economic, Social and Cultural Rights (ICESCR) – ratified by Iran and signed by the United States – obliges states to respect, protect, and fulfill the right to “the enjoyment of the highest attainable standard of physical and mental health,” as well as the right to an adequate “standard of living” that includes “adequate food.”⁹⁸ Parties to the convention are obliged to work toward the progressive realization of these rights over time “by all appropriate means” and “to the maximum of its available resources.”⁹⁹

In 2013, the UN Special Rapporteur on the highest attainable standard of physical and mental health noted that, “[w]hile several aspects of the right to health are understood to be progressively realizable, certain core obligations cast immediate obligations on States, including the provision of essential medicines to all persons in a non-discriminatory manner.”¹⁰⁰ These essential medicines, defined by the World Health Organization, include painkillers, anti-infectives, anti-bacterials, anti-tuberculars, anti-retrovirals, blood products, cardiovascular medicines, vaccines, and vitamins.¹⁰¹

A country or coalition imposing economic sanctions needs to take into account the impact on the human rights of the affected population, including the right to health. Commenting on economic sanctions, the UN Committee on Economic, Social and Cultural Rights (CESCR), the authoritative body of independent experts that interprets the obligations of states parties to the convention, stated that “these rights must be taken fully into account when designing sanctions,” and that “the inhabitants of a given country do not forfeit their basic economic, social, and cultural rights by virtue of any determination that their leaders have violated norms relating to international peace and security.”¹⁰²

⁹⁸ Articles 11 and 12, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

⁹⁹ Article 2, International Covenant on Economic, Social and Cultural Rights, 1966.

¹⁰⁰ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover, on access to medicines, May 1, 2013, A/HRC/23/42, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-42_en.pdf.

¹⁰¹ *Ibid.*, para 40.

¹⁰² See CESCR, General Comment No 8: The relationship between economic sanctions and respect for economic and social rights, 4 December 1997, E/C.12/1997/8; 5 IHRR 302 (1998), paras. 12 and 16.

In General Comment Number 14 about the right to health, the CESCR observed that “States parties should refrain at all times from imposing embargoes or similar measures restricting the supply of another state with adequate medicines and medical equipment,” adding that “[r]estrictions on such goods should never be used as an instrument of political and economic pressure.”¹⁰³ Countries therefore have an obligation to ensure that any sanctions they impose do not violate Iranians’ right to health, including access to essential medication.

“When an external party takes upon itself even partial responsibility for the situation within a country,” the CESCR stated in its comment on economic sanctions, “it also unavoidably assumes a responsibility to do all within its powers to protect the economic, social and cultural rights of the affected population.”¹⁰⁴ The CESCR further stated that “the provisions of the Covenant... cannot be considered to be inoperative, or in any way inapplicable, solely because a decision has been taken that considerations of international peace and security warrant the imposition of sanctions.”¹⁰⁵

In Comment Number 8, the CESCR noted the need for effective monitoring throughout the period that sanctions are in force. The imposing state or states have an obligation “to take steps, individually and through international assistance and cooperation, especially economic and technical” to respond to any “disproportionate suffering experienced by vulnerable groups within the targeted country.”¹⁰⁶

Under the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, which constitute international expert opinion on this matter, “States must refrain from adopting measures, such as embargoes or other economic sanctions, which would result in nullifying or impairing the enjoyment of economic, social and cultural rights.”¹⁰⁷ Even “where sanctions are undertaken to fulfill

¹⁰³ See CESCR, General Comment No 14 (2000): Substantive Issues Arising in the Implementation of the International Convention on Economic Social and Cultural Rights, E/C.12/2000/4, para 41.

¹⁰⁴ CESCR, General Comment No. 8, para 13.

¹⁰⁵ *Ibid*, para 7.

¹⁰⁶ See CESCR, General Comment No 8: The relationship between economic sanctions and respect for economic and social rights, 4 December 1997, E/C.12/1997/8; 5 IHRR 302 (1998), para 14.

¹⁰⁷ Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011), Para 22., <https://www.etoconsortium.org/en/main-navigation/library/maastricht-principles>.

other international legal obligations, States must ensure that human rights obligations are fully respected in the design, implementation and termination of any sanctions regime.” The state that is the target of economic sanctions, in this case Iran, also has obligations as a party to the ICESCR, obligations that “assume greater practical importance in times of particular hardship.” Specifically, Iran remains obligated to take steps “to the maximum of its available resources” to “provide the greatest possible protection” of the right to health of individuals within its jurisdiction. “While sanctions will inevitably diminish the capacity of the affected State to fund or support some of the necessary measures, the State remains under an obligation to ensure the absence of discrimination in relation to the enjoyment of these rights”¹⁰⁸

¹⁰⁸ See CESCR, General Comment No 8: The relationship between economic sanctions and respect for economic and social rights, 4 December 1997, E/C.12/1997/8; 5 IHRR 302 (1998), para 10.

Acknowledgments

This report was researched and written by Tara Sepehri Far, Iran researcher at Human Rights Watch. Joe Stork and Michael Page, deputy directors in the Middle East and North Africa Division, Arvind Ganesan, director of the Business and Human Rights Division, Andrea Prasow, acting Washington director, Louis Charbonneau, United Nations Director, and Claudio Francavilla, European Union Officer, reviewed the report. Clive Baldwin, senior legal advisor, provided legal review. Tom Porteous, deputy Program director, provided program review. An associate in the Middle East and North Africa Division provided editorial and production assistance. The report was prepared for publication by Fitzroy Hopkins, production manager.

Professor Joe Amon, clinical professor at Drexel University Dornsife School of Public Health, also reviewed the report and provided expert opinion on potential health impacts. Beau Barnes of the law firm Kobre & Kim LLP reviewed the report's discussion of U.S. sanctions law and provided legal and practical suggestions.

We would like to thank all of the individuals and organizations that supported research and analysis for the report. We also wish to express our gratitude to all of those who spoke with us during this research.

Appendix I: Letter to Pharmaceutical and Medical Companies That Have Sold Products in Iran

HUMAN RIGHTS WATCH

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www.hrw.org

December 19, 2018



To Whom It May Concern:

Human Rights Watch is conducting research on the impact of United States economic sanctions on Iranian citizens' right to health, in particular Iranians' access to vital medicine and medical equipment. Therefore, we are seeking information from affected communities and entities both inside and outside Iran, including patients, doctors, and pharmaceutical and medical companies.

Human Rights Watch is a nonprofit, nongovernmental human rights organization that consists of human rights professionals, including country experts, lawyers, journalists, and academics of diverse backgrounds and nationalities. Human Rights Watch has extensive experience documenting the impact of sanctions, as well as unlawful restrictions on access to medicine, in numerous countries around the world. Most recently, in Venezuela, Human Rights Watch documented how severe shortages of medicines and medical supplies make it extremely difficult for many Venezuelans to obtain essential medical care.

Currently, we are researching the practical effects of the US sanctions on access to health in Iran. For that reason, we are writing to better understand what products and services companies provided in Iran during the period the economic sanctions were lifted and how the sanctions affected their business interaction with Iran's health sector. Our online research shows that your company is one of the companies that sells pharmaceutical products to Iran. We are hoping you might be able to share with us if your company has faced any restrictions or challenges in transferring medical products to Iran or receiving financial compensation for them in the wake of most recent sanctions imposed by the United States that began to be applied on November 4, 2018.

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We would appreciate if you could get back to us at your earliest convenience and let us know if you would be available to schedule a phone call to get your perspective on this issue.

Best Regards,

A small, rectangular image showing a handwritten signature in black ink on a light-colored background. The signature appears to be 'Tara Sepehri Far'.

Tara Sepehri Far,

Researcher

Middle East and North Africa Division,

Human Rights Watch

Appendix II: Letter to US Department of Treasury Office of Foreign Asset Control (OFAC)

HUMAN RIGHTS WATCH

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Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*



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May 30, 2019

The Honorable Steven Mnuchin
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Re: US Economic Sanctions' Impact on Iranians' Right to Health

To Whom It May Concern:

We write to request information in connection with research that Human Rights Watch is currently conducting on the impact of United States economic sanctions on Iran, including the rights of the Iranian people under international law to maintain access to health and medication.

In particular, we seek your response to the questions set out below and we would appreciate a reply by June 13, 2019 so that we can reflect your response in our forthcoming publication.

As you know, the US Department of Treasury's Office of Foreign Asset Control (OFAC) maintains general licenses and exemptions that allow for the export of "certain food items, medicines, and basic medical supplies to Iran without further specific authorization." These provisions also authorize financial transactions in support of trade in certain food, medicine, and medical devices from the US or from a foreign country without specific authorization.

However, in the lead up to the re-imposition of certain sanctions in November 2018, OFAC severely restricted Iran's access to global financial markets. The serious regulatory and due diligence requirements placed on international trade with Iran has left only a small number of companies and banks with the capacity to trade with Iran that are willing to accept the increased financial and legal risk that comes with those transactions. Our research shows that this issue, combined with sharp depreciation of Iranian Rial, has severely

limited the ability of Iranian companies and hospitals to purchase essential medicines from outside Iran.

Research conducted by Human Rights Watch shows that in practice, Iran is currently able to conduct business through a limited number of banks closely affiliated with countries that had previously received special waivers from the US in November 2018 to continue purchasing Iran's oil. These banks have used Iran's oil revenue held in escrow accounts to execute certain financial transactions for medicine and other items determined by the Government of Iran to be essential goods. Over the past month, the US has announced that it will not renew waivers for countries to purchase Iran's oil and announced that it aims to drive Iran's oil exports to zero. The US has also placed Iran's metal industry under sanctions.

Based on our research, we understand that overcompliance by banks and pharmaceutical companies is a significant factor in limiting Iran's access to certain medicines. In particular, we understand that unnecessary restrictions on Iran-related trade has forced Iranian pharmaceutical companies to reroute certain business transactions that are fully authorized under US law through the informal *hawala* system. This trend has significantly increased the costs with minimum transparency, and forced pharmaceutical companies to also choose alternatives with lower quality.

In light of the concerns outlined above, we would appreciate a written response to the following questions related to the steps the US government is taking to fulfil its responsibility under international law to protect the Iranian people's right to health:

1. What mechanisms are in place to monitor the effectiveness of OFAC's general licences and exemptions, including specifically those related to the transactions in food and medicine with Iran?
2. What actions has the US government undertaken to address the problem of overcompliance with US sanctions in light of its negative effect on the right to health for Iranians residing in Iran?
3. Has the US government issued any informal or formal guidance to organizations or companies who seek to alleviate humanitarian suffering in Iran but may not have obtained a specific license?
4. Is the US government aware of any mechanism currently available to US persons to facilitate humanitarian transactions with Iran that are authorized and/or exempted under US sanctions?
5. What initiatives has the US government taken to address the needs of the most vulnerable populations in Iran?

Please direct your response and any questions to my colleague, Iran Researcher, Tara Sepehri Far via email at sepehrt@hrw.org or phone at +1-202-612-4371.

We thank you for your time and consideration of this matter.

Sincerely,



Sarah Margon
Washington Director
Human Rights Watch



Michael Page
Deputy Director
Middle East and North Africa
Human Rights Watch

Appendix III: Letter to US Department of State

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*In Memoriam (1995-2019)

October 16, 2019

Mr. David Peyman
Deputy Assistant Secretary for Counter Threat Finance and Sanctions
Bureau of Economic and Business Affairs
US Department of State

Re: US Economic Sanctions' Impact on Iranians' Right to Health

We write to request information in connection with research that Human Rights Watch is currently conducting on the impact of US economic sanctions on Iran, including the rights of the Iranian people under international law to maintain access to health and medication.

In particular, we seek your response to the questions set out below and we would appreciate a reply by October 21, 2019 so that we can reflect your response in our forthcoming publication. A version of this letter was sent to the the US Department of Treasury's Office of Foreign Asset Control (OFAC) in May 2019.

As you know, OFAC maintains general licenses and exemptions that allow for the export of "certain food items, medicines, and basic medical supplies to Iran without further specific authorization." These provisions also authorize financial transactions in support of trade in certain food, medicine, and medical devices from the United States or from a foreign country without specific authorization.

However, in the lead up to the re-imposition of certain sanctions in November 2018, OFAC severely restricted Iran's access to global financial markets. Over the past year, the US Treasury has imposed additional sanctions on several Iranian financial institutions, including Iran's Central Bank, under US counter terrorism provisions. The serious regulatory and due diligence requirements placed on international trade with Iran has left only a small number of companies and banks with the capacity to trade with Iran that are willing to accept the increased financial and legal risk that comes with those transactions. Our research shows that this issue, combined with sharp depreciation of Iranian rial, has severely limited the ability of Iranian companies and hospitals to purchase essential medicines from outside Iran.



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Research conducted by Human Rights Watch also shows that in practice Iran is currently able to conduct business through a limited number of banks closely affiliated with countries that had previously received special waivers from the US in November 2018 to continue purchasing Iran's oil. These banks have used Iran's oil revenue held in escrow accounts to execute certain financial transactions for medicine and other items determined by the Iranian government to be essential goods. Over the past month, the United States has announced that it will not renew waivers for countries to purchase Iran's oil, and announced that it aims to drive Iran's oil exports to zero. The US has also placed Iran's metal industry under sanctions.

Based on our research, we understand that overcompliance by banks and pharmaceutical companies is a significant factor in limiting Iran's access to certain medicines. In particular, we understand that unnecessary restrictions on Iran-related trade has forced Iranian pharmaceutical companies to reroute certain business transactions that are fully authorized under US law through the informal *hawala* system. This trend has significantly increased the transaction costs with minimal transparency and also limited pharmaceutical product alternatives that are lower quality than previously available.

In light of the concerns outlined above, we would appreciate a written response to the following questions related to the steps the US government is taking to fulfil its responsibility under international law to protect the Iranian people's right to health:

1. What mechanisms are in place to monitor the effectiveness of OFAC's general licences and exemptions, including specifically those related to the transactions in food and medicine with Iran?
2. What actions has the US government undertaken to address the problem of overcompliance with US sanctions in light of its negative effects on the right to health for Iranians residing in Iran?
3. Has the US government issued any informal or formal guidance to organizations or companies who seek to alleviate humanitarian suffering in Iran but may not have obtained a specific license?
4. Has the US government issued any clarification or guidance about how to navigate potential liability of conducting humanitarian business in light of recent broad terrorism designations?
5. Is the US government aware of any mechanism currently available to US persons to facilitate humanitarian transactions with Iran that are authorized and/or exempted under US sanctions?
6. What initiatives has the US government taken to address the needs of the most vulnerable populations in Iran?
7. How many licenses as well as letters of comfort has the OFAC office issued for US and non-US entities that have sought to conduct humanitarian trade with

Iran? How many of these licenses and letters were issued, especially for export of medicine and medical equipment?

Please direct your response and any questions to my colleague, Iran Researcher Tara Sepehri Far via email or phone at sepehrt@hrw.org or +1-202-612-4371.

We thank you for your time and consideration of this matter.

Sincerely,



Michael Page
Deputy Director
Middle East and North Africa
Human Rights Watch



Andrea Prasow
Acting Washington Director
Human Rights Watch

Appendix IV: Letter to Dr. Javad Zarif

HUMAN RIGHTS WATCH

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April 25, 2019

Dear Dr. Zarif,

It was great seeing you at the Council of Foreign Relations' meeting today. As we discussed, Human Rights Watch seeks to travel to Iran to investigate the impact of economic sanctions imposed by the United States on Iranians' right to health, in particular their access to vital medicine and medical equipment. To conduct this research, we would seek to meet with affected communities, including patients, doctors, and pharmaceutical and medical companies, as well as authorities in Iran's health sector, to document the way in which sanctions have potentially interfered with their ability to obtain and deliver medicines.

We would seek to carry out this research in Tehran, Karaj, and Isfahan and would propose to travel to Iran in June. We would share widely our findings of any harmful impacts of the sanctions on the health of the Iranian population, including violations of their right to health, with the international community, and advocate against any policies, including sanctions, that so harm the Iranian public.

Human Rights Watch has extensive experience documenting the impact of sanctions, as well as access to medicine in numerous countries around the world. Most recently, in Venezuela, Human Rights Watch documented how severe shortages of medicines and medical supplies make it extremely difficult for many Venezuelans to obtain essential medical care. In Iraq, we also criticized the negative impact of international sanctions on infrastructure and civilian goods.

I look forward to hearing back from you and to discuss the logistics and delegation for the trip with your office. Should you have any questions or need to get in touch please do not hesitate to contact my colleague, Michael Page, pagem@hrw.org.

Sincerely,



Sarah Leah Whitson
Executive Director
Middle East and North Africa
Human Rights Watch

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“Maximum Pressure”

US Economic Sanctions Harm Iranians’ Right to Health

In May 2018, President Donald Trump announced the US withdrawal from the 2015 multilateral nuclear agreement with Iran, and subsequently reimposed a wide range of economic sanctions on the country. Human Rights Watch research shows that even though the US has created exemptions for humanitarian trade with Iran, the broad nature of the economic sanctions, coupled with aggressive rhetoric from US officials, have drastically constrained Iran’s ability to finance such humanitarian imports, posing a serious threat to Iranians’ right to health and access to essential medicines. Interviewing Iranian importers, NGO workers, and experts familiar with humanitarian trade with Iran, Human Rights Watch has documented how fears of being subjected to US sanctions leads to over-compliance by US, European and other banks and pharmaceutical companies. Under international human rights law, the US should monitor the impact of its sanctions on Iranians’ rights and address any violations caused by its sanctions. The administration in Washington should immediately clarify at the highest level that US and other banks and companies face no legal or financial risks in connection with exports of medicines or other exempted humanitarian goods to Iran.

(above) A five-year-old boy suffering from eye cancer sits on his bed at Mahak Children’s Hospital, in Tehran, Iran. Iranians face shortages of imported chemo and other medicines. June 19, 2019.

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(front cover) Iranians shop at a drugstore at the Nikan hospital in Tehran on September 11, 2018.

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