



Written by [Joe Wolverton, II, J.D.](#) on February 10, 2012

New Iran Sanctions: President Signs Executive Order Citing NDAA Authority

Once again, a provision of the National Defense Authorization Act is being cited by Washington as justification for a new policy position.

Listing Section 1245 of the NDAA, on Monday, President Barack Obama signed [an executive order](#) imposing a roster of new sanctions on the government of Iran, including the Central Bank of Iran.

As was reported several months ago by [The New American](#), among the many shocking usurpations extant in the law signed by the President on New Year's Eve, the National Defense Authorization Act greases the skids for the deployment of the American military into Iran if economic sanctions fail to persuade Mahmoud Ahmadinejad to see things our way.



While the NDAA's effect on the Constitution is all but ignored by the administration and Congress, its effect on oil prices is taken very seriously. Under applicable provisions of the new law, President Obama may punish international firms which buy oil from Iran. The President has an out, however, if he believes that the imposition of such penalties is driving up the price of crude.

The [New York Times](#) quotes an unnamed administration official who explains the importance of vigilantly protecting the stability of the volatile oil market: "We have to do it in a timely way and phased way to avoid repercussions to the oil market, and make sure the revenues to Iran are reduced."

Unsurprisingly, in this latest decree, President Obama indeed has opted to flex that muscle by bypassing Congress and legislating a list of sanctions via the familiar fiat known as the executive order.

In [a letter to his liegions on Capitol Hill](#), President Obama deigned to delineate his reasons for bringing the axe down on the head of Iran's economic authority. In the missive, the President reports that he "found that the actions and policies of the Government of Iran threaten the national security, foreign policy, and economy of the United States." Curiously, Obama makes no mention of the actions of the government of the United States that pose the same threats and in a much more clear and present manner.

In order to reduce these threats, President Obama has previously

- declared a national emergency and imposed prohibitions on certain transactions with respect to the development of Iranian petroleum resources;

- imposed comprehensive trade and financial sanctions on Iran;



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imposed sanctions on officials of the Government of Iran and other persons acting on behalf of the Government of Iran determined to be responsible for or complicit in certain serious human rights abuses;

authorized the Secretary of the Treasury to implement certain sanctions imposed by the Secretary of State pursuant to ISA [the Iran Sanctions Act], as amended by CISADA [the Comprehensive Iran Sanctions, Accountability and Divestment Act]; and,

authorized the Secretary of State to impose sanctions on persons providing certain goods, services, technology, information, or support that contribute either to Iran's development of petroleum resources or to Iran's production of petrochemicals, and to authorize the Secretary of the Treasury to implement some of those sanctions.

Not a single reference is made to the U.S. Constitution in that enumeration of authority. There are, however, at least six separate executive orders proffered as proof of legitimacy of this legislation (albeit called by another name).

What has the government of Iran done recently to invoke the wrath of the White House? President Obama [explains](#):

I have determined that additional sanctions are warranted, particularly in light of the deceptive practices of the Central Bank of Iran and other Iranian banks to conceal transactions of sanctioned parties, the deficiencies in Iran's anti-money laundering regime and the weaknesses in its implementation, and the continuing and unacceptable risk posed to the international financial system by Iran's activities.

Again, no mention is made of the much more significant risk posed to the international financial system by the activities of the Federal Reserve Board of our own country.

The President then proceeds to list the specific sanctions that will be immediately placed on the property of Iran or its banks that are within the subject matter jurisdiction of the courts of the United States.

Included among the targets of the presidential penalties are:

Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the order.

"Persons determined ... to be owned by ... any person whose property and interests in property are blocked pursuant to the order?" Is President Obama suggesting that slavery is legal in Iran? Are there Iranians who are owned by other Iranians?

To carry out his sentence, the President has instructed "All agencies of the United States Government ... to take all appropriate measures within their authority to carry out the provisions of the order." The Secretaries of State and the Treasury are endowed with particular power to make sure that the provisions of the new policy are carried out with precision down to the final period.

While this new Executive Order freezes and seizes these assets and places the owners thereof on official sanction lists, the previous policy guiding the relationship of banks with Iranian resources required only the rejection of such transfers.

The effect of these penalties will be felt outside Iran, however. As [an article in Reuters explained](#):



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Asian importers of Iranian crude, fuel oil and iron ore will find the sanctions complicate payment, which already often goes through intermediaries in the Middle East.

Iran will be forced to rely more on settlement in illiquid currencies, which raises its cost of trade and adds to pressure on its currency.

“Iranian cargoes I can get, that’s not a problem. But how to pay is a problem,” said an iron ore trader in New Delhi.

While the method of imposing these sanctions is unconstitutional and the pecuniary value of clearing these obstacles on the part of other nations may be small, there are, of course, darker clouds on the horizon that may have prompted the President to prepare for the coming storm. As was ably explained by the global news agency AFP:

Obama’s move came amid a torrent of speculation about the possibility of a go-it-alone strike by Israel on underground Iranian nuclear installations it sees as a threat to its existence.

US observers are concerned that a unilateral Israeli attack on Iranian nuclear facilities could trigger a furious response from Tehran, including missile attacks and action by extremist groups allied to the Islamic republic, as well as damaging global economic turmoil after a likely steep hike in oil prices.

There is also anxiety that the United States could get drawn into the conflict to protect its Middle East ally, soon after managing to extricate itself from another damaging war in Iraq.

Obama has refused to take the option of a US military strike on Iran’s nuclear facilities off the table, but there are signs that Washington does not view the threat as imminently as Israel does.

Despite this President’s hubris (count the number of times the first-person pronoun is used in the executive order and the letter to Congress), there is no constitutional authority for the promulgation of these executive orders, there is no constitutional authority for the President to impose these sanctions without congressional authority, there is no constitutional authority for the President to manipulate global trade for the purpose of cajoling other leaders into compliance, and there is no constitutional authority for the President of the United States to deploy the armed forces of the United States in the defense of other nations, regardless of the uniqueness of our relationship with them.



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