

the United States to “reverse the measures it has taken.”<sup>10</sup> France and Germany similarly called for the withdrawal of the sanctions.<sup>11</sup>

Human rights groups decried the sanctions. Amnesty International stated that Bensouda and Mochochoko “should be commended for their commitment, not subjected to a punitive campaign of intimidation.”<sup>12</sup> Human Rights Watch said that the “unprecedented imposition of asset freezes on prosecutors at the International Criminal Court (ICC) shows an egregious disregard for victims of the world’s worst crimes.”<sup>13</sup>

In the meantime, the original investigation of conduct in Afghanistan that sparked the imposition of sanctions on Bensouda and Mochochoko is on hold. Pursuant to Article 18(2) of the Rome Statute, the Afghan government asked the ICC to defer the investigation, asserting that Afghanistan is conducting credible domestic investigations of the same alleged war crimes.<sup>14</sup> In part because the ICC prosecutor’s office is assessing Afghanistan’s request and in part because of restrictions due to COVID-19, the ICC is not currently taking any active investigative steps.<sup>15</sup>

#### USE OF FORCE, ARMS CONTROL, AND NONPROLIFERATION

##### *United States Fails to Secure Multilateral Snapback Sanctions Against Iran*

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The United States withdrew from the Joint Comprehensive Plan of Action (JCPOA) on May 8, 2018, and subsequently reimposed a range of unilateral sanctions on Iran.<sup>1</sup> Throughout mid-2020, the Trump administration sought multilateral support for renewed

<sup>10</sup> European External Action Service Press Release, International Criminal Court: Statement by the High Representative/Vice-President Josep Borrell on US Sanctions (Sept. 3, 2020), at [https://eeas.europa.eu/headquarters/headquarters-homepage/84721/international-criminal-court-statement-high-representativevice-president-josep-borrell-us\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/84721/international-criminal-court-statement-high-representativevice-president-josep-borrell-us_en) [<https://perma.cc/X8ME-VE5M>]; see also Office of the UN Secretary-General Press Release, Highlights of the Noon Briefing by Stéphane Dujarric, Spokesman for Secretary-General António Guterres (Sept. 2, 2020), at <https://www.un.org/sg/en/content/noon-briefing-highlight?date%5Bvalue%5D%5Bdate%5D=2%20September%202020> [<https://perma.cc/77FM-QX8C>] (noting “with concern” the designation of sanctions).

<sup>11</sup> German Federal Foreign Office Press Release, Foreign Minister Maas on the US Sanctions Imposed on ICC Officials (Sept. 4, 2020), at <https://www.auswaertiges-amt.de/en/newsroom/news/maas-us-sanctions-icc/2381666> [<https://perma.cc/DG2H-7SSY>]; Ministry of Eur. and Foreign Aff. Press Release, International Criminal Court – Announcement of Individual Sanctions by the United States – Statement by Jean-Yves Le Drian, Minister for Europe and Foreign Affairs (Sept. 3, 2020), at <https://www.diplomatie.gouv.fr/en/french-foreign-policy/international-justice/news/article/international-criminal-court-announcement-of-individual-sanctions-by-the-united> [<https://perma.cc/SD8L-WNBK>].

<sup>12</sup> Amnesty Int’l, *U.S. Sanctions Against ICC Staff Create Chilling Effect for International Justice* (Sept. 2, 2020), at <https://www.amnestyusa.org/press-releases/iccsanctions> [<https://perma.cc/2PQG-LWYX>].

<sup>13</sup> Hum. Rts. Watch, *US Sanctions International Criminal Court Prosecutor* (Sept. 2, 2020), at <https://www.hrw.org/news/2020/09/02/us-sanctions-international-criminal-court-prosecutor> [<https://perma.cc/Q6H4-R2BQ>].

<sup>14</sup> Deferral Request Made by the Government of the Islamic Republic of Afghanistan Pursuant to Article 18(2) of the Rome Statute, ICC-02/17-139-Anx1 (Int’l Crim. Ct. Mar. 26, 2020), available at [https://www.icc-cpi.int/RelatedRecords/CR2020\\_01538.PDF](https://www.icc-cpi.int/RelatedRecords/CR2020_01538.PDF) [<https://perma.cc/337X-KP86>].

<sup>15</sup> Proposed Programme Budget for 2021 of the International Criminal Court, para. 137, ICC-ASP/19/10 (Int’l Crim. Ct. Aug. 31, 2020), available at [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19/ICC-ASP-19-10-ENG-PPB-2021-31aug20-1530.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-10-ENG-PPB-2021-31aug20-1530.pdf) [<https://perma.cc/MLS2-594L>].

<sup>1</sup> See Jean Galbraith, Contemporary Practice of the United States, 112 AJIL 487, 517, 521 (2018); Exec. Order No. 13,846, 83 Fed. Reg. 38,939 (2018).

UN sanctions against Iran, but the Security Council rejected those efforts.<sup>2</sup> In response, the administration moved to initiate snapback sanctions under the terms of the JCPOA and UN Security Council Resolution 2231. However, JCPOA participants and the Security Council largely rebuffed the administration's contention that it could activate the snapback mechanism, instead taking the position that U.S. withdrawal from the JCPOA means that it is no longer a "participant state" as required to invoke snapback sanctions.<sup>3</sup>

Tensions between the United States and Iran have continued to rise following U.S. withdrawal from the 2015 JCPOA, under which Iran agreed to submit to restrictions on its nuclear program in exchange for sanctions relief.<sup>4</sup> In July 2018, Iran instituted proceedings against the United States at the International Court of Justice, alleging violations of a 1955 treaty of amity.<sup>5</sup> The situation further deteriorated in January 2020, when the United States launched a drone strike that killed Iranian General Qasem Soleimani at the Baghdad airport, and Iran responded with ballistic missile strikes against U.S. military bases in Iraq.<sup>6</sup> Congress became sufficiently concerned about escalation that it sought to restrain President Donald Trump's authority to use force against Iran,<sup>7</sup> though Trump vetoed Congress's effort.<sup>8</sup> The United States continued to impose additional unilateral sanctions on Iran throughout 2020, targeting both Iran's nuclear program<sup>9</sup> and its broader activities in the region.<sup>10</sup>

Iran has complained for several years that the United States failed to fulfill its commitments to relieve sanctions under the JCPOA.<sup>11</sup> As a result of these frustrations, Iran took a number of steps between May 2019 and January 2020 to reduce its commitment to the agreement.<sup>12</sup> These

<sup>2</sup> UN Security Council Press Release, Security Council Announces Failure to Adopt Text on Iran Sanctions by 2 Against, 2 in Favour, 11 Abstentions (Aug. 14, 2020), at <https://www.un.org/press/en/2020/sc14277.doc.htm> [perma.cc/9QAR-U9FC].

<sup>3</sup> Edith M. Lederer, *UN Council Rejects US Demand to "Snap Back" Iran Sanctions*, WASH. POST (Aug. 25, 2020), at [https://www.washingtonpost.com/world/middle\\_east/un-council-rejects-us-demand-to-snap-back-iran-sanctions/2020/08/25/301b4154-e6fb-11ea-bf44-0d31c85838a5\\_story.html](https://www.washingtonpost.com/world/middle_east/un-council-rejects-us-demand-to-snap-back-iran-sanctions/2020/08/25/301b4154-e6fb-11ea-bf44-0d31c85838a5_story.html).

<sup>4</sup> See Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 109 AJIL 644, 649 (2015).

<sup>5</sup> See Jean Galbraith, *Contemporary Practice of the United States*, 113 AJIL 132, 173–82 (2018).

<sup>6</sup> See Jean Galbraith, *Contemporary Practice of the United States*, 114 AJIL 289, 313, 321 (2020).

<sup>7</sup> See Jean Galbraith, *Contemporary Practice of the United States*, 113 AJIL 813, 845–48 (2019); S. Res. 68, 116th Cong. (2020).

<sup>8</sup> See Seung Min Kim, *Trump Vetoes Congressional Resolution Limiting His Military Authority Against Iran*, WASH. POST (May 6, 2020), at [https://www.washingtonpost.com/politics/trump-vetoes-congressional-resolution-limiting-his-military-authority-against-iran/2020/05/06/ec52845e-8fdf-11ea-8df0-ee33c3f5b0d6\\_story.html](https://www.washingtonpost.com/politics/trump-vetoes-congressional-resolution-limiting-his-military-authority-against-iran/2020/05/06/ec52845e-8fdf-11ea-8df0-ee33c3f5b0d6_story.html).

<sup>9</sup> See, e.g., U.S. Dep't of State Press Release, *Expansion of the Scope of Iran Metals Sanctions Targeting Iran's Nuclear, Military, and Ballistic Missile Programs and the IRGC* (July 30, 2020), at <https://www.state.gov/expansion-of-the-scope-of-iran-metals-sanctions-targeting-irans-nuclear-military-and-ballistic-missile-programs-and-the-irgc> [https://perma.cc/S29B-ZEDS].

<sup>10</sup> See, e.g., U.S. Dep't of State Press Release, *Imposing Sanctions on Entities for Engaging in Transactions Related to Iran's Petroleum and Petrochemical Industry* (Sept. 3, 2020), at <https://www.state.gov/imposing-sanctions-on-entities-for-engaging-in-transactions-related-to-irans-petroleum-and-petrochemical-industry> [https://perma.cc/2GUY-EDWY]. For a list of U.S. sanctions, see U.S. Dep't of State, *Iran Sanctions*, at <https://www.state.gov/iran-sanctions>.

<sup>11</sup> See Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 110 AJIL 789, 792 (2016).

<sup>12</sup> Laurel Wamsley & Emily Kwong, *Iran Abandons Nuclear Deal Limitations in Wake of Soleimani Killing*, NPR (Jan. 5, 2020), at <https://www.npr.org/2020/01/05/793814276/iran-abandons-nuclear-deal-limitations-in-wake-of-soleimani-killing>.

measures ranged from exceeding uranium limits<sup>13</sup> to announcing that Iran would no longer adhere to “operational restrictions” on the number of centrifuges it employs.<sup>14</sup> As of early November 2020, Iran maintained nearly twelve times the amount of uranium permitted by the JCPOA.<sup>15</sup>

In April 2020, the United States began planning to invoke the JCPOA’s snapback sanctions by asserting that it remained a “participant state” under the deal.<sup>16</sup> The snapback provision represents the primary mechanism to ensure Iranian compliance with the terms of the JCPOA.<sup>17</sup> The relevant portion of UN Security Council Resolution 2231 provides:

[W]ithin 30 days of receiving a notification by a JCPOA participant State of an issue that the JCPOA participant State believes constitutes significant non-performance of commitments under the JCPOA, [the Security Council] shall vote on a draft resolution to continue in effect the terminations in paragraph 7(a) of this resolution . . . .

[A]cting under Article 41 of the Charter of the United Nations, . . . if the Security Council does not adopt a resolution under paragraph 11 to continue in effect the terminations in paragraph 7(a), then effective midnight Greenwich Mean Time after the thirtieth day after the notification to the Security Council described in paragraph 11, all of the provisions of resolutions [imposing sanctions on Iran] that have been terminated pursuant to paragraph 7 (a) shall apply in the same manner as they applied before the adoption of this resolution, and the measures [lifting sanctions on Iran] shall be terminated, unless the Security Council decides otherwise . . . .<sup>18</sup>

In other words, after a participant state notifies the Security Council of Iran’s noncompliance with the JCPOA, snapback to pre-JCPOA sanctions occurs unless the Security Council votes against the reimposition of sanctions through its normal procedures.<sup>19</sup>

On August 14, 2020, the Trump administration failed to garner sufficient support to extend a Security Council resolution restricting arms sales to Iran.<sup>20</sup> In response, the United States notified the Security Council President by letter on August 20 that it was activating the snapback provisions of Resolution 2231.<sup>21</sup> The letter stated:

<sup>13</sup> IAEA Director General, Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015), para. 3, UN Doc. GOV/INF/2019/8 (July 1, 2019).

<sup>14</sup> IAEA Director General, Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015), para. 5, UN Doc. GOV/INF/2020/6 (June 5, 2020).

<sup>15</sup> IAEA Director General, Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015), paras. 27–28, UN Doc. GOV/INF/2020/51 (Nov. 11, 2020).

<sup>16</sup> David E. Sanger, *To Pressure Iran, Pompeo Turns to the Deal Trump Renounced*, N.Y. TIMES (April 26, 2020), at <https://www.nytimes.com/2020/04/26/world/middleeast/us-iran-nuclear-deal-pompeo.html>.

<sup>17</sup> See Kristina Daugirdas & Julian Davis Mortenson, *Contemporary Practice of the United States*, 109 AJIL 644, 653 (2015).

<sup>18</sup> SC Res. 2231, paras. 11–12 (July 20, 2015).

<sup>19</sup> *Id.*

<sup>20</sup> Security Council Press Release, *supra* note 2; Michael Schwartz, *U.N. Security Council Rejects U.S. Proposal to Extend Arms Embargo on Iran*, N.Y. TIMES (Aug. 14, 2020), at <https://www.nytimes.com/2020/08/14/world/middleeast/UN-Iran-embargo.html>; U.S. Dep’t of State Press Release, *On the Security Council’s Failure to Hold Iran Accountable* (Aug. 14, 2020), at <https://www.state.gov/on-the-security-councils-failure-to-hold-iran-accountable> [<https://perma.cc/6SQF-SLCK>].

<sup>21</sup> U.S. Dep’t of State Press Release, *The Return of UN Sanctions on the Islamic Republic of Iran* (Sept. 19, 2020), at <https://www.state.gov/the-return-of-un-sanctions-on-the-islamic-republic-of-iran> [<https://perma.cc/XZN8-T3HZ>].

In accordance with paragraph 11 of [Resolution] 2231 (2015), I write to notify the Security Council, on behalf of my Government, that Iran is in significant non-performance of its commitments under the [JCPOA]. Pursuant to this notification, which the United States makes as one of the JCPOA participants identified in paragraph 10 of resolution 2231, the process set forth in paragraphs 11 and 12 of that resolution leading to the re-imposition of specified measures terminated under paragraph 7(a) has been initiated.<sup>22</sup>

The letter cited Iran's noncompliance with the agreement's restrictions on nuclear activity, as well as European participants' unsuccessful efforts to negotiate Iran's return to compliance.<sup>23</sup>

Thirty days after its notification to the Security Council, the Trump administration claimed that "[o]n September 19 . . . virtually all UN sanctions on Iran were re-imposed."<sup>24</sup> The Trump administration reinstated U.S. sanctions on entities targeted by Resolution 2231's snapback provisions and asserted that "stakeholders worldwide are warned that the United States will aggressively use U.S. sanctions authorities to impose consequences for failures to comply with the snapped-back UN measures on Iran and ensure that Iran does not reap the benefits of UN-prohibited activity."<sup>25</sup> The Trump administration imposed additional unilateral sanctions on Iranian financial institutions<sup>26</sup> and on conventional weapons transfers to and from Iran.<sup>27</sup>

U.S. authority to invoke the snapback mechanism depends on whether it remains a JCPOA participant, as it claimed in the letter to the Security Council president. In the 2018 memorandum withdrawing from the JCPOA, President Trump ordered:

Ending United States Participation in the JCPOA. The Secretary of State shall, in consultation with the Secretary of the Treasury and the Secretary of Energy, take all appropriate steps to cease the participation of the United States in the JCPOA.<sup>28</sup>

The JCPOA contains no mechanism for withdrawal or termination other than the expiration of Resolution 2231 ten years after its adoption.<sup>29</sup>

The Trump administration's view of its authority to trigger snapback sanctions clashes with the opinions of the other countries that negotiated the JCPOA.<sup>30</sup> In a joint statement,

<sup>22</sup> Letter from Ambassador Kelly Craft, U.S. Rep. to the UN, to Ambassador Dian Triansyah Djani, UN Security Council President (Aug. 20, 2020), available at <https://perma.cc/SGH6-BJ5G>.

<sup>23</sup> *Id.*

<sup>24</sup> U.S. Dep't of State Press Release, Sweeping U.S. Measures to Support Return of UN Sanctions Relating to Iran's Nuclear, Missile, and Conventional Arms Programs (Sept. 21, 2020), at <https://www.state.gov/sweeping-u-s-measures-to-support-return-of-un-sanctions-relating-to-irans-nuclear-missile-and-conventional-arms-programs> [<https://perma.cc/P38K-7DNA>].

<sup>25</sup> *Id.*

<sup>26</sup> U.S. Dep't of State Press Release, Sanctions on Iran's Financial Institutions (Oct. 8, 2020), at <https://www.state.gov/sanctions-on-irans-financial-institutions> [<https://perma.cc/A7UX-FS4P>].

<sup>27</sup> Exec. Order No. 13,949, 85 Fed. Reg. 60,043 (2020).

<sup>28</sup> Presidential Memorandum, Ceasing U.S. Participation in the JCPOA and Taking Additional Action to Counter Iran's Malign Influence and Deny Iran All Paths to a Nuclear Weapon (May 8, 2018), at <https://www.whitehouse.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action-counter-irans-malign-influence-deny-iran-paths-nuclear-weapon> [<https://perma.cc/R9SK-XH5D>].

<sup>29</sup> Joint Comprehensive Plan of Action, para. 34, July 14, 2015, available at <https://2009-2017.state.gov/documents/organization/245317.pdf> [<https://perma.cc/XX7G-CHWN>].

<sup>30</sup> The other JCPOA participants include China, France, Germany, Iran, Russia, and the United Kingdom. See Daugirdas & Mortenson, *supra* note 4, at 655.

France, Germany, and the United Kingdom asserted that the U.S. notification to the Security Council was “incapable of having legal effect,” given that “the US [United States] ceased to be a participant to the JCPOA following their withdrawal from the deal on 8 May.”<sup>31</sup> French President Emmanuel Macron vowed that Europe would not “compromise on the activation of a mechanism that the United States is not in a position to activate on its own after leaving the agreement.”<sup>32</sup> Russia commented that the U.S. position was “at odds with reality” and noted that the United States had withdrawn from the deal.<sup>33</sup> Russia added that the U.S. letter did not serve as notification under Resolution 2231, the Security Council had not moved to reimpose sanctions on Iran, and the U.S. action undermined the Security Council.<sup>34</sup> China similarly asserted that “any decision or action resulting from the US letter is devoid of any legal, political or practical effect,” citing the U.S. withdrawal.<sup>35</sup> China added that it was “committed to upholding the efficacy of the JCPOA” and a “political solution of the Iranian nuclear issue.”<sup>36</sup>

With the exception of the Dominican Republic, all of the other UN Security Council members similarly considered the U.S. letter to lack legal effect.<sup>37</sup> Security Council President Dian Triansyah Djani stated that because “there are significant numbers of members who have contesting views . . . the president is not in the position to take further action.”<sup>38</sup> As a result, the Security Council did not revive any of the six resolutions that would return to force under the snapback provision.<sup>39</sup> UN Secretary-General António Guterres similarly found that he could not act because “[t]here would appear to be uncertainty whether or not the process . . . was indeed initiated and concomitantly whether or not the (sanctions) terminations . . . continue in effect.”<sup>40</sup>

<sup>31</sup> French Min. Europe and For. Aff. Press Release, Joint Statement by the Foreign Ministers of France, Germany and the United Kingdom (Sept. 20, 2020), at <https://www.diplomatie.gouv.fr/en/country-files/iran/news/article/iran-jcpoa-joint-statement-by-the-foreign-ministers-of-france-germany-and-the> [https://perma.cc/MT3P-CLSB].

<sup>32</sup> *Europe “Will Not Compromise” with US Over Iran Sanctions: Macron*, FRANCE24 (Sept. 22, 2020), at <https://www.france24.com/en/20200922-europe-will-not-compromise-with-us-over-iran-sanctions-macron>.

<sup>33</sup> Russian Min. For. Aff. Press Release, Foreign Ministry Statement on the Misleading Assertions by the United States on the Return of the Previously Terminated UN Security Council Sanctions on Iran (Sept. 20, 2020), at [https://www.mid.ru/en/web/guest/adernoe-nerasprostranenie/-/asset\\_publisher/JrcRGi5UdnBO/content/id/4341562](https://www.mid.ru/en/web/guest/adernoe-nerasprostranenie/-/asset_publisher/JrcRGi5UdnBO/content/id/4341562) [https://perma.cc/W3HZ-RB9C].

<sup>34</sup> *Id.*

<sup>35</sup> Chinese Permanent Mission to the UN Press Release, Ambassador Zhang Jun: The US Announcement on the Return of UN Sanctions on Iran Is Illegitimate and Void (Sept. 20, 2020), at <https://www.fmprc.gov.cn/ce/ceun/eng/hyyfy/t1816508.htm> [https://perma.cc/7WL2-YFHT].

<sup>36</sup> *Id.*

<sup>37</sup> Lederer, *supra* note 3. Israeli Prime Minister Benjamin Netanyahu also voiced approval for the U.S. position, “commend[ing] the United States for its decision to trigger snapback sanctions against Iran.” Israeli Min. For. Aff. Press Release, PM Netanyahu’s Statement on US Decision to Trigger Snapback Sanctions Against Iran (Aug. 20, 2020), at <https://mfa.gov.il/MFA/PressRoom/2020/Pages/PM-Netanyahu-s-statement-on-US-decision-to-trigger-snapback-sanctions-against-Iran-20-August-2020.aspx> [https://perma.cc/5FC7-Z235].

<sup>38</sup> Rick Gladstone, *Security Council Leader Rejects U.S. Demand for U.N. Sanctions on Iran*, N.Y. TIMES (Aug. 25, 2020), at <https://www.nytimes.com/2020/08/25/world/middleeast/iran-sanctions-Trump-UN.html>.

<sup>39</sup> SC Res. 2231, para. 12 (July 20, 2015).

<sup>40</sup> Michelle Nichols, *U.N. Chief Says No Action on U.N. Iran Sanctions Due to “Uncertainty”*, REUTERS (Sept. 19, 2020), at <https://www.reuters.com/article/us-iran-usa-un/u-n-chief-says-no-action-on-u-n-iran-sanctions-due-to-uncertainty-idUSKCN26B03X>.

Iran also rejected the U.S. attempt to activate the snapback mechanism, finding the notification “inadmissible” because the United States “relinquished all its prerogatives and privileges” under the JCPOA when it withdrew from the agreement.<sup>41</sup> Iran further argued that the United States unlawfully withdrew from the deal, reimposed sanctions, and punished states and entities seeking to comply with the JCPOA.<sup>42</sup>

The Trump administration’s resort to unilateral snapback sanctions placed it at odds with European allies. The U.S. Treasury Department has insisted that it will “not hesitate to target anyone” who violates the sanctions regime.<sup>43</sup> European officials, however, have raised concerns that stricter sanctions could lead to humanitarian consequences, such as reduced access to medical supplies, in Iran.<sup>44</sup> The sanctions also clash with the EU blocking statute,<sup>45</sup> which the European Council amended in 2018 to address U.S. secondary sanctions against Iran.<sup>46</sup> The blocking statute prohibits entities within the European Union from complying with the sanctions,<sup>47</sup> while noting that the European Union finds those sanctions to “violate international law.”<sup>48</sup> European entities interacting with Iran may therefore either violate U.S. sanctions by continuing to do business with Iran, or instead violate the blocking statute by complying with the sanctions. Despite the friction with the United States, the European JCPOA participants reiterated that they have “worked tirelessly to preserve the nuclear agreement and remain committed to do[ing] so.”<sup>49</sup>

Support for snapback sanctions within Congress fell along party lines. Fifty-one Republican legislators sent a letter to Trump expressing approval of the sanctions, citing concerns about Iranian support for terrorism and inability to address Iran’s nuclear activity under the JCPOA.<sup>50</sup> Congressional Democrats criticized the Trump administration’s decision, maintaining that the JCPOA remains “the best hope of preventing Iran from acquiring nuclear weapons.”<sup>51</sup> As the Democratic presidential candidate, President-Elect Joe Biden criticized

<sup>41</sup> Letter from Javad Zarif, Iranian Foreign Minister, to Ambassador Dian Triansyah Djani, President of the United Nations Security Council 12–13 (Aug. 21, 2020), available at <https://en.mfa.ir/files/mfaen/200820-MJZ.pdf> [<https://perma.cc/5EQL-K4PT>].

<sup>42</sup> *Id.* at 8.

<sup>43</sup> U.S. Dep’t of Treas. Press Release, Treasury Sanctions Key Actors in Iran’s Nuclear and Ballistic Missile Programs (Sept. 21, 2020), at <https://home.treasury.gov/news/press-releases/sm1130> [<https://perma.cc/R6WK-WA9K>].

<sup>44</sup> John Hudson, *Trump Administration Imposes Crushing Sanctions on Iran in Defiance of European Humanitarian Concerns*, WASH. POST (Oct. 8, 2020), at [https://www.washingtonpost.com/national-security/trump-administration-to-impose-crushing-sanctions-on-iran-in-defiance-of-european-humanitarian-concerns/2020/10/07/f29c052c-08f4-11eb-991c-be6ead8c4018\\_story.html](https://www.washingtonpost.com/national-security/trump-administration-to-impose-crushing-sanctions-on-iran-in-defiance-of-european-humanitarian-concerns/2020/10/07/f29c052c-08f4-11eb-991c-be6ead8c4018_story.html).

<sup>45</sup> Council Regulation 2271/96, 1996, at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01996R2271-20140220&from=EN> [<https://perma.cc/ABB9-WDBH>].

<sup>46</sup> Commission Delegated Regulation 2018/1100, 2018, at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1100&from=EN> [<https://perma.cc/Y4U3-GS34>].

<sup>47</sup> Council Regulation, *supra* note 45, Art. 5.

<sup>48</sup> Commission Delegated Regulation, *supra* note 46.

<sup>49</sup> Joint Statement, *supra* note 31.

<sup>50</sup> Letter from Congressional Republicans to President Donald Trump (Aug. 21, 2020), available at [https://mcusercontent.com/301a28247b80ab82279e92afb/files/a4074bbb-233d-4ed1-9b60-3cc6b88edf2e/Letter\\_to\\_POTUS\\_Supporting\\_Snapback\\_UPDATE.pdf](https://mcusercontent.com/301a28247b80ab82279e92afb/files/a4074bbb-233d-4ed1-9b60-3cc6b88edf2e/Letter_to_POTUS_Supporting_Snapback_UPDATE.pdf) [<https://perma.cc/C8V3-CLFN>].

<sup>51</sup> Rep. David Price Press Release, House Democrats Release Joint Statement Condemning Trump Administration on Proposed Iran “Snapback” Sanctions (Aug. 24, 2020), at <https://price.house.gov/newsroom/press-releases/house-democrats-release-joint-statement-condemning-trump-administration> [<https://perma.cc/ET53-K23Z>]; see also Sen. Ben Cardin Press Release, Cardin Statement on Trump Administration’s

the Trump administration's unilateral efforts to enact snapback sanctions and committed, if elected, to rejoin the JCPOA provided that Iran strictly complies with the agreement.<sup>52</sup>

*Congress and the Trump Administration Spar Over U.S. Arms Sales to the Saudi-Led Coalition in Yemen*

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Longstanding tensions between Congress and the executive over U.S. support to the Saudi-led coalition in Yemen have spurred conflict between the branches over arms sales. In May 2019, U.S. Secretary of State Michael Pompeo declared an emergency under the Arms Export Control Act (AECA) to bypass congressional “freezes” on arms sales and complete \$8.1 billion in sales to members of the Saudi-led coalition. In response, Congress requested that the State Department inspector general (IG) investigate the matter. In a report released in August 2020, the IG determined that the emergency declaration comported with the AECA’s procedural requirements but that the State Department’s risk assessments and civilian casualty mitigation measures did not fully address legal concerns about the sales. The Trump administration has continued to move forward with arms sales, including by unilaterally reinterpreting a nonbinding multilateral export control regime to eliminate prohibitions on the export of certain unmanned aerial systems (UAS). A bipartisan group of legislators has introduced a bill to prevent such sales to all countries except select U.S. allies. In September, a UN report criticized U.S. and other countries’ arms sales to the Saudi-led coalition and recommended referral of the situation in Yemen to the International Criminal Court (ICC).

The Yemeni government has been engaged in a civil war with Iranian-backed Houthi rebels since late 2014.<sup>1</sup> In March 2015, a Saudi-led international coalition entered the conflict to assist the Yemeni government, and the United States began providing the coalition with logistical support, intelligence sharing, and arms.<sup>2</sup> The United States has stopped short of joining the Saudi-led coalition or taking direct action against the Houthis in support of the Yemeni government.<sup>3</sup>

Flawed Decision to Advance “Snapback” Sanctions on Iran (Aug. 21, 2020), at <https://www.cardin.senate.gov/newsroom/press/release/cardin-statement-on-trump-administrations-flawed-decision-to-advance-snapback-sanctions-on-iran> [<https://perma.cc/5HY4-34GW>].

<sup>52</sup> Joe Biden, *Joe Biden: There’s a Smarter Way to Be Tough on Iran*, CNN (Sept. 13, 2020), at <https://www.cnn.com/2020/09/13/opinions/smarter-way-to-be-tough-on-iran-joe-biden/index.html>.

<sup>1</sup> OFF. OF INSPECTOR GEN., U.S. DEP’T OF STATE, ISP-I-20-19, REVIEW OF THE DEPARTMENT OF STATE’S ROLE IN ARMS TRANSFERS TO THE KINGDOM OF SAUDI ARABIA AND THE UNITED ARAB EMIRATES 2, 4 (2020), available at <https://www.stateoig.gov/system/files/isp-i-20-19.pdf> [<https://perma.cc/975Q-HFVK>].

<sup>2</sup> *Id.* For additional background on the U.S. role in the conflict, see Kristina Daugirdas & Julian Davis Mortenson, Contemporary Practice of the United States, 111 AJIL 476, 523–33 (2017); Jean Galbraith, Contemporary Practice of the United States, 113 AJIL 131, 159–69 (2019).

<sup>3</sup> OFF. OF INSPECTOR GEN., *supra* note 1, at 4; Daugirdas & Mortenson, *supra* note 2, at 523–27.