

# Congressional Foreign Policy Actors on the Two Iran Banking Sanction Laws during the Obama Administration

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## Abstract

The United States and Iran as former allies turned into adversaries after the Islamic Revolution of 1979. Since then the United States has tried to contain Iran as a state considered to be a threat to the U.S. national security. The U.S. Congress has also acted in line with the administrations' policies and in some cases directed the administration to take a tougher stance toward Iran. A review of the literature on congressional studies indicates that the power of individual actors in legislative policymaking has increased since the 1970s. Using the Bounded Rational Model in foreign policy decision making, the present paper attempts to explain the decision making behavior of congressional sanction bill sponsors for the two financial/banking sanction laws against Iran during the Obama administration. These two laws are the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010 and Section 1245 of the National Defense Authorization Act of 2012. The method of qualitative content analysis is employed to explain the context of the bills and the sanction triggers and goals are identified through the remarks of bill sponsors. The analysis of these sanction laws using the four elements of actor, preference, structure, and decision criteria indicates that the Bounded Rational Model as it takes into account the decision makers' cognitive limitations and the limitations imposed on them by the environment of decision making is a good model to explain the decision making behavior of banking sanction bill sponsors.

**Keywords:** Actors, Congress, Decision making, Iran, Sanctions

## 1. Introduction

The United States and Iran, former allies, turned into adversaries after the 1979 Islamic Revolution. Before the Islamic Revolution and during Mohammad Reza Shah's reign, the United States and Iran maintained a close relationship, and Iran was considered by the U.S. to be the main pillar of the "two pillar" policy along with Saudi Arabia. The political and economic interests of the U.S. in the Middle East were protected by the Shah and, in return the U.S. helped the Shah to maintain his rule (Fayazmanesh, 2008, p. 12). By the mid-1970s, Iran became the largest buyer of U.S. military goods as the Shah spent large sums of petrodollars on arms from the U.S. The U.S. Congress, during the Shah's years, was supportive of the administration's policy and approved most of the military sales to Iran (Kamal-Shahda, 2001). The Islamic Revolution and the seizure of the U.S. embassy in Tehran (known in Iran as the occupation of the den of espionage), marked the termination of friendly relations between the two countries. Following this incident, the United States declared a state of emergency with Iran and cut its diplomatic relationship with it in April 1980.

In response to the hostage crisis, Carter issued a series of executive orders, imposing a wide range of economic sanctions on Iran. In line with the Carter administration's policy, Congress also adopted a hostile approach toward Iran and, accusing it of human rights violations, passed several resolutions against it. Aligning itself with the Carter administration's policy on Iran, Congress became critical of the new Iranian government (Kamal-Shahda, 2001). On May 17, 1979 the Senate passed a resolution (S.Res.164) expressing that it was against the alleged "summary executions without due process in Iran". In December 1979, another resolution

(S.Res.318) was passed by the Senate, which “called upon all nations to join in cooperative efforts to restrict relations with Iran”. From 1982 to 1990, Congress passed several resolutions criticizing human rights in Iran, and “included provisions in the several foreign appropriations acts [since 1985] for withholding the proportionate share of U.S. contributions to international organizations programs allocated to Iran” (Kamal-Shahda, 2001, p. 178).

The first congressional sanction on Iran was passed in 1992. The Iran-Iraq Arms Non-proliferation Act of 1992 imposed a number of sanctions on foreign countries and firms that helped Iran modernize its military capabilities. The wave of sanctions against Iran continued throughout the 1990s and the decades to come. Clinton signed the Iran-Libya Sanctions Act of 1996 and Iran Non-proliferation Act of 2000 into law. The Iran Freedom Support Act of 2006 was the law passed during the presidency of George W. Bush, and the election of Barack Obama in 2008, with his promise for change, was in fact a change for the worse in terms of the imposition of new sanctions on Iran. Obama’s efforts to engage with Iran were combined with toughening sanctions and turning to the U.N. Security Council for additional measures against it. Congress also took the lead in intensifying U.S. sanctions. As a result, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, Section 1245 of the 2012 National Defense Authorization Act, the Iran Threat Reduction and Syria Human Rights Act of 2012 and the Iran Freedom and Counter Proliferation Act of 2012, were passed in Congress. Obama also issued Executive Orders 13553, and 13572 to penalize Iranian officials for their alleged role in the nuclear and missile programs, alleged human rights abuses, and alleged financial and operational assistance to the Syrian government (International Crisis Group, 2013).

Another round of sanctions began in 2013, resulting in the Nuclear Iran Prevention Act of 2013 (H.R. 850) which was passed by the House by 400 to 20. Due to the start of the negotiations with Iran, which led to the Joint Plan of Action in November 2013, the Obama administration tried to postpone Senate action on this bill, although Senators Menendez and Kirk repeatedly threatened to pass the Senate version of the bill. The final agreement between the P5+ 1 and Iran known as the JCPOA, was reached in July 2015. Based on the agreement, any introduction of new sanctions against Iran was considered a violation of the terms of the JCPOA. Nonetheless, congressional push for sanctions led to the passage of the Iran Sanctions Extension Act which extended the Iran Sanctions Act of 1996 until December 2026 and Countering America's Adversaries through Sanctions Act (H.R.3364), which imposes sanctions against Iran's ballistic missiles program and the IRGC. With the withdrawal of the United States from the JCPOA in May 2018, and the re-imposition of sanctions suspended by the JCPOA, there is no impediment to more congressional sanctions against Iran, which is in line with the Trump administration's campaign of maximum pressure.

In light of the changes in power distribution in Congress since the 1970s, and the importance of the role of individual members of Congress in initiating their own foreign policy agendas and trying to influence U.S. foreign policy, it is of significance to see how Congress, and specifically, the few members who are leaders in particular foreign policy issues, act within this structure. Hence, the present article attempts to look into the process of the shaping and passage of the banking sanctions during the Obama administration, with an emphasis on the role of individual players i.e. bill sponsors in the passage of these laws.

Section 104 of the Comprehensive Iran Sanctions, Accountability and Divestment Act – otherwise known as CISADA - (2010) was the first congressional law to sanction foreign banks for transacting business with sanctioned Iranian entities, and Section 1245 of NDAA 2012 imposed penalties on transactions with Iran’s Central Bank. CISADA was a comprehensive package of sanctions, and section 104 of this law provided the basis for the 2012 sanctions on Iran’s Central Bank. These two laws are the cases to be analyzed in this paper, as the banking sanctions were considered central to the economic pressure on Iran. For this analysis, the Bounded Rational Model in foreign policy decision making is employed as the theoretical framework, and each case is analyzed using the four elements of Actor, Structure, Preference and Decision criteria, which are discussed in the methodology section. The question that the article tries to answer is:

Using the Bounded Rational Model, how can the decision-making behavior of the individual actors in Congress be explained vis-à-vis the Iran Banking sanctions?

## 1.1. Theoretical Framework

### 1.1.1. Allison’s Decision Making Models

Graham Allison (1971), in his classic work *Essence of Decision: Explaining the Cuban Missile Crisis* introduces three models for foreign policy decision making, which are: the Rational Actor Model, the Organizational Process Model, and the Governmental Politics Model.

Allison describes the Rational Actor Model as “the attempt to explain international events by recounting the aims and calculations of nations or governments” (Allison, 1971, p. 10). Based on this

model, decision makers calculate the utility and possibility of choices; and if they act rationally, they try to maximize their utility. According to Allison rationality refers to “consistent, value-maximizing choices within specified constraints” (Allison, 1971, p. 30). In this model, the rational actor, after reviewing all possible alternatives and ranking their consequences in terms of his/her values and objectives, “selects the alternative whose consequences rank highest in terms of his goals and objectives” (Allison, 1971, p. 33) and makes a choice that is the most value-maximizing of all.

Among different decision making models, the focus of the Rational Actor Model is on an individual actor. As this paper also focuses on individual actors (Senators and Representatives who are sponsors or leaders of the two sanction bills) in the U.S. Congress as important players involved in congressional foreign policy decision making, in the next section the tenets of the Rational Actor Model and the alternative to this model, the Bounded Rational Model, are explained.

### **1.1.2. The Rational Actor Model and Bounded Rationality**

The rational choice approach to politics, influenced by the economic model of man, assumes that “individual behavior is motivated by self-interest, utility maximization, or, more simply put, goal fulfillment” (Petraffa, 1991, p. 289). The concept of rationality in the rational choice model, in general, is an interpretation of the concept of instrumental rationality in Max Weber’s theory of social action. Weber believes that social actions are of four different types, which are “instrumentally rational, value-rational, affectual, and traditional” (Weber, 1978, pp. 24-25). As he observes “action is instrumentally rational when the end, the

means, and the secondary results are all rationally taken into account and weighted” (Weber, 1978, p. 26).

Simon (1985) defines two types of rationality, which he names procedural rationality and substantive rationality. The concept of procedural, bounded rationality was developed in cognitive psychology, while the substantive, objective rationality is rooted in neoclassical economics and statistical decision theory (Simon, 1985, pp. 295-296). The foundation for the theory of objective rationality, as Simon (1985, p. 296) maintains, is the “assumption that every actor possesses a utility function that induces a consistent ordering among all alternative choices that the actor faces, and indeed, that he or she always chooses the alternative with the highest utility”. Thus, the rational person of neoclassical economics always chooses the alternative that provides him/her with the best utility function (Simon, 1986, p. 211). In applying this concept of rationality to political science, the individual’s goal might be power maximization or the maximization of “economic well-being as a function of the policies pursued by the government” (Simon, 1985, p. 296). In the analysis of political phenomena, Simon (1985, p. 298) believes that the concept of economic rationality, or the theories of substantive rationality, cannot be very helpful since the political situation is described as “it appears subjectively to the actors”, and not “as it appears objectively to the analyst”.

Moving on to the rational approach used in the Rational Actor Model and foreign policy analysis, Mintz and DeRouen (2010) attribute this approach to the expected utility theory presented by von Neumann and Morgenstern in their 1944 book entitled *Theory of Games and Economic Behavior*. In the classical or rational model of decision making, as Dougherty and Pfaltzgraff (2001, p. 560) put it,

Policymakers make a calculation in two basic dimensions - utility and probability- and, assuming that they are rational, they will attempt to maximize the expected utility. In other words, after all the available alternatives have been surveyed and the product of weighted values and assessed probabilities has been obtained, decision makers can choose their optimal course.

Graham Allison in his 1969 article entitled “Conceptual Models and the Cuban Missile Crisis”, introduces the Rational Policy Model as a model used by many analysts to explain the behavior of national governments, which sees events as “more or less purposive acts of unified national governments” (Allison, 1969, p. 690).

The assumption in this model is that the rational person is able to identify “a set of well-defined objectives and goals” and is able to rank preferences “according to the degree of satisfaction of attaining these objectives and goals” (Sage, 1990, p. 233). Hence, the rational actor is presumed to identify alternatives, assess their consequences, and choose the alternative that maximizes satisfaction (Mintz & DeRouen, 2010, p. 57).

Allison (1971, p. 30) defines rationality as a “consistent, value-maximizing choice within specified constraints”. The basic concepts of the models of rational action according to Allison (1971, pp. 29-30) include “goals and objectives, alternatives, consequences, and choice”.

The Rational Actor Model assumes governments as unitary actors that make decisions in a rational manner. Cashman (2014) lists the following steps for decision making based on the rational actor model:

1. Identify and define the problem.



2. Identify and rank goals.
3. Gather information continuously.
4. Identify many alternative means/options for achieving the goals.
5. Analyze each possible alternative.
6. Choose the alternative best able to achieve your objectives.

As the Rational Actor Model does not take into account the limitations imposed on the decision maker such as cognitive limitations and limitations imposed by the external situation, in the analysis of the behavior of congressional decision makers, the Rational Actor Model cannot be the only model that can be used for such analysis. Hence, the analysis of congressional decision making in the Iran sanctions fits better into the Bounded Rational Model as an alternative to the Rational Actor Model.

As mentioned earlier, Simon (1985, p. 294) makes a distinction between procedural and substantive rationality. Bounded rationality, as he argues, is the behavior that is “adaptive within the constraints imposed both by the external situation and the capacities of the decision maker”. Substantive rationality, however, refers to the “nature of the outcome rather than the substance of the process of arriving at an outcome” (Mintz & DeRouen, 2010, p. 69). As Steiner (1983, p. 376) notes “bounded rationality emphasizes that all intendedly rational behavior is behavior within constraints”. She considers these constraints to be the limited capacity of humans, both biologically and psychologically, to gather and process information and make decisions. Because of these limitations the concept of satisfying the alternative rather than the optimal was introduced by Simon (1955). Thus, in the Bounded Rational Model, while the decision is rational, the decision maker

cannot be assumed to make a decision in a perfect environment where he/she has had access to all information, and been able to assess the consequences of all alternatives as the Rational Actor Model assumes. In fact, the Rational Actor Model neglects that humans have limited capacities in obtaining and assessing information, that they do not make decisions in a vacuum, and have to adapt their decisions to the changes in the environment and the limitations that may be imposed on them by the external situation.

In assessing congressional decision making on the Iran banking sanctions, I approach this topic by focusing on the role of sanction leaders in Congress (sponsors and co-sponsors), as they are the influential decision makers. Yet, their activity should be studied in a process that begins with the bill's introduction and ends it with its enactment.

## 1.2. Methodology

This research uses qualitative content analysis. Krippendorff (2004, p. 18) defines content analysis as “a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use”, which “provides new insights, increases a researcher’s understanding of particular phenomena, or informs practical actions”. He adds that content analysis is a collection of research methods that tries to make inferences from all kinds of data including verbal, pictorial, symbolic, and communication data (Krippendorff, 2004, p. 17). Qualitative content analysis, also known as latent content analysis, is an analytical method and a “way of reducing data and making sense of them- of driving meaning” (Heidi, 2008, p. 120). In qualitative content analysis, the researcher does not merely count the words or

extract objective content from texts. Rather the researchers examine “meanings, themes, and patterns that may be manifest or latent in a particular text”, enabling them to understand “social reality in a subjective but scientific manner” (Zhang & Wildemuth, 2005, p. 1). The findings of research using this method can be displayed in different forms. A common practice is to use typical quotations to justify conclusions (Schilling, 2006).

Using the approach of qualitative content analysis, primary texts that include the speeches and remarks of bill sponsors and other members of Congress available in the form of congressional records, transcripts of committee hearings, committee reports, and transcripts of floor debates on the two sanction bills were collected via the U.S. Government Printing Office website ([www.gpo.gov](http://www.gpo.gov)) and the Congress website ([Congress.gov](http://Congress.gov)). These sources were read closely to identify the triggers and goals of the sanctions in the speeches of bill sponsors. Quotations from the speeches of bill sponsors, co-sponsors, proponents and opponents of the bill, as well as executive branch officials, are presented to describe the context and analyze the behavior of decision makers.

As mentioned earlier, the analysis of actions of congressional sanction leaders cannot be done without considering the constraints that the decision makers face. Hence, we need to take into account the structure in which the decision makers act, and other criteria that influence decision making. Therefore, the sanction cases will be discussed based on the following elements:

1. Actor: actors in this model are the bill sponsors and other sanction leaders. Other actors outside Congress include the executive branch and interest groups.
2. Preference: the preferences refer to the motives for sponsoring a bill and leading the congressional agenda on a particular issue

3. Structure: any bill introduced in Congress goes through a set of actions until it becomes a law. Several committees may have jurisdiction over the bill and the bill sponsor in the process of enacting the bill may have to bargain and reach a compromise with other players involved. Moreover, the executive branch and the president who signs the bill into law is another actor in this process who may pose challenges to the decision made by the congressional actor. Hence, the actor cannot be separated from the environment in which he acts.
4. Decision criteria: decision criteria refer to the factors affecting the actor's decision. These factors, in the case of the Iran sanctions, may include the international environment, political party, preference of other actors, an actor's beliefs and perceptions, and the impact of other actors such as the executive branch, interest groups etc.

Using the four above elements, and applying the tenets of the Bounded Rational Model, congressional decision making on banking sanctions will be discussed in the following sections.

## **2. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (H.R.2194)**

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) was introduced by Howard Berman on April 30, 2009 and became Public Law No. 111-195 on July 1, 2010.

### **2.1. Background: U.S. Foreign Policy toward Iran during Obama's Presidency**

Barack Obama was the first African-American to become U.S.

president, and used the motto of “change” at a time when Americans were disillusioned with Bush’s foreign policy and the war on terror. Obama promised to “refurbish the United States’ image abroad, especially in the Muslim world, end the wars in Iraq and Afghanistan, and make peace in the Middle East” (Indyk *et al.*, 2012, p. 29). Sending a Nowruz message to Iran, in which he addressed the country as the Islamic Republic of Iran, and tried not to separate the people of Iran from its leaders by addressing both the people and leaders of Iran, seemed to be a positive change in decreasing the hostility between the two countries. This, however, could not be construed as a real change in U.S. foreign policy toward Iran. In contrast to his first Nowruz message, the 2008 presidential candidate for the Democratic Party had talked about Iran differently.

Our policy over the last eight years has not worked. Senator McCain is absolutely right, we cannot tolerate a nuclear Iran. We do need tougher sanctions. I do not agree with Senator McCain that we’re going to be able to execute the kind of sanctions we need without some cooperation with some countries like Russia and China. (Obama, 2008).

The difference Obama had with McCain on policy toward Iran was that Obama was in favor of “tough direct diplomacy” as he mentioned:

We are also going to have to, I believe, engage in tough direct diplomacy with Iran and this is a major difference I have with Senator McCain, this notion by not talking to people we are punishing them has not worked. It has not worked in Iran, it has not worked in North Korea. (Obama, 2008).

Soon after taking office, the Obama administration started an all-out effort to pass the fourth U.N. Security Council Resolution against Iran. The passage of this resolution was an end to the diplomacy phase of the Obama administration after which the U.S. and EU intensified their unilateral sanctions. Obama, despite his promises for change, in fact, pursued a two-track diplomacy, which was a continuation of the Bush administration's carrot and stick policy where only "the stick", or pressure, was employed, and tough diplomacy changed into tough policy (Fayazmanesh, 2013, pp. 5-7). In line with the administration's efforts to build an international coalition against Iran and pass multilateral sanctions, the U.S. Congress also started working on a new round of sanctions, culminating in the passage of one of the most severe unilateral sanctions against Iran, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010.

## **2.2. Bill Introduction in the House and Senate**

Howard Berman, a figure present as sponsor or co-sponsor of congressional sanctions against Iran since 1992, became the Chairman of the House Committee on Foreign Affairs in 2008. Soon after Obama took office, Congress initiated efforts for a new round of sanctions with Howard Berman taking the lead. On April 30, 2009, he introduced the Iran Refined Petroleum Sanctions Act (H.R.2194) together with Ileana Ros-Lehtinen as co-sponsor. The aim of the bill, as he stated in his introductory remarks, was to place sanctions on "any foreign entity that sells refined petroleum to Iran or enhance Iran's ability to import refined petroleum through financing, brokering, underwriting, or providing ships for such activity" (Berman, 2009, p. E1033). H.R.2194 barred these entities as well as any entity that provided goods or services to

enhance Iran's ability to maintain or expand its domestic production of refined petroleum from doing business in the United States. Berman maintained that his bill did not intend to punish the Iranian people, and continued that he fully supported "the Administration's strategy of direct diplomatic engagement with Iran and had no intention of moving the bill through the legislative process in the near future". Yet, he noted that he would press forward with additional sanctions that could cripple the Iranian economy if the Obama administration's efforts to engage Iran did not "yield the desired results in a reasonable period of time". The Iran Refined Petroleum Sanctions Act was then referred to the four committees of Foreign Affairs, Financial Services, Ways and Means, and Government Reform.

The Senate was also involved in similar activity. On April 28, two days before Berman's introduction of H.R.2194, Senator Evan Bayh, Junior Democratic Senator from Indiana who served Senate from 1999 to 2011, introduced the Iran Refined Petroleum Sanctions (S.908). This bill had 24 original co-sponsors including Senators Kyl, Lieberman, and Menendez. S.908 was referred to the Senate Banking Committee and by January 28, 2010 attracted 77 co-sponsors.

### **2.3. Hearings on Berman's Bill**

The markup of H.R.2194 by the House Committee on Foreign Affairs was held on October 28, 2009. In the meantime, two hearings directly related to the subject matter of the bill were held. The Foreign Affairs Committee's hearing was held on July 22, and a joint hearing by the three subcommittees on the Western Hemisphere, Middle East and South Asia, Terrorism,

Nonproliferation and Trade was held on October 27, 2009. Ileana Ros-Lehtinen, a ranking member of the House Foreign Affairs Committee, who was a co-sponsor of Berman's bill, highlighted the threat of Iran and especially Iran's nuclear program. The accusations she made against Iran were the same accusations that had been stated since the very first round of congressional sanctions against it.

The general mood of the hearing was that Congress had to act quickly and could not wait any longer to bring the bill to the floor. Gary Ackerman, the Chairman of the Subcommittee on the Middle East and South Asia stated that it was already too late to impose sanctions.

Patrick Clawson, Deputy Director of Research at the Washington Institute for Near East Policy, and a familiar witness of Foreign Affairs Committee hearings on Iran, explaining Iran's economic problems under Ahmadinejad, concluded that it was the best time to impose sanctions on Iran. He said:

In sum, the current situation in which Iran's economy is likely to do poorly in the next few years is a perfect moment for the international community to impose additional sanctions on Iran. No longer can Iran afford to offset the impact of those sanctions with a flood of higher oil income (US House of Representatives Hearing 111-31, 2009, p. 10).

What was suggested in this hearing was imitating the Libyan case and dismantling Iran's nuclear program. Ros-Lehtinen expressed her dissatisfaction with the change in the United States' policy "from imitating the successful Libya model and calling for a complete, permanent, verifiable dismantlement of Iran's nuclear



program; to calling for the cessation of enrichment reprocessing to temporary suspension” (US House of Representatives Hearing 111-31, 2009, p. 4).

#### **2.4. Bill Markup**

The House Foreign Affairs Committee held the markup session of the Iran Refined Petroleum Act on October 28, 2009. This legislation tightened the implementation of sanctions since the previous Iran sanctions legislations, according to Berman, were ignored by every administration, and the new bill required the administration to report to Congress all activities that would trigger sanctions. Berman attested that the provisions of the bill would have a significant impact on Iranian economy, including average Iranians. Dan Burton, one of the co-sponsors of the bill stated that despite the impact of the bill on average Iranians, the threat of nuclear-armed Iran was so great that it compelled Congress to go forward with the legislation (Iran Refined Petroleum Sanctions Act of 2009, pp. 45-46).

Ros-Lehtinen, believing the threat of Iran was much larger than when ILSA in 1996 or IFSA in 2006 were enacted, held that the Iran Refined Petroleum Sanctions Act sought to “ratchet up the pressure on the regime by targeting a new vulnerability, namely Iran’s inability to produce sufficient gasoline and other refined-petroleum products” (Iran Refined Petroleum Sanctions Act of 2009, p. 46). She added that the version of the bill (the amendment in the nature of a substitute) that was considered during the markup contained a number of important changes compared to the introduced bill that made the sanctions stronger and ensured that congressional mandates and intents were no longer ignored by the executive branch.

## 2.5. Dodd's Bill in the Senate

While H.R.2194 was moving forward in the House, Senator Dodd, the chair of the Senate Banking Committee introduced the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2009 (S.2799). S.2799 was introduced on November 19. The Banking Committee held two hearings on July 30 and October 6 to discuss the advantages and disadvantages of economic pressure on Iran. In these hearings it was argued that Obama's diplomatic approach toward Iran had to be accompanied with some forms of economic pressure, and the widely held view was that there had to be a limit on the time given to Iran to respond to the President's so-called outstretched hand. Senator Evan Bayh, who introduced S.908 (Iran Refined Petroleum Sanctions Act) in April 2009 together with Senators Kyle and Lieberman, chaired the July 30 hearing.

A week before the Senate Banking Committee's hearing, Evan Bayh, together with Kyle, Lieberman and McCain, also introduced a resolution to reinforce the deadline given to Iran until the end of the G-20 summit at the end of September 2009. This resolution was adopted by the Senate unanimously. In his opening remarks, Bayh warned that if Iranian officials were "unwilling to sit down at the table and negotiate" then Congress was prepared to "authorize what the Secretary of State Clinton had referred to as crippling economic sanctions" (The US Senate Hearing 111-336, 2009, Jul. 30, p. 3). Sanctioning the Central Bank of Iran was the action proposed by the Senate's resolution as Senator Lieberman mentioned during the hearing. As a co-sponsor of S.908, Lieberman pointed out the bill had 71 co-sponsors, including some of the most liberal and some of the most conservative members of the Senate.

The threat of tough sanctions and use of force together with diplomacy was the policy suggested by Nicholas Burns, a witness

present at the hearing. Burns, who was the Under Secretary of State for Political Affairs in the Bush administration, supported the two-track diplomacy of the Obama administration, which he acknowledged was the continuation of Bush's two-path strategy. He suggested that the international community say to Iranians that they were willing to negotiate to seek an end to the nuclear weapons project of Iran. If negotiations, with the objective of putting an end to Iran's nuclear program, were not successful, then the United States would have "much greater credibility to say to the Russians and the Chinese, the Europeans and others, you now need to join us in draconian sanctions against the Iranian regime" (The US Senate Hearing 111-336, 2009, Jul. 30, p. 13).

With regard to sanctions against Iran, addressing Senators present at the hearing, Burns said: "you are right to consider sanctions of every kind, strong financial sanctions, economic sanctions, and energy sanctions, because those have not been tried in the past, the energy sanctions, and that is Iran's Achilles heel." He added that the President should, however, be given flexibility to conduct foreign policy, and congressional legislation should not tie his hands or set deadlines for him. (The US Senate Hearing 111-336, 2009, Jul. 30, p. 14). In addition, Burns stated that unilateral sanctions could not bring about the desired results, and the United States had to convince other countries to join the U.S. in sanctioning Iran.

## **2.6. The Obama Administration and CISADA**

After the July 30 hearing, Senator Dodd, Chair of the Banking Committee, and Richard Shelby, the Committee's ranking member decided to get the reaction of the Obama administration before moving forward with the legislation. On October 6, the committee

held another hearing. At the beginning of the session, Christopher Dodd announced that he intended to move forward with sanctions legislation. A week before the October hearing, the first meeting between Iran and the P5+1 was held in Geneva on October 1. Obama (2009) described the talks as “a constructive beginning”. Iran and the P5+1 agreed to continue the talks in October, and Iran agreed in principle to export the majority of its low-enriched uranium to Russia and France in return for 20 percent-enriched uranium fuel for the Tehran Research Reactor.

Despite the fact that negotiations with Iran had just begun, and Iran agreed to export its low-enriched uranium, Senator Dodd stated that he intended to move forward with comprehensive sanctions legislation to equip the President with “all of the tools that he needs to confront the threats posed by Iran” (The US Senate Hearing 111-410, 2009, Oct. 6, p. 2). The legislation that the Banking Committee was going to consider, in the words of Senator Dodd, incorporated “the best of Senate colleagues’ contributions into one original Committee bill” (The US Senate Hearing 111-410, 2009, Oct. 6, p. 2). S.908, advanced by Senators Bayh, Kyle, and Lieberman imposed penalties on companies that supported Iran’s import of refined petroleum products or bolstered its domestic capacity. Senators Brownback and Casey also sponsored a bill to authorize State and local governments to divest from companies involved in critical businesses with Iran.

There was a consensus among the senators present at the Banking Committee hearing that negotiations had to be backed by tough sanctions and robust economic pressure. Dodd intended to combine the Bayh-Kyl-Lieberman legislation with the bill sponsored by Brownback and Casey. The Iran Sanctions Enabling Act (S.1065), sponsored by Sam Brownback, allowed State and local governments to divest from investments associated with

Iranian companies or companies doing business in Iran. He also recommended the allocation of \$30 million to the Global Internet Freedom Consortium<sup>1</sup> to allow Iranians to communicate over blogs, Facebook, and Twitter, and to support Radio Farda. Robert Casey, the co-sponsor of S.1056, reiterated the comments that Iran could not be trusted and stated that beside negotiations, the Senate must act “to give not only the Federal Government all the tools it needs, the administration as well, but in particular to give other levels of Government the tools they need to participate in this strategy” (The US Senate Hearing 111-410, 2009, Oct. 6, p. 8).

Senator Charles Schumer suggested two things the U.S. could do unilaterally. One was to enact the bill he had introduced with Senator Graham, the Reduce Iranian Cyber-Suppression Act, which would bar companies that export sensitive communication technology equipment to Iran from applying or renewing procurement contracts with the U.S. government. The second thing was including sanctions against the Central Bank of Iran in the committee’s bill to prevent it from “playing a role in helping other banks circumvent U.S. financial sanctions” (The US Senate Hearing 111-410, 2009, Oct. 6, p. 10). Schumer also criticized the Obama administration for not looking into the toughest sanctions possible while negotiations were conducted, and asked that the Obama administration be truly tough on Iran, unlike the Bush administration, which he believed sounded tough but did little.

## 2.7. Actors

The following table gives information about the key Senate and House actors in the passage of CISADA.

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1. The Global Internet Freedom Consortium is a consortium of organizations that develop and deploy anti-censorship technologies for use by Internet users in countries whose governments restrict Web-based information access.

**Table 1: Senate and House Actors on CISADA**

<b>Actors (Senate)</b>	<b>Positions</b>	<b>Political stance</b>	<b>Actors (House)</b>	<b>Positions</b>	<b>Political stance</b>
Christopher Dodd (Democrat)	Senator from Connecticut (1980-2011) House Representative (1974-1980) Chairman of the Democratic National Committee (1995-1997) Chairman of Senate Banking Committee (2007-2011) Served in several committees including Foreign Relations Primary sponsor of 47 enacted bills		Howard Berman (Democrat)	House representative from California (1983-2013) Chairman, Foreign Affairs Committee (2008-2011) Primary sponsor of 24 enacted bills mostly in international affairs	Strong supporter of Israel Close to the Right
Evan Bayh (Democrat)	Senator from Indiana (1999-2011) Secretary of State of Indiana (1986) 46 <sup>th</sup> governor of Indiana (1989-1997) Served in Armed Services and Banking committees Member of AIPAC's advisory committee	Called for severe economic sanctions against Iran and introduced a resolution to enact aggressive economic sanctions against Iran. In favor of confronting Iran.	Ileana Ros-Lehtinen (Republican)	The most senior U.S. Representative from Florida (1989-2018) Florida House of Representatives (1982-1986) Florida Senate (1986-1989) Chair of the Committee on Foreign Affairs (2011-2013) Chair of the Subcommittee on the Middle East and North Africa Primary sponsor of 17 enacted bills mostly in international affairs	Strong supporter of Israel and punitive measures against countries such as Iran



Congressional Foreign Policy Actors on the Two Iran  
Banking Sanction Laws during the Obama Administration

← Continuation of Table 1

Actors (Senate)	Positions	Political stance	Actors (House)	Positions	Political stance
Sam Brownback (Republican)	Senator from Kansas (1996-2011) House Representative (1994-1999)	Favored imposing sanctions on the import of refined petroleum products by Iran			
Charles Schumer (Democrat)	Senator from New York (1998-present) House Representative (1981-1999)	Advocated strong economic sanctions on Iran Opposed 2015 nuclear deal with Iran			
Joseph Lieberman (Democrat then independent)	Senator from Connecticut (1989-2012) Democratic Party's nominee for Vice President (2000 election) Chair of the Homeland Security and Governmental Affairs Committee Member of AIPAC's advisory committee				
Robert Menendez (Democrat)	Senior senator New Jersey (2006-present) House representative (1992-2006) Chair of Foreign Relations Committee (2013-2015)	Sponsored Iran Nuclear Proliferation Prevention Act of 1998 which passed the House Opposed Obama's nuclear deal with Iran A leader on tough legislations regarding Iran			

Source: Authors

The effectiveness of sanctions against Iran depended on their effective enforcement. A key player in ensuring the enforcement of sanctions in the executive branch was the Undersecretary of Treasury for Terrorism and Financial Intelligence. This position was created in 2004 and was led by Stuart Levey until 2011. In line with the two-path diplomacy of the Bush administration and two-track diplomacy of the Obama administration, Levey and his colleagues conducted a great effort to target the financial sector of Iran and make it difficult for Iranian financial institutions to carry out simple financial transactions by cutting off their access to the U.S. financial system. Obama as a presidential candidate and Hillary Clinton as a New York Senator both called for tougher sanctions against Iran with the cooperation of other U.S. allies. Obama as President and Clinton as Secretary of State, thus, pursued their stated policies with regard to Iran. Finally, pro-Israel lobby groups, as an outside player in the game of sanctions against Iran were present, and voiced their agenda through such members as Ros-Lehtinen, Berman, Lieberman, Bayh and Schumer.

## 2.8. Preference

The greatest motive for congressional leaders of the 2010 sanctions was Iran's nuclear program, which they perceived as a threat to U.S. national security. As they did not believe in the peaceful nature of Iran's nuclear program and accused Iran of pursuing the development of a nuclear bomb, the only alternative to avoid military confrontation with Iran seemed to be toughening economic sanctions against it and ensuring their effective enforcement. In the case of CISADA, this cooperation between Congress and the Obama administration resulted in devising the most comprehensive sanctions regimes ever imposed on Iran. As noted in the remarks of



congressional members such as Ros-Lehtinen, the Clinton and Bush administrations had not imposed ISA sanctions on any foreign entity investing in Iran's energy sector. Thus, it was important to enforce ISA sanctions that were strengthened through CISADA. Sanctioning foreign banks for conducting transactions with Iranian entities was also an important step that was achieved by this bill.

Christopher Dodd, as the sponsor of CISADA and chair of Senate Banking Committee, in fact, put together the sanctions proposed by Bayh, Brownback, Schumer, and Menendez. Dodd's belief in intensifying pressure on Iran to make it come to the negotiation table was his primary motive of moving forward with sanctions legislation, as he stated during the Banking Committee's October 6 hearing that in his view "increased international pressure and the specter of biting sanctions are clearly what have brought Iran to the table for substantive talks" (The US Senate Hearing 111-410, 2009, Oct. 6, p. 2). As a longtime senator who retired in the 2010 elections, seeking re-election or augmentation of power and influence were not factors motivating bill sponsorship. As Iran moved fast in developing its nuclear program after the election of Mahmoud Ahmadinejad and did not halt uranium enrichment as demanded by the U.N. Security Council Resolutions, congressional members who saw no intention in Iran's nuclear activities except pursuing nuclear weapons offered sanctions of different types. Dodd's innovation was to put all sanction bills, including his own, into one bill and create a very comprehensive package of sanctions.

With Congress taking a tougher stance against Iran since 2006, several members, including junior senators such as Evan Bayh, took this as an opportunity to exert their influence over U.S. foreign policy toward Iran. The biggest motive being to contain and

reduce Iran's threat, each sought to put pressure on Iran via their sponsored bills and proposals. The core of these issues was targeting Iran's dependence on refined petroleum, which was very much advocated by the Berman-Lehtinen bill, as well as the Bayh-Kyl-Lieberman bill. Facing no political cost for sponsoring bills against Iran, this was a way for members to pursue what they considered as making good policy.

Rep. Berman, a longtime advocate of Iran sanctions, either by sponsoring or co-sponsoring all sanctions bills since 1992, was in the position of the chair of the House Foreign Affairs Committee. Ros-Lehtinen, who had a similar history of supporting tougher measures against Iran, was the committee's ranking member. Ros-Lehtinen explains her reason for introducing this legislation to be preventing Iran from developing nuclear weapons, and believes that the way to get Iran's government to change its behavior is to target Iran's vulnerability i.e. the need to import refined petroleum. The lack of the imposition of sanctions under ISA was another reason for her to co-sponsor a legislation to close ISA loopholes and strengthen its measures by sanctioning companies bolstering Iran's capacity to make refined petroleum products.

The executive branch, as the other actor involved, shared the same objective of toughening sanctions against Iran. The only difference was that the Obama administration pursued multilateral sanctions, and believed that international cooperation on sanctions would make them more effective. Thus, the administration was opposed to the timing of CISADA as it could damage its efforts to build international consensus against Iran. Efforts to give more flexibility to the President made Congress and the executive branch reach a compromise and let legislation become law.

## 2.9. Structure

The institutional structure did not limit the decisions made by bill sponsors, and this is especially evident in the House. As in the Senate individual members are very important, and the will of the individual sponsor usually sets the agenda, in the House several committees had jurisdiction over CISADA. However, these committees forewent consideration of the bill in order to expedite its passage and just asked Howard Berman, to consider their rights to appoint conferees to the conference committee. Bill sponsors were determined to pursue their decision of passing another round of unilateral sanctions, to provide the administration with all the tools needed to counter the threat of Iran, as they said. As they were also happy with Obama's two-track policy and efforts to push for multilateral sanctions, they decided to give the administration time. At the same time, they believed that negotiations needed to be backed by sanctions, as Senator Dodd stated, "to reinforce ongoing diplomatic efforts and send a very, very clear signal to Iran's leaders of what is in store if they continue to defy the will of the international community" (The US Senate Hearing 111-410, 2009, Oct. 6, p. 3). So, in this case the will of all individuals proposing sanctions was incorporated into one bill. In the House, Berman used his power as the bill sponsor and committee chair to not let floor action be postponed. As a result, the chairs of the three other committees wrote letters to Berman and gave up consideration of the bill to expedite its passage.

## 2.10. Decision Criteria

The international environment, as a factor influencing decision making, should be considered in this case. Since 2006, when the

Bush administration succeeded in passing the first U.N. sanctions resolution, the next resolutions were issued one after the other, and continued throughout the Obama administration. Thus, it was easier for the U.S. to secure the cooperation of European allies to put more pressure on Iran with Iran facing UN, EU, and US sanctions at the same time. The changes made in the swap deal, which was rejected by the Americans and Europeans, and the subsequent uranium enrichment to 20 percent by Iran, made congressional decision makers determined to pursue their policy of intensifying the pressure on Iran. In addition, the events of the post-2009 presidential election paved the way for the imposition of human rights sanctions, along with other sanctions included in CISADA.

The bill also had bipartisan support with Democrats sponsoring the bills, and Republicans being the co-sponsors. Up to the 2006 sanctions, it was mostly Republicans who were the sponsors of sanctions bills against Iran, and Democrats the co-sponsors. In the case of the 2010 sanctions, there was a surge of Democrats leading the sanctions and pushing for their passage. Berman, Dodd, Bayh, Schumer were Democrats and Lehtinen, Kyl and Graham were Republicans. Previous sanctions against Iran show that the decision to push for the passage of sanctions is not based on party lines, and the bills have had bipartisan support. In this case, a number of congressional members from the President's party were pushing for the sanctions and passed the bill despite the administration's opposition to its timing and the lack of flexibility it gives the President.

The actors' perception of Iran as a threat to U.S national security that had to be confronted has existed in all sanctions. This time US lawmakers perceived the threat to be in Iran's nuclear activities, which they saw as aiming to build a nuclear bomb. The

administration and Congress both shared this view, but the Obama administration was more reliant on building an international coalition against Iran, and that was the only factor that made congressional decision makers (i.e. Berman and Dodd) delay consideration of the sanctions bills until the fall of 2009. Once the objective that they had in mind, which was the total dismantling of Iran's nuclear program, was not achieved, they pushed their agenda of comprehensive unilateral sanctions forward.

### **3. Amendments to the National Defense Authorization Act for Fiscal Year 2012**

Senators Mark Kirk and Robert Menendez were angered by the administration's inaction with regard to sanctions on the Central Bank of Iran. Chuck Schumer and Mark Kirk, as well as 90 other senators, had written a letter to Obama demanding that sanctions be imposed on Iran's Central Bank. Thus, Kirk and Menendez decided to force the issue by introducing amendments to the 2012 National Defense Authorization bill in November 2011 (Winton, 2014). These amendments targeted what Menendez and Kirk had called for; to impose sanctions on foreign financial institutions conducting business with the Central Bank of Iran, and sanctions to reduce Iran's crude oil export. On November 20, Obama issued Executive Order 13590 to strengthen bilateral sanctions against Iran. These sanctions, building on CISADA and ISA, targeted entities contributing to "Iran's ability to develop its petroleum and petrochemical resources through the provision of goods and services, designating entities and individuals involved with Iran's nuclear procurement activities, and labeling Iranian financial institutions as primary money laundering concerns" (The US Senate Hearing 112-366, 2011, p. 2).

The IAEA November 2011 report stated the Agency's "serious concerns regarding possible military dimensions to Iran's nuclear program" and that the Agency was "unable to provide credible assurance about the absence of undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities" (Board of Governors, 2011). Following this report, the U.K. and Canada severed all ties with Iran's financial system, including the CBI, and Canada also expanded the list of prohibited goods for export (International Crisis Group, 2013, p. 13). The European Union also announced new measures to ban European companies from doing business with an expanded list of firms and organizations, and impose asset freezes and visa bans on an expanded list of individuals (The US Senate Hearing 112-366, 2011, p. 3). Despite the expansion of multilateral sanctions against Iran and the Executive Order issued in November, congressional members such as Menendez and Kirk were concerned that these measures had not made Iran capitulate to U.S. demands and opted for stricter economic measures against Iran. On November 29, Deputy Secretary of State Bill Burns, Deputy Secretary of Treasury Neal Wolin, and Deputy National Security Advisor Denis McDonough called for an emergency meeting on Capitol Hill with Senators Kirk, Menendez and Kerry, and tried to convince the senators to withdraw the amendment to the NDAA of 2012. They argued that "the amendment would critically hinder their attempts to create a multilateral sanctions infrastructure" (Winton, 2014,). The senators, however, refused to withdraw the amendment. On December 1, the Senate Foreign Relations Committee held a hearing, during which administration officials invited to the hearing lobbied against the amendment. Secretary of Treasury, Timothy Geithner also wrote a letter to Carl Levin, Chairman of the Senate Armed Services Committee and

expressed the administration's strong opposition to the Menendez-Kirk amendment. He stated that the amendment in its current form "threatens to undermine the effective, carefully phased, and sustainable approach we have undertaken to build strong international pressure against Iran" and "would potentially yield a net economic benefit to the Iranian regime" (The US Senate Hearing 112-366, 2011, p. 18).

### **3.1. The Obama Administration Opposition to Menendez-Kirk Amendment**

Wendy Sherman and David Cohen were present at the Foreign Affairs Committee hearing. Cohen highlighted that the administration completely shared the goals of the Kirk-Menendez amendment and was committed to sustain the pressure on Iran. They were, however, concerned that the amendment would "fracture the international coalition built up over the last several years to bring pressure to bear on Iran" (The US Senate Hearing 112-366, 2011, p. 16). The other problem with the amendment, as Cohen explained, was that it would say to foreign financial institutions, as well as central banks in US partner countries, that if they continued to process oil transactions with the Central Bank of Iran, their access to the United States could be terminated. Wendy Sherman added that, the irony of the amendment was that it would lead to an increase in the price of oil, meaning that Iran would in fact, "have more money to fuel its nuclear ambitions, not less" (The US Senate Hearing 112-366, 2011, p. 17).

Menendez, who was appalled by the administration's opposition to his amendment, excoriated the administration's conduct. In his 7-minute remarks, he expressed his extreme disappointment with

the actions of the Obama administration and added that the amendment was reasoned and balanced because it gave the President discretion to waive sanctions if there was a disruption in the sufficient supply and amount of oil in the market (The US Senate Hearing 112-366, 2011, p. 23). David Cohen, however, maintained that the administration preferred that the amendment not be included in the Defense Authorization Act, or that it should be changed before being adopted to make sure that it can achieve the intended objectives (The US Senate Hearing 112-366, 2011, p. 25).

Despite Sherman and Cohen's arguments against the amendment, the senators were all determined to pass the amendment, as Senator Risch held that the views of Menendez, Cardin and Corker about the necessity of the amendment were "representative of the consensus of the legislative branch of government" (The US Senate Hearing 112-366, 2011, p. 29). Risch advised Cohen to figure out how to make the amendment work instead of trying to torpedo it, because it was going to pass by a very large vote (The US Senate Hearing 112-366, 2011, p. 30). The hearing was adjourned at 12:10 p.m. of December 1, 2012. As promised, Menendez did not wait any longer, and on the same afternoon, the Senate voted unanimously (100-0) in favor of the amendment. Suzanne Maloney, an Iran specialist at the Brookings Institution's Saban Center for Middle East Policy called this vote "one of the most universal votes we've seen in a divided Capitol Hill" and said:

The Obama administration was, in fact, inclined to continue a kind of incremental ratcheting of sanctions, but thanks to one of the most universal votes we've seen in a divided Capitol Hill in several years, the administration was really



forced to move forward with the decision to sanction the central bank. (Richter, 2012)

A report from the Bipartisan Policy Center indicated that after the Senate passed the amendment, the State and Treasury Departments requested some changes be made to it before going to conference. As a result, the final bill that was signed by the President “softened the penalties for foreign banks, extended the grace period before implementing sanctions from 60 to 180 days, allowed exceptions for companies reducing their purchases of Iranian oil and broadened the president’s waiver authorities, including an exception for banks whose parent companies were cooperating with the United States against Iran” (Robb & Wald, 2012, p. 42). The House also passed the conference report, which contained much of the substance of the Kirk-Menendez amendment, and the amendment was passed in Congress as Section 1245 of the National Defense Authorization Act of 2012. President Obama signed the NDAA of 2012 on December 31, 2011. Obama, in an statement signing the NDAA, stated that sections 1235, 1242, and 1245 interfered with his “constitutional authority to conduct foreign policy relations by directing the Executive to take certain positions in negotiations or discussions with foreign governments” and added “like section 1244, should any application of these provisions conflict with my constitutional authority, I will treat the provisions as non-binding” (Obama, 2011). The sanctions existing in Section 1245 did not remain unchanged, as Sections 503 and 504 of ITRSHRA made technical corrections to and expanded those sanctions, respectively.

### 3.2. Actors

Robert Menendez and Mark Kirk were the two leaders pushing for

Central Bank sanctions to be attached to the NDAA of 2012. Information about Menendez was provided in the previous section.

**Table 2: Senate Actors on Central Bank Sanctions**

Actors	Position	Political Stance
Robert Menendez		
Mark Kirk (Republican)	Senator from Illinois (2010-2017) House Representative (2001-2010) Primary sponsor of 9 enacted bills Chairman- Subcommittee on Military Construction and Security and International Trade and Finance	Strong supporter of Israel and Pro-Israel Industry among the top five industries contributing to his campaign committee

Source: Authors

### 3.3. Preference

In the Obama administration, both Congress and the executive branch believed in augmenting the pressure on Iran to make it give up its nuclear program, which they considered to be a nuclear weapons program. In order to do so, Congress passed CISADA, a comprehensive sanctions package that had not been imposed on any country before. Yet, these pressures did not force Iran to abandon its nuclear program. Thus, the motive behind introducing the amendments to the 2012 NDAA was to close the loopholes of the previous laws and tighten the economic noose on Iran to weaken its economy, to the extent that Iran would have no choice but to yield to the pressure of the so-called international community led by the US. Iran's nuclear program, however, was not the only excuse, as CISADA imposed penalties on Iran for alleged human rights abuses, as well as accusations of sponsoring terrorism. Menendez and Kirk pushed for sanctions on CBI, and sanctions to

reduce Iran's crude oil export. The Obama administration, while applying the pressure track of the dual-track policy, believed more in multilateral pressure on Iran, since imposing sanctions on foreign financial institutions because of working with Iran could put US relations with allies at risk.

While Menendez had a background in sponsoring a sanctions bill against Iran in the House, for Kirk, this was the beginning of the path to establish credibility and influence over Iran policy, as he was elected to Senate in 2010 and was also a recipient of campaign contributions from the pro-Israel lobby. Thus, seeking re-election and gaining influence in the Senate over foreign policy could be counted as his motivations to pursue sanctions against Iran. Menendez and Kirk, as congressional foreign policy entrepreneurs opposing the Obama administration's inaction with regard to sanctioning the CBI and reducing Iran's oil export, tried to exert their influence over US foreign policy by leading the passage of sanctions.

### **3.4. Structure**

As we move along with sanctions during the Obama administration, the limits imposed on the decision makers by the structure diminish. Offering sanctions as an amendment to the NDAA of 2012 is another way where the individual leader can guarantee the passage of his desired policy without going through all the legislative processes that a bill goes through, as the National Defense Authorization bills passed.

The opposition of the executive branch to the 2012 NDAA amendment, and concerns about the reaction of U.S. allies to the sanctions, did not affect the decision made by sanction leaders such as Menendez, and in the case of the 2012 NDAA, we see that the

amendment passed Senate with the wording Menendez approves of, and the administration started to lobby for some changes to the amendment in the conference report. As we move forward with sanctions bills on Iran during the Obama administration, the factors limiting the leader's decisions and will reduce, and the agent overrules the structure.

### **3.5. Decision Criteria**

The advancement in Iran's nuclear program, IAEA reports during the year 2011, which express concern over the possible military dimensions of Iran's nuclear program, and the impact of CISADA and financial sanctions imposed by the Treasury Department had on deteriorating Iran's economy, became good reasons for decision makers to tighten economic sanctions on Iran. Quoting President Ahmadinejad about the difficulties of financial transactions due to sanctions was a good sign for sanction leaders such as Menendez and Kirk that finally, sanctions have had an impact on Iran's economy and the imposition of more economic hardship on Iran would eventually make the government of Iran yield to international pressure and abandon its nuclear program.

As in previous sanction cases, the strong bipartisan support for these sanctions, which does not normally happen in other domestic or foreign policy issues, showed that party affiliations were not a determining factor in the leader's decision making, and being Republican or Democrat did not break the consensus over increasing the pressure on Iran through the harshest possible sanctions. Moreover, in the case of the 2010 and 2012 sanctions, the Obama administration pursued the implementation of tough sanctions more than any other administration. Yet, this did not stop congressional sanction leaders from pushing for further sanctions.

Doing a cost-benefit analysis of the alternatives available to decision makers, which are diplomacy with pressure and military confrontation, results in choosing diplomacy combined with pressure, as the costs of using military force are higher. Overall, during Obama's presidency, up to the conclusion of the JPA, because of the strict implementation of sanctions by the executive branch and their shared view with Congress over the tightening of sanctions, the congressional decision makers encountered less limitations and could pursue their intended objective without even needing to reach a compromise with the administration. In fact, as the case of the 2012 NDAA shows, the administration has to bargain after the passage of the amendment in one chamber in order to get a more desired sanction bill out of the conference committee.

#### 4. Conclusion

This paper was an attempt to look into congressional decision making on the two banking sanction bills enacted during the Obama administration. To do so, the Bounded Rational Model was employed as the theoretical framework, and each of the cases was analyzed using the four elements of Actor, Structure, Preference and Decision criteria. The argument was that congressional decision makers make rational decisions, in that they do a cost-benefit analysis and choose a solution that leads them to achieve their objective and provide them with the most payoffs. However, as human decision makers, they make decisions based on how they perceive the situation, and their assessment of threats to and interests of US national security. This makes the decision maker move away from an objective assessment of the situation, as proposed by the Rational Actor Model. Thus, the decision maker is bound by his/her cognitive limitations as the Bounded Rational

Model suggests. This subjective assessment affects the cost-benefit analysis of the decision maker and leads him to choose an option that he thinks would get him closer to his intended outcome. Moreover, as an agent who acts within a structure, the decision maker encounters other constraints. The congressional actors in the process of enacting a bill may confront constraints by the preference of other players. Thus, they have to adapt to the changes in the environment of decision making.

The table below presents an overview of these two sanctions.

**Table 3: overview of CISADA and Section 1245 of 2012 NDAA**

Congressional Legislation	Year	Foreign Policy Strategy	Trigger	Target	Accusations	Actors
Iran Sanctions, Accountability and Divestment Act	2010	Two-track diplomacy	Non-proliferation, Terrorism, Human Rights, Nuclear program	Arms Nuclear/missiles Energy Financial/Banking Asset freeze Travel ban Trade ban	Sponsoring terrorism, WMD/ nuclear weapons production, abusing human rights	Howard Berman, Ileana Ros-Lehtinen, Christopher Dodd, Evan Bayh, Chuck Schumer, Robert Menendez, Jon Kyl, Joe Lieberman, Robert Casey, Sam Brownback, John McCain
Section 1245, National Defense Authorization Act of 2012	2011	Two-track diplomacy	Non-proliferation, Terrorism, Human rights, Nuclear program	Financial/Banking Asset freeze Energy	Sponsoring terrorism, WMD/ nuclear weapons production	Robert Menendez Mark Kirk

Source: Authors' Findings

The accusations against Iran in both cases are almost the same, and the financial/banking sectors are the target of both sanctions. CISADA was a comprehensive package of sanctions that incorporated different sanction bills proposed by a number of actors. In the cases of the 2012 NDAA, nearly all senators were demanding sanctions on Iran's Central Bank, and Menendez and Kirk were the leaders in pursuing this objective. The bill sponsors in these two cases have sponsored or co-sponsored other sanction bills on Iran as well, and there was bipartisan support for the bills as Republicans joined Democrats as co-sponsors. Berman and Dodd were both committee chairs, and this provided them with stronger power and leverage to pursue their agenda in the House and Senate.

Individual actors made their decision in a bounded rational environment. That is to say that they had to adapt to constraints. Yet, overall, the actors were successful at setting the agenda and attracting support for their own decision in Congress, and in confronting the opposition of the executive branch, which had not been in objection to the policy itself, but to the tactics of conducting the policy toward Iran.

The executive branch, also as an outside player, influenced congressional decision making on these sanctions. While in the case of CISADA the Obama administration neither particularly opposed nor supported the bill, when it came to the Menendez-Kirk amendment to the National Defense Authorization Act of 2012, the executive branch expressed strong opposition to the amendment. Nonetheless, the amendment passed Senate without taking into account the administration's concerns, and the Obama administration could only lobby for the modifications to be made in the Conference Committee. The Obama administration was

opposed to the Menendez-Kirk amendment because of its impact on US allies and partners. Nonetheless, the amendment passed with unanimous consent in the Senate.

Attaching foreign policy bills to broader bills, such as defense bills, which are expected to definitely pass, is one of the tools that congressional foreign policy issue leaders, and in this case Iran sanctions leaders, used to easily exert their influence over foreign policy without being forced to modify their decision through the legislative process.

Congressional sanction leaders and bill sponsors use a variety of tools to exert their influence over U.S. foreign policy toward Iran, and direct it toward a more confrontational approach. These tools include direct legislative and non-legislative tools. Direct legislative tools include drafting bills, sponsoring and co-sponsoring a bill and offering amendments to the bill. Holding hearings and writing letters to administration officials are examples of direct non-legislative tools. In both of these cases, bill sponsors have used legislative tools of sponsoring and co-sponsoring, as well as non-legislative tools such as Schumer and Kirk's letter together with 90 other senators to Obama, asking for the imposition of sanctions on Iran's Central Bank.

Among the actors involved in these two cases, Howard Berman and Joseph Lieberman stand out as influential figures. While Berman has been the sponsor of the 1992 and 2010 sanctions, Lieberman has always been present as co-sponsor. These actors have managed to establish their position in this foreign policy issue due to the length of time that they have served in Congress. All these actors have also been strong supporters of Israel and the pro-Israel lobby has been among the top contributors to their campaigns.



Finally, it can be said that since the Islamic Revolution in Iran, the U.S. Congress, with the passage of sanction laws, has directed US foreign policy toward a more confrontational and hostile approach with regard to Iran. The concerns or the opposition of different US administrations over the tactics of dealing with Iran has not halted Congress from proceeding with enacting sanctions.

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