

APPLICATION INSTITUTING PROCEEDINGS

IN THE NAME OF GOD

To the Registrar, International Court of Justice:

I, the undersigned, duly authorised by the Government of the Islamic Republic of Iran (“Iran”) of which I am the Agent, have the honour to submit to the International Court of Justice, in accordance with Articles 36(1) and 40(1) of its Statute and Article 38 of its Rules, an Application instituting proceedings brought by Iran against the United States of America (“the USA”) in the following case.

I. SUBJECT OF THE DISPUTE

1. The dispute between Iran and the USA concerns the re-imposition and announced aggravation by the USA of a comprehensive set of so-called “sanctions” and restrictive measures targeting, directly or indirectly, Iran, Iranian companies and/or Iranian nationals, resulting from the USA’s Decision of 8 May 2018 (“the 8 May sanctions”), which constitute breaches of the Treaty of Amity, Economic Relations, and Consular Rights signed at Tehran on 15 August 1955 (the “Treaty of Amity”) which entered into force between Iran and the USA on 16 June 1957.¹
2. The present Application exclusively concerns the internationally wrongful acts of the USA resulting from its decision to re-impose in full effect and enforce the 8 May sanctions that the USA previously decided to lift in connection with the Joint Comprehensive Plan of Action (the “JCPoA”), and the announcement that further sanctions will be imposed.²

¹ 284 *UNTS* 93, II *Recueil des traités bilatéraux* 69, 8 *UST* 899, *TIAS* No. 3853. The text of the Treaty of Amity is appended to this Application as Annex 1.

² Notwithstanding the limited scope of the present Application, Iran continues to consider that the imposition and enforcement of all unilateral sanctions of the United States against Iran were and are contrary to international law,

II. THE JURISDICTION OF THE COURT

3. The Court has jurisdiction in relation to the above dispute, and to rule on the claims submitted by Iran, pursuant to Article 36 (1) of the Statute of the Court and Article XXI (2) of the Treaty of Amity.
4. Article 36 (1) of the Statute of the Court provides in the relevant part that the Court's jurisdiction:

“comprises all cases which the parties refer to it and all matters specifically provided for in the Charter of the United Nations or in treaties and conventions in force.”
5. Article XXI (2) of the Treaty of Amity provides:

“Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties agree to settlement by some other pacific means.”
6. The present dispute concerns the interpretation or application of the Treaty of Amity. It has not been satisfactorily adjusted by diplomacy and there has been no agreement between the Parties to settle the dispute by any pacific means other than by its submission to the International Court of Justice.
7. On 11 June 2018,³ Iran notified the USA of the existence of a dispute and reserved its rights to pursue this matter in accordance with the legally binding treaties between the two Parties. On 19 June 2018,⁴ Iran reiterated its challenge to the 8 May sanctions and to the announcement that there would be further sanctions and informed the USA that it

including the Treaty of Amity. See for instance, para. 13 of the letter dated 20 July 2015 sent by the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council, UN Doc. S/2015/550, available at: <http://dag.un.org/handle/11176/312365>.

³ Note verbale No 381/289/4870056 sent on 11 June 2018 to the Embassy of Switzerland (US Interest Section) to be transmitted to the US Government, appended to this Application as Annex 5. See also the letter sent to the Secretary-General of the United Nations on 10 May 2018, UN Doc A/72/869-S/2018/453, appended to this Application as Annex 4. See also the official statement of Iran in reaction to the 8 May decision of the US www.irna.ir/en/News/82912204.

⁴ Note verbale No 381/210/4875065 sent on 19 June 2018 to the Embassy of Switzerland (US Interest Section) to be transmitted to the US Government, appended to this Application as Annex 6.

considered these to constitute breaches of international law, in particular of the Treaty of Amity.⁵

III. THE FACTS

8. On 13 October 2017, Mr Donald Trump, President of the United States of America, decided not to certify the appropriateness and the proportionality of the lifting of sanctions under the JCPOA since, in his opinion, Iran was not in compliance with its nuclear-related commitments under that agreement.⁶
9. On 12 January 2018, President Trump stated that the USA would withdraw from the JCPOA unless its terms were amended so as to place Iran under multiple additional significant commitments.⁷
10. As has been widely publicised, on 8 May 2018, President Trump declared in Presidential Memoranda:

“I do not believe that continuing to provide JCPOA-related sanctions relief to Iran is in the national interest of the United States. [...] I have determined that it is in the national interest of the United States to re-impose sanctions lifted or waived in connection with the JCPOA as expeditiously as possible.”⁸

11. As a consequence, he ordered that:

“[t]he Secretary of State and the Secretary of the Treasury shall immediately begin taking steps to re-impose all United States sanctions lifted or waived in connection with the JCPOA, including those under the National Defense

⁵ See also the article published by Iran’s Foreign Minister Mohammad Javad Zarif in *Iran Daily* of 20 June 2018, exposing the position of Iran and expressly referring to the Treaty of Amity, www.iran-daily.com/News/217019.html.

⁶ Remarks by President Trump on Iran Strategy, 13 October 2017, available at: www.whitehouse.gov/briefings-statements/remarks-president-trump-iran-strategy/.

⁷ Statement by the President on the Iran Nuclear Deal, 12 January 2018, www.whitehouse.gov/briefings-statements/statement-president-iran-nuclear-deal/.

⁸ Presidential Memoranda, 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, 8 May 2018, available at: www.whitehouse.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action-counter-irans-malign-influence-deny-iran-paths-nuclear-weapon/, hereinafter (“Presidential Memoranda”), appended to this Application as Annex 2.

Authorization Act for Fiscal Year 2012, the Iran Sanctions Act of 1996, the Iran Threat Reduction and Syria Human Rights Act of 2012, and the Iran Freedom and Counter-proliferation Act of 2012. These steps shall be accomplished as expeditiously as possible, and in no case later than 180 days from the date of this memorandum.”⁹

12. He also made clear that the sanctions will have extraterritorial effects and that “[a]ny nation that helps Iran in its quest for nuclear weapons could also be strongly sanctioned by the United States.”¹⁰
13. On the same day, the USA stated that it will “begin re-imposing the US nuclear-related sanctions” and defined two deadlines (namely 6 August 2018 and 4 November 2018) after which “all the US nuclear-related sanctions will be re-imposed and in full effect.”¹¹
14. The US’ underlying reasons for re-imposing sanctions are misconceived. Since 2015, the International Atomic Energy Agency (“IAEA”) has consistently verified that Iran has been in full compliance with its obligations under the Safeguards Agreement, as well as with its voluntary nuclear-related commitments under the JCPoA and the Additional Protocol¹² including the “non-diversion of declared nuclear material in Iran”¹³ and the absence of undeclared material¹⁴. Following the USA’s withdrawal from the JCPoA, the Director General of the IAEA made it clear that:

⁹ *Ibid.*

¹⁰ Remarks by President Trump on the Joint Comprehensive Plan of Action, 8 May 2018, available at: www.whitehouse.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action/, hereinafter (“Remarks by President Trump on 8 May 2018”), appended to this Application as Annex 3.

¹¹ OFAC, 8 May 2018 (updated June 27, 2018), Frequently Asked Questions Regarding the Re-Imposition of Sanctions Pursuant to the May 8, 2018 National Security Presidential Memorandum Relating to the Joint Comprehensive Plan of Action (JCPoA), hereafter (“OFAC Re-imposition FAQ”), Section 1.1., available at: www.treasury.gov/resource-center/sanctions/Programs/Documents/jcpoa_winddown_faqs.pdf.

¹² IAEA, Board Report, Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015), 24 May 2018, available at: www.iaea.org/newscenter/focus/iran/iaea-and-iran-iaea-reports.

¹³ See: IAEA, Board of Governors, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, 14 November 2006, available at: www.iaea.org/sites/default/files/gov2006-64.pdf.

¹⁴ IAEA, Board of Governors, Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015), 24 May 2018, available at: www.iaea.org/sites/default/files/18/06/gov2018-24.pdf.

“Iran is subject to the world’s most robust nuclear verification regime under the JCPOA, which is a significant verification gain. As of today, the IAEA can confirm that the nuclear-related commitments are being implemented by Iran.”¹⁵

15. The EU has praised the work of the IAEA through its High Representative:

“The EU will remain committed to the continued full and effective implementation of the nuclear deal [...] We fully trust the work, competence and autonomy of the International Atomic Energy Agency that has published 10 reports certifying that Iran has fully complied with its commitments.”¹⁶

16. On 25 May 2018, the JCPoA Participants, without the USA, held a special meeting in Vienna at which they adopted the conclusions of the IAEA reports. It was reported that:

“The participants welcomed the fact that the IAEA has again confirmed the continued adherence by Iran to its nuclear-related commitments. They also commended the professional and impartial role played by the IAEA, the only body charged with the monitoring and verification of the implementation by Iran of its nuclear-related commitments under the JCPOA and UN Security Council Resolution 2231 (2015).”¹⁷

17. Similarly, on 6 July 2018, the Joint Commission of the JCPoA, at the ministerial level, adopted a Joint Statement in which:

“The participants welcomed the 11th report by the International Atomic Energy Agency of 24 May confirming that Iran is abiding by its nuclear-related commitments.”¹⁸

¹⁵ IAEA, Statement by Director General Y. Amano, 9 May 2018, available at: www.iaea.org/newscenter/statements/statement-by-iaea-director-general-yukiya-amano-9-may-2018.

¹⁶ EU, Declaration by the High Representative on behalf of the EU following US President Trump's announcement on the Iran nuclear deal, 9 May 2018, available at: www.consilium.europa.eu/en/press/press-releases/2018/05/09/declaration-by-the-high-representative-on-behalf-of-the-eu-following-us-president-trump-s-announcement-on-the-iran-nuclear-deal-jcpoa/.

¹⁷ EU, Chair's statement following the 25 May 2018 meeting of the Joint Commission of the Joint Comprehensive Plan of Action, 25 May 2018, available at: eeas.europa.eu/headquarters/headquarters-homepage/45227/chairs-statement-following-25-may-2018-meeting-joint-commission-joint-comprehensive-plan_en; confirmed by Statement from the Joint Commission of the Joint Comprehensive Plan of Action, 6 July 2018, available at: eeas.europa.eu/headquarters/headquarters-homepage/48076/statement-joint-commission-joint-comprehensive-plan-action_en. See also e.g., the position of Germany, France and UK: www.diplomatie.gouv.fr/en/french-foreign-policy/disarmament-and-non-proliferation/events/article/jcpoa-joint-statement-by-france-the-united-kingdom-and-germany-08-05-18; www.gov.uk/government/news/joint-statement-from-prime-minister-may-chancellor-merkel-and-president-macron-following-president-trumps-statement-on-iran; the Russian Federation: www.mid.ru/en/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/3234684; the African Union: au.int/en/pressreleases/20180509/statement-chairperson-african-union-commission-united-states-unilateral.

¹⁸ https://eeas.europa.eu/headquarters/headquarters-homepage/48076/statement-joint-commission-joint-comprehensive-plan-action_en.

18. Furthermore, the USA announced that it does not intend to limit the enforcement of damaging measures against Iran to the measures decided on 8 May 2018. The US President announced that “sanctions will go into full effect” in order to reach their “highest level” and create for Iran “bigger problems than it has ever had before.”¹⁹ The US Administration is able under US law to mitigate the implementation of sanctions. However, the current Administration is pushing the sanctions to their most damaging effect in order to bring Iran to its knees.²⁰
19. Thus, the US Secretary of State has declared with respect to sanctions targeting Iran, Iranian companies and nationals, that “new ones are coming” and that “this is just the beginning.” According to the US Secretary of State, “[t]hese will indeed end up being the strongest sanctions in history when we are complete.”²¹ Threatening to issue new sanctions and maximum enforcement are part of the overall US sanctions policy. The threat in and of itself has created significant additional damage to the Iranian economy, and to the Iranian people, by creating uncertainty for all actors who would wish to have any economic relationship with Iran, and by deterring any such relationship, even if that relationship is not currently covered by the scope of sanctions.
20. In the following paragraphs, Iran will further explain: (i) the sanctions that are the object of the present Application, and (ii) the actual and potential effect of these sanctions on Iran, the Iranian economy, and Iranian nationals and companies.

a. The sanctions that are the object of the present Application

21. Some of the 8 May sanctions have already started to be enforced. For example, the *Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of*

¹⁹ Remarks by President Trump on 8 May 2018 (Annex 3 to this Application). See also, for example, the testimony of Mr Mnuchin, US Secretary for Treasury on 11 April 2018 available at: www.bloomberg.com/news/articles/2018-04-11/mnuchin-signals-very-strong-new-sanctions-on-iran-coming. See also: www.whitehouse.gov/briefings-statements/remarks-president-trump-president-macron-france-restricted-bilateral-meeting/

²⁰ See below, para. 34, for the oil importation. Contrary to previous US Administrations, the present Administration will not use any exception provided by US laws, since its objective is to put Iranian oil exportation to zero

²¹ Remarks by the Secretary of State, After the Deal: A New Iran Strategy, 21 May 2018, available at: www.state.gov/secretary/remarks/2018/05/282301.htm.

Commercial Passenger Aircraft and Related Parts and Services (“JCPoA SLP”)²² was revoked immediately as of 8 May 2018.

22. The US Office of Foreign Assets Control (“OFAC”) also revoked two major licenses on 27 June 2018:
- *General License H*, which authorised certain transactions between US-owned or US-controlled foreign entities with the Government of Iran or persons subject to the jurisdiction of the Government of Iran;
 - *General License I*, which made possible activities relating to contingent contracts related to activities eligible for authorisation under the JCPoA SLP.
23. On 27 June 2018, OFAC also amended the *Iranian Transactions and Sanctions Regulations*, 31 C.F.R. part 560 (“ITSR”),²³ which had allowed the import into the United States of Iranian-origin carpets and foodstuffs and certain related financial transactions, in order to narrow the scope of the licenses and to authorize only the wind down of those transactions by 6 August 2018.
24. The USA announced that the other elements of the 8 May sanctions will be fully implemented and enforced in two phases: one after a 90-day wind-down period from 8 May 2018 (that is to say, on 6 August 2018) and the other after a 180-day wind-down period from that same date (that is to say, on 4 November 2018), pending yet further sanctions. To achieve these objectives, the US Administration replaced the applicable so-called “waivers”²⁴ under US law with “wind-down waivers” that are supposed to allow

²² OFAC, Statement of Licensing Policy for Activities Related to the Export or Re-export to Iran of Commercial Passenger Aircraft and Related Parts and Services, 16 January 2016, available at: www.treasury.gov/resource-center/sanctions/Programs/Documents/lic_pol_statement_aircraft_jcpoa.pdf, hereinafter: (“Statement of Licensing Policy for Aircrafts”).

²³ Available at: www.treasury.gov/resource-center/sanctions/Programs/Documents/fr83_30335.pdf.

²⁴ “Waivers” are renewable permissions which have the effect of non-application of sanctions through authorising activities that are otherwise subject to sanction or prohibited under relevant sanctions. They are provided under the following US sanctions Acts: Iran Sanctions Act, 5 August 1996, Pub. L. No. 104-172, 110 Stat. 1541 (“ISA”); Comprehensive Iran Sanctions, Accountability and Divestment Act, 1st July 2010, Pub. L. No. 111-195, 124 Stat. 1313 (CISADA); National Defense Authorization Act for Fiscal Year 2012, 31 December 2011, Pub. L. No. 112-239, 126 Stat. 2006 (NDAA); Iran Threat Reduction and Syria Human Rights Act, 10 August 2012, Pub. L. No.

for the orderly wind-down of activities pursuant to written contracts entered into prior to 8 May 2018 that were until then duly authorised under the “waivers”.²⁵ The USA also announced that it will re-impose the sanctions under relevant provisions of five executive orders²⁶ which were lifted by Executive Order No 13716 of 16 January 2016.²⁷

25. Before 6 August 2018, the USA will fully re-impose and enforce sanctions relating to the following sectors and activities:

- the purchase or acquisition of US dollar banknotes by the Government of Iran;
- direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminium and steel, coal, and software for integrating industrial processes;
- significant transactions related to the purchase or sale of the Iranian Rial, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian Rial;
- the purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and
- transactions concerning Iran’s automotive sector.

26. Before 4 November 2018, the USA will fully re-impose and enforce sanctions relating to the following sectors and activities:

- Iran’s port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (“IRISL”), South Shipping Line Iran, or their affiliates;

112-158, 126 Stat. 1215 (ITRA); Iran Freedom and Counter-proliferation Act, 2 January 2013, Pub. L. 112–239, 126 Stat. 2004 (IFCA).

²⁵ The issuance of these wind-down periods does not mean that the corresponding sanctions will enter into effect only in the future. For instance, the US Administration made it clear that new contracts signed after 8 May 2018 are not welcome (See point 2.2 of the OFAC Re-imposition FAQ).

²⁶ Executive Order 13574, 32 May 2011, 76 FR 30505; Executive Order 13590, 20 November 2011, 76 FR 72609; Executive Order 13622, 30 July 2012, 77 FR 45897; Executive Order 13628, 9 October 2012, 77 FR 62139; Executive Order 13645, 3 June 2013, 78 FR 33945.

²⁷ Executive Order 13716, 16 January 2016, 81 FR 3693.

- petroleum-related transactions with, among others, the National Iranian Oil Company (“NIOC”), Naftiran Intertrade Company (“NICO”), and National Iranian Tanker Company (“NITC”), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
 - transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions;
 - the provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions;
 - the provision of underwriting services, insurance, or reinsurance; and
 - Iran’s energy sector.
27. Not later than 4 November 2018, the USA will also fully re-implement individual sanctions that applied to designated individuals and entities from the *Specially Designated Nationals and Blocked Persons List* (the “SDN list”) and other lists maintained by OFAC:
- The SDN List contains the names of individuals, groups or entities whose assets are blocked and with whom US persons are prohibited from dealing.
 - The *Non-SDN Iranian Sanctions Act List* (“NS-ISA List”), which contains the names of persons subject to blocking and non-blocking sanctions.²⁸
 - The *List of Foreign Sanctions Evaders* (“FSE List”), which is a list of foreign individuals and entities determined by the USA to have “violated” US sanctions imposed on Iran. It also lists foreign persons who are accused by the USA of having facilitated “deceptive transactions” for or on behalf of persons subject to US sanctions.
 - The *List of Foreign Financial Institutions Subject to Sanctions* which includes the names of foreign financial institutions that are subject to sanctions under relevant US sanctions laws.²⁹

²⁸ These acts are referenced in footnote 24, above.

²⁹ These acts are referenced in footnote 24, above.

28. The re-imposition of sanctions immediately affects almost 500 entities which are listed in Annex II, Attachment 3, of the JCPoA including: the Central Bank of Iran (CBI), the majority of Iranian banks and financial institutions, National Iranian Airline Company (Iran Air) and other Iranian airlines, National Iranian Oil Company (NIOC) and other Iranian oil companies, National Petrochemical Company, National Iranian Tanker Company (NITC), Iran Shipping Line Company (IRISL), and other shipping companies, etc. The designation of these entities, and of entities owned by them, on US Lists entails the blocking of assets of and the risk of extra-territorial sanctions against any person (whether US or also in certain cases non-US nationals) engaging in any activities with those on the Lists after their re-listing.

b. The actual and potential effect of the 8 May sanctions on Iran, Iranian nationals and companies

29. The highly damaging effect on Iran of the 8 May sanctions cannot be fully evaluated and submitted with precision at this stage, although it is plain that they will have a major and irreparable impact on Iran's economy and upon Iranian nationals and companies. While presenting certain illustrative examples below, Iran will put forward a more complete assessment of the damages in its Memorial.

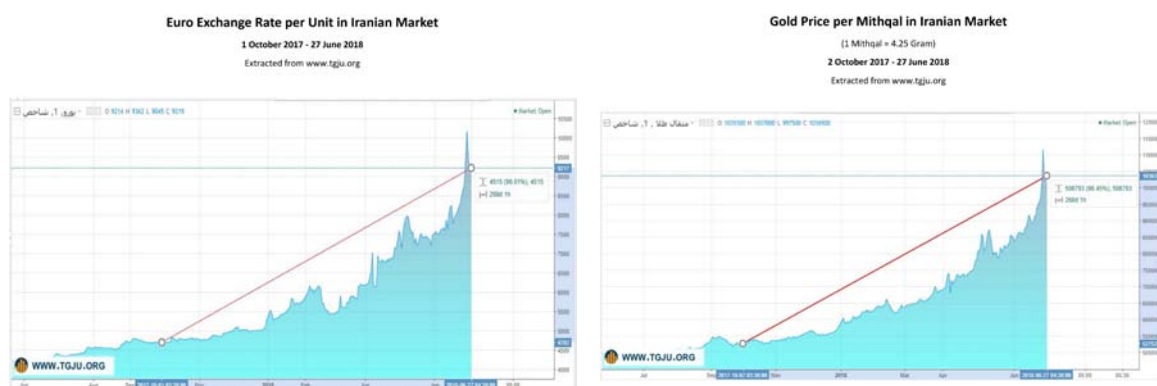
30. The mere announcement of the re-imposition of the 8 May sanctions, together with the previous announcement that the USA was very likely to take this decision,³⁰ started to produce damaging effects immediately on Iranian economy, Iranian nationals and companies.

31. One of the immediate effects of the announcement of 8 May sanctions (and its anticipation) has been the devaluation of Iranian currency.³¹ Since October 2017, when President Trump merely *suggested* that the USA would re-impose sanctions, the value of

³⁰ See above paras. 8-9.

³¹ See R. Goldberg and S. Ghasseminejad, "Iran's currency is in free fall — time for the US to exploit it", *The Hill*, 04 November 2011, available at: <http://thehill.com/opinion/national-security/382670-irans-currency-is-in-free-fall-time-for-the-us-to-exploit-it>.

the Rial has dropped dramatically.³² This devaluation has resulted and is continuing to result in inflation in the prices of goods, commodities, raw materials and related services in different sectors of the economy. Many people have rushed to buy gold products to preserve the value of their money. The price of gold coins has more than doubled in the past few months.³³



32. As another example, the revocation of the JCPoA SLP (civil aviation licences) has already proved to be very harmful to Iran and the safety of Iranian civil aviation.³⁴ Under the pre-8 May 2018 *Statement of Licensing Policy*, US and non-US persons were able

“to request specific authorization from OFAC to engage in transactions for the sale of commercial passenger aircraft and related parts and services to Iran, provided such transactions do not involve any person on OFAC’s Specially Designated Nationals and Blocked Persons List (“SDN List”).”³⁵

33. Relying on OFAC authorizations, several Iranian airline companies had committed to buy 140 Boeing aircraft (80 for Iran Air,³⁶ 30 for Iran Aseman Airlines,³⁷ 10 for Kish Air³⁸

³² The EUR/IRR rate was 4,702 on 1st October 2017 and 9,217 on 27 June 2018, hence a 95 % increase, source available at: www.tgju.org.

³³ C. Carpenter, “Trump Ire Stokes Gold Trade in Iran as Rial Hits Record Low”, *Bloomberg*, 3 May 2018, available at: www.bloomberg.com/news/articles/2018-05-03/iranians-go-for-gold-amid-currency-turmoil-rising-u-s-tensions.

³⁴ See the result of the independent audit experts at para. 3.2 of ICAO, *Continuity of the US Trade Embargo on the Civil Aviation of the Islamic Republic of Iran and the Safety Deficiencies Arising Out of it*, 15 March 2006, DGCA/06-IP/31, available at:

[www.icao.int/Meetings/AMC/MA/Directors%20General%20of%20Civil%20Aviation%20Conference%20on%20a%20Global%20Strategy%20for%20Aviation%20Safety%20\(DGCA-06\)/dgca_06_ip_31_e.pdf](http://www.icao.int/Meetings/AMC/MA/Directors%20General%20of%20Civil%20Aviation%20Conference%20on%20a%20Global%20Strategy%20for%20Aviation%20Safety%20(DGCA-06)/dgca_06_ip_31_e.pdf).

³⁵ *Statement of Licensing Policy for Aircrafts*, see fn. 22.

³⁶ FACTBOX-Iran's \$38 billion airplane purchases under nuclear deal, *Reuters*, 8 May 2018, <https://uk.reuters.com/article/iran-nuclear-aircraft-deals/factbox-irans-38-billion-airplane-purchases-under-nuclear-deal-idUKL8N1SE75Z>.

³⁷ “Iranian airline finalizes deal to purchase 60 Boeing planes”, *AP*, 10 June 2017.

and 20 for Qeshm Airlines³⁹) for a total book value of US\$ 24 billion. At the same time, Airbus sold 171 aircraft to Iranian companies (98 to Iran Air⁴⁰, 28 to Zagros Airlines⁴¹ and 45 to Iran Air Tours⁴²). Airbus is a European company, but its aircraft are constituted of more than 10% of US components, meaning that Airbus may be subject to the 8 May and announced further sanctions. Save for the very few aircraft that had been delivered before May 2018, all these transactions are now in jeopardy, if not cancelled.⁴³ Iran commercial airlines and civil passengers are therefore left to use an aging fleet, with limited access to maintenance information, services and spare parts, thus creating a material risk to airline safety and security. The following table summarises the contracts that were cancelled or most adversely affected in the aviation sector as a direct result of the 8 May sanctions:

Aviation sector

Iranian contracting party	Foreign contracting party	Subject-matter of the transaction	Value (B\$)
Iran Air	Boeing	Sale of 80 Aircraft to Iran Air	17.5
Iran Air	Airbus	Sale of 100 Aircraft to Iran Air	21.2
Iran Air	ATR	Sale of 20 Aircraft to Iran Air	0.5
Iran Aseman Airlines	Boeing	Planned sale of 60 Iran Aseman Airlines	6.7
Zagros Airlines	Airbus	Planned sale of 28 Aircraft to Zagros Airlines	4.3
Kish Air	Boeing	Planned sale of 10 Aircraft to Kish Air	1.1
Qeshm Airlines	Boeing	Planned sale of 20 Aircraft to Qeshm Airlines	2.1
Iran Air Tours	Airbus	Planned sale of 45 Aircraft to Iran Air Tour	5.0
TOTAL (in Billions of USD)			58.4

34. Another key industrial sector of Iran that has been and is being directly affected by the re-imposition of the US sanctions is the oil and gas sector. As a US State Department official reported, the United States is asking countries to cut their oil imports from Iran to “zero” as soon as possible and not later than 4 November 2018.⁴⁴ Already, several

³⁸ FACTBOX-Iran's \$38 billion airplane purchases under nuclear deal, *Reuters*, 8 May 2018, <https://uk.reuters.com/article/iran-nuclear-aircraft-deals/factbox-irans-38-billion-airplane-purchases-under-nuclear-deal-idUKL8N1SE75Z>.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ “Zagros Airlines places a commitment for 28 new Airbus aircraft”, *Airbus*, 22 June 2017, available at: www.airbus.com/newsroom/press-releases/en/2017/06/zagros-airlines-places-a-commitment-for-28-new-airbus-aircraft-.html.

⁴² “Iran Airtour commits to 45 A320neo aircraft”, *Airbus*, 22 June 2017, available at: <https://www.airbus.com/newsroom/press-releases/en/2017/06/iran-airtour-commits-to-45-a320neo-aircraft.html>.

⁴³ C. Charpentreau, “Boeing confirms passing \$20B Iran deal”, *AeroTime News*, 7 June 2018, available at: www.aerotime.aero/clement.charpentreau/21390-boeing-confirms-passing-20b-iran-deal.

⁴⁴ B. Hook, Director of Policy Planning, “Briefing With an Iran Diplomacy Update”, 2 July 2018, available at: www.state.gov/r/pa/prs/ps/2018/07/283669.htm; see also “U.S. Toughens Stance on Future Iran Oil Exports”, *WSJ*, 26 June 2018, available at: www.wsj.com/articles/u-s-signals-zero-tolerance-on-future-iran-oil-exports-1530028859; “U.S. pushes allies to halt Iran oil imports, waivers unlikely”, *Reuters*, 27 June 2018, available at: uk.reuters.com/article/us-usa-iran/u-s-pushes-allies-to-halt-iran-oil-imports-waivers-unlikely-idUKKBN1JM26Q.

important actors have decided to withdraw from Iran including the termination of contractual relations with Iranian companies and nationals:

- Total SA, announced⁴⁵ that it would pull out⁴⁶ of a billion-dollar deal it made with Iran and the Chinese company CNPC.
- Lukoil, which was to develop oil fields in Iran, decided⁴⁷ at the end of May that it would no longer pursue any joint ventures with Iranian oil companies due to the impending US sanctions.
- Reliance Industries Ltd., an Indian company that owns the world's largest oil-refining complex, announced⁴⁸ on 30 May 2018 that it would no longer accept crude oil imports from Iran.

The following table recapitulates transactions that were cancelled or most adversely affected in the energy sector as a consequence of the 8 May sanctions:

Energy sector

Iranian contracting party	Foreign contracting party	Subject-matter of the transaction	Value (B\$)
Hampa Engineering Corporation	Siemens	Transportation equipments	1.6
NIOC	Total and CNPC	South Pars Gas field	4.8
Amin Energy Developers	Saga Energy	Solar Panels	2.9
Esfahan Oil Refining Co.	Daelim	Oil	2.2
MAPNA Group	General Electric	Pipelines	0.2
NIOC	Reliance Industries	Oil exports	1.3
NIOEC	SK E&C Co. Ltd.	Upgrade of Tabriz refinery	1.6
Iran's Ministry of Energy	Turkey's Unit International	Building of 7 natural Gas plants	4.2
NIOEC	Sinopec	Upgrade of Abadan Refinery	1.1
NIOC	Hellenic Petroleum	Oil exports	<i>not available</i>
NIOC	SARAS	Oil exports	1.1
TOTAL (in Billions of USD)			21.0

35. Several US owned and foreign companies and individuals have also announced the withdrawal of their activities in Iran including the termination of their contractual

⁴⁵ S. Kar-Gupta & J. Irish, "France's Total to quit Iran gas project if no sanctions waiver", 16 May 2018, available at: www.reuters.com/article/us-iran-nuclear-france-total/frances-total-to-quit-iran-gas-project-if-no-sanctions-waiver-idUSKCN1IH1XK.

⁴⁶ Total, US withdrawal from the JCPOA: Total's position related to the South Pars 11 project in Iran, 16 May 2018, available at: www.total.com/en/media/news/press-releases/us-withdrawal-jcboa-totals-position-related-south-pars-11-project-iran.

⁴⁷ "Lukoil puts Iran plans on hold due to threat of U.S. sanctions", *Reuters*, 29 May 2018, available at: <https://www.reuters.com/article/us-russia-lukoil-iran/lukoil-puts-iran-plans-on-hold-due-to-threat-of-u-s-sanctions-idUSKCN1IU1M7>.

⁴⁸ "Exclusive: India's Reliance to halt oil imports from Iran: sources", *Reuters*, 30 May, 2018, available at: www.reuters.com/article/us-india-iran-reliance-exclusive/exclusive-indias-reliance-to-halt-oil-imports-from-iran-sources-idUSKCN1IV1XM; it should be noted that because crude oil imports are contracted months in advance, Reliance will cease importing Iranian oil in October or November of this year.

relations with Iranian companies and nationals. Some examples⁴⁹ in the transportation sector are listed in the table below. These withdrawals are particularly harmful for the Iranian automotive industry. They will result in the unemployment of tens of thousands of nationals which will affect the entire Iranian social equilibrium.

Transportation sector

Iranian contracting party	Foreign contracting party	Subject-matter of the transaction	Value (B\$)
MAPNA Group	Siemens	Various projects	3.5
Iran Khodro & Saipa	Peugeot Citroën (PSA)	Automotive plant and production	5.4
Iran's state railway company	Ferrovie dello Stato (FS)	High speed rail line Arak - Qom	1.3
Wagon Pars	Alstom	Railway	1.4
Islamic Republic of Iran Railways	Hyundai Rotem	Railway	0.7
Islamic Republic of Iran Railways	SNCF	Railway	not available
CDTIC	China Civil Engineering Construction Corp.	Railway	0.5
IDRO	CJSC Transmashholding	Railway	2.9
TOTAL (in Billions of USD)			15.7

36. Other effects are expected. To estimate these, reference may be made to the effects caused by previous US sanctions, while keeping in mind that the 8 May and announced further sanctions are intended to be even more damaging. Iranian oil production is intended to decrease,⁵⁰ which will have a major impact on GDP and on household welfare, especially that of the ordinary population.⁵¹ Recent international reports from the IMF⁵² and the World Bank⁵³ underlined that the re-imposition of sanctions disconnecting Iran from the global trade and financial system would negatively affect the whole economy.

⁴⁹ For other examples of US companies that have withdrawn from Iran, see for instance, A. Fitch and I. Talley, "U.S. Companies Wind Down Iran Business After Nuclear Deal Pullout", *WSJ*, 5 June 2018, available at: www.wsj.com/articles/u-s-companies-wind-down-iran-business-after-nuclear-deal-pullout-1528225532; for other examples of non-US companies, see for instance, E. Wald, "10 Companies Leaving Iran As Trump's Sanctions Close In", *Forbes*, 6 June 2018, available at: www.forbes.com/sites/ellenwald/2018/06/06/10-companies-leaving-iran-as-trumps-sanctions-close-in/#1500d8dbc90f.

⁵⁰ Crude oil production for Iran from 2000 to 2018, Federal reserve bank of St-Louis, available at: fred.stlouisfed.org/series/IRNNGDPMOMBD; see also above, para. 34.

⁵¹ A. Sadeghi, "How Public Investment Could Help Strengthen Iran's Growth Potential: Issues and Options", *IMF Working Paper*, WP/18/129, available at: www.imf.org/en/Publications/WP/Issues/2018/06/08/How-Public-Investment-Could-Help-Strengthen-Irans-Growth-Potential-Issues-and-Options-45679.

⁵² IMF, Islamic Republic of Iran: 2018 Article IV Consultation, IMF Country Report No. 18/93, March 2018, p. 27, available at: <https://www.imf.org/en/Publications/CR/Issues/2018/03/29/Islamic-Republic-of-Iran-2018-Article-IV-Consultation-Press-Release-Staff-Report-and-45767>.

⁵³ World Bank Group, "Iran Economic Monitor – Sustaining Growth: the Challenge of Job Creation", 2017, p. 13, available at: documents.worldbank.org/curated/en/347831520515722711/pdf/124020-WP-PUBLIC-P162048-Iran-IEM-Fall-2017-7Mar18-MM.pdf.

37. Respected international organisations acknowledge that the US sanctions have dramatic consequences on the Iranian population and economy. Thus, according to the World Health Organisation, access to medicines, including lifesaving medicines, chronic treatment or preventive care, and medical equipment for the Iranian people become increasingly restricted.⁵⁴ According to the World Food Programme, Iran's ability to import many essential food items will be severely restricted mainly because of financial restrictions.⁵⁵ The 8 May sanctions will, at least, have the same effects on the Iranian people.
38. To sum up, the 8 May sanctions have already started to harm the whole Iranian economy and society, including the oil industry, civil aviation and the banking and financial system, as well as Iranian nationals and companies, mainly through the extraterritorial sanctions which impose to US and non-US persons to terminate their commercial relations with their Iranian counterparts and which prevent any possible future commerce between them.

IV. BREACHES OF THE TREATY OF AMITY

39. Through the 8 May sanctions and the announced further sanctions, the USA has violated and continues to violate multiple provisions of the Treaty of Amity.

⁵⁴ World Health Organization, "Iran – Country Cooperation Strategy", May 2017, WHO/CCU/17.01/Iran, available at:

apps.who.int/iris/bitstream/handle/10665/136898/ccsbrief_irn_en.pdf?sequence=1; see also, F. Kokabisaghi, 'Assessment of the Effects of Economic Sanctions on Iranians' Right to Health by Using Human Rights Impact Assessment Tool: A Systematic Review', *International Journal of Health Policy and Management*, 2018, 7(5), p. 374, available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC5953521/pdf/ijhpm-7-374.pdf; S. Setayesh and T.K. Mackey, 'Addressing the impact of economic sanctions on Iranian drug shortages in the joint comprehensive plan of action: promoting access to medicines and health diplomacy', *Globalization and Health*, 2016, 12, p. 31, available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC4897941/pdf/12992_2016_Article_168.pdf; G. Ghiasi, A. Rashidian, A. Kebriaeezadeh, J. Salamzadeh, 'The Impact of the Sanctions Made Iran on Availability to Asthma Medicines in Tehran', *Iranian Journal of Pharmaceutical Research*, (2016) 15(3), p. 567, available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC5149045/pdf/ijpr-15-567.pdf; A. M. Cheraghali, "Impacts of international sanctions on Iranian pharmaceutical market", *DARU Journal of Pharmaceutical Sciences*, 2013, p. 3, available at: apps.who.int/medicinedocs/documents/s20247en/s20247en.pdf.

⁵⁵ World Food Programme, Food and Nutrition Security in Iran, 2016, available at: docs.wfp.org/api/documents/WFP-0000021105/download/.

a. Violation of Article IV (1) of the Treaty of Amity

40. Article IV (1) provides that:

“Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws.”

41. The USA is breaching this provision through the 8 May and announced further sanctions, including those with extraterritorial effects or which oblige US and non-US persons to terminate their economic or contractual relations with Iran, Iranian nationals or Iranian companies. Alternatively or cumulatively, these measures are contrary to the fair and equitable treatment standard of Article IV (1), are both discriminatory and unreasonable, impair legally acquired rights or interests of Iranian nationals and companies, and deprive them of any effective means of enforcement of their lawful contractual rights.

b. Violation of Article VII (1) of the Treaty of Amity:

42. Article VII (1) provides that:

“Neither High Contracting Party shall apply restrictions on the making of payments, remittances, and other transfers of funds to or from the territories of the other High Contracting Party, except (a) to the extent necessary to assure the availability of foreign exchange for payments for goods and services essential to the health and welfare of its people, or (b) in the case of a member of the International Monetary Fund, restrictions specifically approved by the Fund.”

43. The USA is breaching this provision through the 8 May sanctions, including the financial sanctions, and notably the prohibitions on purchases of US dollars or Iranian Rial as well as the restrictions on operations in dollars “to or from the territor(y)” of Iran.

c. Violation of Articles VIII (1) and (2) of the Treaty of Amity

44. Article VIII (1) and (2) provide that:

“1. Each High Contracting Party shall accord to products of the other High Contracting Party, from whatever place and by whatever type of carrier arriving, and to products destined for exportation to the territories of such other High Contracting Party, by whatever route and by whatever type of carrier, treatment no less favorable than that accorded like products of or destined for exportation to any third country, in all matters relating to: (a) duties, other charges, regulations and formalities, on or in connection with importation and exportation; and (b) internal taxation, sale, distribution, storage and use. The same rule shall apply with respect to the international transfer of payments for imports and exports.

2. Neither High Contracting Party shall impose restrictions or prohibitions on the importation of any product of the other High Contracting Party or on the exportation of any product to the territories of the other High Contracting Party, unless the importation of the like product of, or the exportation of the like product to, all third countries is similarly restricted or prohibited.”

45. The USA is breaching these provisions through the 8 May sanctions and announced further sanctions, including through the revocation of the relevant Licenses under which entities were able to enter into economic relations with Iran and Iranian nationals or companies and licenses issued by OFAC which allowed entities to engage in the sale and export to Iran of, among other things, commercial aircraft and related parts and services,⁵⁶ as well as the importation of Iranian products to the USA including Iranian food and carpets. The 8 May sanctions and announced further sanctions have or will have precisely the effect of prohibiting the importation of Iranian products to US territory and vice versa.

d. Violation of Article IX (2) of the Treaty of Amity

46. Article IX (2) provides that:

“Nationals and companies of either High Contracting Party shall be accorded treatment no less favorable than that accorded nationals and companies of the other High Contracting Party, or of any third country, with respect to all matters relating to importation and exportation.”

47. The USA is breaching this provision of the Treaty through the 8 May and announced further sanctions, including by applying sectoral sanctions to foreign individuals and

⁵⁶ Preventing the sale by non-US entities such as European company Airbus of aircraft to Iran is also a violation of Article VIII (1) & (2) of the Treaty.

companies which import from or export to Iranian nationals and companies, and by revoking the licenses which were allowing some imports from and/or exports to Iranian nationals and companies.

e. Violation of Article X (1) of the Treaty of Amity

48. Article X (1) provides that:

“Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation.”

49. The USA is breaching this provision of the Treaty through the 8 May and announced further sanctions, including by the revocation of licenses which allowed limited commercial relations relating to aircraft, foodstuff and carpets between the territories of Iran and the USA, as well as by the revocation of the License under which US-owned or US-controlled foreign entities were authorised to engage in economic relations with Iran and Iranian nationals or companies.

V. JUDGMENT REQUESTED

50. On the basis of the foregoing, and while reserving the right to supplement, amend or modify the present Application in the course of further proceedings in the case, Iran respectfully requests the Court *to adjudge, order and declare that:*

- a. The USA, through the 8 May and announced further sanctions referred to in the present Application, with respect to Iran, Iranian nationals and companies, has breached its obligations to Iran under Articles IV (1), VII (1), VIII (1), VIII (2), IX (2) and X (1) of the Treaty of Amity;
- b. The USA shall, by means of its own choosing, terminate the 8 May sanctions without delay;

- c. The USA shall immediately terminate its threats with respect to the announced further sanctions referred to in the present Application;
- d. The USA shall ensure that no steps shall be taken to circumvent the decision to be given by the Court in the present case and will give a guarantee of non-repetition of its violations of the Treaty of Amity;
- e. The USA shall fully compensate Iran for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. Iran reserves the right to submit and present to the Court in due course a precise evaluation of the compensation owed by the USA.

51. For the purposes of Article 31 (3) of the Statute and Article 35 (1) of the Rules of Court, the Islamic Republic of Iran declares its intention to exercise the right to designate a judge *ad hoc*.

Respectfully submitted,



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

Done at The Hague on 16 July 2018