



Congressional Update

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Note: Congress has adjourned for an extended August recess and will return on September 6. Weekly congressional updates will be provided as needed and regular publication will resume in September. Congress left unfinished the annual appropriations bills and the budget resolution, breaking the promise by the Republican leadership that the appropriations and budget process would be completed on time for the first time in nearly two decades.

As a result, when Congress returns in September, its time will be consumed working on a Continuing Resolution to avoid a government shut-down in the absence of enactment of the 12 appropriation bills which fund the US government. In addition, Congress also will have to grapple with the Zika virus legislation, also left undone in the rush to leave town, possible gun control legislation, final action on the National Defense Authorization bill, and another confrontation over Iran, such as extending the Iran sanctions Act (ISA). All of this will, or should, be done before Congress adjourns sometime in early October for the November elections. Congress will likely return for a “lame duck” session after the elections, but little optimism exists for any substantive legislative action.

I. Justice against Sponsors of Terrorism Acts (JASTA)

On July 14, the House Judiciary Subcommittee on Constitution and Civil Justice held a hearing on the Senate-passed version of the Justice against Sponsors of Terrorism Act (JASTA, **S2040**). Testimony was received from Assistant Secretary of State for the Middle East, [Anne Patterson](#) and [Brian Egan](#), Legal Advisor, Department of State. Testifying on a second panel were: [Michael Mukasey](#), Counsel, Debevoise & Plimpton; [Richard Klingler](#), Partner, Sidley Austin; [Paul Stephan](#), Professor of Law, University of Virginia Law School; and [Jimmy Gurule](#), Professor Law, Notre Dame Law School.

As noted, Congress adjourned last Thursday for a seven-week August recess. Any further action on **S2040** will be delayed until Congress returns on September 6. Prospects for passage into law



appear dim. When Congress returns in September it will have a full legislative plate, as mentioned earlier, including action on pending appropriation bills; a possible Continuing Resolution; action on the National Defense Authorization Act. However, despite Administration opposition to the bill, there is pressure on Congress from the 9/11 victims' families to pass the bill. If passed, it is almost guaranteed that the Administration will veto the bill.

Most members of the Judiciary Committee support the legislation. Representative Jerrold Nadler (D-New York), a lead sponsor of the legislation spoke passionately in defense of the legislation. Judiciary Chairman Robert Goodlatte (R-Virginia) said he liked the high-threshold for culpability the bill would establish, specifically that liable persons have "...actual knowledge that they are directly providing substantial assistance to a designated foreign terrorist organization in connection with that organization's commission of an act of international terrorism." Representative John Conyers (D-Michigan) opposes the legislation arguing that the legislation could potentially subject the US to all sorts of lawsuits and reduce cooperation with US allies on counterterrorism.

Patterson agreed that the bill could prompt lawsuits brought by foreign individuals upset by, among other things, deadly US drone strikes in their countries that have killed civilians. She said "Governments will come under intense public pressure to create rights for their citizens to sue the United States." "As the world's largest economy," she warned, "the United States has extensive operations overseas, including property ownership, and thus is particularly vulnerable to asset seizures abroad."

In its opposition to the legislation, the State Department is trying to shift the focus away from lingering suspicions by a number of Americans that members of the Saudi royal family provided financial assistance to groups that supported the al-Qaida attacks.

Egan agreed, saying the bill "could encourage foreign courts to exercise jurisdiction over the United States or US officials for allegedly causing injuries overseas through groups we support as part of our counterterrorism efforts."

The second panel of witnesses were evenly split with two opposing and two supporting the bill. Mukasey, a former Attorney General during the George W. Bush Administration opposed the bill as did Professor Stephan. Klingler, who represents some of the 9/11 victims in asserting their claims against particular foreign states and other facilitators of terrorism, supports the legislation



as does Professor Gurule who argued it was unlikely foreign countries could respond with lawsuits since the Senate bill applies only to acts of international terrorism.

II. House Intelligence Committee Releases the 28 Classified Pages

On Friday, July 15, after much speculation on the release of the 28 classified pages concerning Saudi Arabia, the House Intelligence Committee proceeded to release the pages in question. The lightly redacted [report](#) provides alleged potential ties between the 9/11 terrorists and the Saudi government or royal family members. It should be noted that the 28 pages are part of a larger report by a joint commission composed of House and Senate Intelligence Committee members. The panel released its report in late 2002. Twenty-eight pages of the report, however, were classified by then President George W. Bush over concern the pages might harm ties with Saudi Arabia.

III. House Appropriations Approves FY 2017 State, Foreign Operations Bill

On Wednesday, July 13, the House Appropriations Committee approved the FY 2017 State, Foreign Operations bill. The bill targets funding for US foreign policy priorities, including programs to address instability around the world, focusing on support for the security of US allies and partners, including in the Middle East, Latin America, Africa and European countries facing Russian aggression. The bill also provides critical humanitarian aid to war-torn countries, such as Jordan, where millions of Syrian refugees have fled. See [July 12 Congressional Update](#) for details and Middle East-related provisions of the bill.

IV. Iran

There was no way Congress was going to leave town on the first anniversary of the Iran nuclear agreement without considering a number of Iran-related bills and resolutions, most of which will not be enacted into law. From a legal standpoint, there is little authority for Congress to limit the President's authority to implement the Iran nuclear agreement known as the Joint Comprehensive Plan of Action (JCPOA). The JCPOA is not a bilateral treaty; it is an international agreement conducted on behalf of the UN system, to achieve Iran's compliance with the Nuclear Non-Proliferation Treaty (NPT). Nevertheless, Congress is not likely to give up its efforts to limit the JCPOA.



(1) Iran Accountability Act. On July 14 the House passed the Iran Accountability Act (**HR5631**) by a vote of 246-179. The bill was introduced on July 6 by House Majority Leader Kevin McCarthy (R-California) with nine Republican cosponsors. The bill, if enacted into law, will hold Iran accountable for its state sponsorship of terrorism and other threatening activities and for its human rights abuses. The Administration opposes the bill and has issued a [Statement of Administration Policy](#) against it.

(2) No Export-Import Bank Financing or Boeing Aircraft for Iran. On Wednesday, July 13, the House Financial Services Committee marked up three bills, designed to ensure that Iran does not receive Ex-Im Bank Financing or Boeing Aircraft for which Iran was already contracted.

One bill would bar the Ex-Im Bank from financing exports to Iran and two would seek to block any Boeing sales. Representative Brad Sherman (D-California) sponsored **HR5715**, which would bar Ex-Im Bank financing of exports to Iran. The committee approved it by a vote of 32-21 even though current law already prohibits the bank from financing exports to Iran.

The committee also approved, 33-21, a measure **HR5711** introduced on July 11 by Representative Sherman, that would prohibit the Treasury Department from allowing any US financial institution from participating in an aircraft sale to Iran.

Finally, the Committee by a vote of 33-21, approved **HR5729**, that would bar the Treasury Department from issuing licenses allowing a sale of commercial aircraft to Iran. Sherman argued that the bills are not a breach of the Iran nuclear agreement reached last July between Iran and six other countries, including the United States.

The Ex-Im Bank measure in particular received much of the attention Wednesday because language similar to the two bills pertaining to aircraft sales to Iran had been inserted by voice vote last week into the House Financial Services Appropriation bill that passed it by a vote of 239-185.

Some members of Congress have argued that the Export-Import Bank measures are meaningless because currently the Bank is unable to approve any deal with a value of more than \$10 million. Moreover, the Bank has been handicapped because of the long reauthorization fight last year and because its five-member board has been three members short since last year. Three members are required to approve any deal above \$10 million.



(3) ***Release Of Americans Held In Iran SRes529***. On July 12, Senators Bill Nelson (D-Florida) and Susan Collins (R-Maine) introduced **SRes529**, a resolution calling upon the Government of the Islamic Republic of Iran to release Iranian-Americans Siamak Namazi and his father, Baquer Namazi. The resolution has been referred to the SFRC.

(4) ***No Planes to Iran HR5716***. On July 11, Representative Robert Pittenger (R-North Carolina) introduced **HR5716**, a bill to prohibit the Secretary of Treasury from issuing certain licenses in connection to the export or re-export of a commercial passenger aircraft to the Islamic Republic of Iran, to require the Secretary of Treasury to issue an annual report on the status of, and risks related to, US financial institutions involved with the sale or lease of such a commercial passenger aircrafts. The bill has been referred to the House Foreign Affairs Committee and Financial Services Committee.

(5) ***Extend the Iran Sanctions Bill***. On July 14, as the Senate was about to recess, Senate Minority Leader Harry Reid (D-Nevada), and Senators Ben Cardin (D-Maryland) and Charles Schumer (D-New York) along with eleven cosponsors, introduced legislation that will extend the Iran Sanctions Act (ISA) through 2026.

Note: The text and bill numbers of the new ISA legislation are not yet available.

The Iran Libya Sanctions Act, enacted in 1996, imposed economic sanctions on firms doing business with Iran and Libya. It was renamed the Iran Sanctions Act (ISA) in 2006, as it no longer applied to Libya and extended until 2011. It was extended again until December 2016 when it will expire unless renewed. Reauthorization of ISA would not impose any new sanctions on Iran and the current presidential waiver authority would remain in effect. AIPAC supports extending ISA, and argues in its March 2016 [press release](#) that it is crucial that Congress reauthorize ISA to ensure that the architecture is in place for “snapback” sanctions should Iran violate the JCPOA.

In his press statement, Schumer stressed that it is essential that Congress extend the ISA to ensure Iran does not violate the nuclear deal. The sponsors hope Congress will act quickly on the legislation when it returns to session in September.

Members, however, remain divided on how to renew ISA. Democrats announced their legislation just hours after Senate Foreign Relations Committee Chairman Bob Corker (R-Tennessee) and



Senators Bob Menendez (D-New Jersey), Marco Rubio (R-Florida) and Joe Manchin (D-West Virginia) also announced they had reached an agreement on extending ISA after months of negotiations.

Like the Democrat-backed bill, the bipartisan Corker bill would extend sanctions for ten years, but unlike the Democrat's bill it would include new mandatory sanctions and limit on the President's ability to waive sanctions. The two competing bills were introduced on the first anniversary of the Iran nuclear agreement, which lifts certain sanctions on Iran in exchange for its compliance with the agreement.

Yet another bill has been introduced by Senators Chris Murphy (D-Connecticut) and Tim Kaine (D-Virginia), which would allow ISA to expire in eight years if Iran complies with the nuclear deal.

The Obama Administration would rather delay any extension of ISA until it becomes clear if Iran is complying with the nuclear agreement before imposing additional sanctions.

The conflicting positions of the Democrat-backed bill, Corker's bill and the Administration's position set the stage for a confrontation over extending ISA when Congress returns in September.

V. Hearings Last Week

(1) International Human Rights Practices.

On Tuesday, July 12, the House Foreign Affairs Committee (HFAC) held a hearing to examine the negative trend in international human rights practices by both state and non-state actors, as well as to solicit ideas from four witnesses on how Congress and US foreign policy can best reverse this disturbing global trajectory. Testifying before the committee were: [Ambassador Mark Lagon](#), president of Freedom House; [Dr. Thomas Farr](#), president of the Religious Freedom Institute; [Amanda Schnetzer](#), director of the Human Freedom Initiative at the George W. Bush Institute; and chair of the Council for Global Equality, [Mark Bromley](#).

Before hearing from the witnesses, Chairman Royce (R-California) set the tone by listing the numerous atrocities that continue to be carried out against innocent civilians across the world. From the unspeakable violence committed by religious extremist groups like the Islamic State



(ISIL) and Boko Haram, to the denial of basic political and civil rights by official government regimes, Royce described a world in which freedom is on the decline. Indeed, Ambassador Lagon's organization, Freedom House, has issued an annual report for each of the last ten years confirming as much, with each year's quantitative measure of worldwide freedom smaller than the last.

Much of the morning was spent discussing the unique dangers faced by members of the international LGBT community, many of whom suffer from extreme persecution by civil societies less tolerant than the US. The remainder of the hearing largely focused on the state of freedom and human rights in broader terms. Given the shortage of time and unwieldy scope of the day's topic, witnesses hopped from one continent to the next while offering sweeping assessments of certain ostensibly democratic societies – for instance, on Russia, Ethiopia, Venezuela, and the Southeast Asian nations of Vietnam and Cambodia.

However, some members used their time to criticize the US's soft treatment of some of its professed allies, like Egypt, whose oppressive government receives billions of US dollars in financial assistance. In addition, Iran was mentioned as a country that especially warrants greater US and international pressure over its human rights practices, now that the nuclear agreement has been implemented.

Particularly vulnerable to this shrinking of civil society has been the international LGBT community, according to the witnesses. Indeed, the repression and persecution of LGBT people was discussed at length during the hearing, as a number of committee members expressed concerns - surprisingly so - over the increasingly-hostile stances of foreign governments and religious extremists against sexual minorities. Most of this discussion was directed at Mr. Bromley, who devoted his entire testimony to the fight for global LGBT rights. Bromley commended the Obama administration and State Department for their more recent efforts on this front, but he also called for policymakers to “double-down on our investments.” ISIL-inspired violence and anti-LGBT propaganda, Bromley contended, “are part of a global conflict of ideas that challenges fundamental democratic values and pluralistic societies everywhere” – a seriously urgent threat that requires an equally serious policy response.



Ambassador Lagon framed the abuses against the LGBT community and other repressed societies as an issue of US national security and economic interests, arguing that the US is safer when the world is a more stable and prosperous place. He acknowledged the challenges presented by certain cultures in which intolerance is deeply embedded, but at the same time, cautioned against withdrawing from the international fight for democracy and human rights. Instead, Lagon recommended that the US better emphasize in its messaging to repressive state actors that national prosperity is contingent upon a free and pluralistic society. In essence, it is an argument of self-interest; unless these autocratic governments reform, their isolation from the rest of the free world will persist, and their economies will continue to suffer as a result. However, this is an effort that must be accompanied by a US foreign aid system that is more consistent with US values. It was on this point that Lagon agreed with members who were critical of the Obama administration's decisions to support certain repressive governments. He argued that giving aid to regimes that fail to live up to international human rights standards, simply because they are allies, while simultaneously condemning others for similar injustices, sends a negative message and undermines American global freedom efforts.

According to Lagon and his fellow witnesses, these are just a few elements of a US foreign policy apparatus that overall needs fundamental changes. That is, changes that address the prominence - or lack thereof - of democracy and human rights as key components to our diplomatic approach, for these should be integral to US foreign policy.

(2) House Foreign Affairs Committee. On July 13, the House Foreign Affairs Committee (HFAC) held a hearing titled "Countering the Virtual Caliphate". The purpose of the hearing was to discuss the US strategies to counter the Virtual Caliphate and to investigate the State Department's performance in this regard. Testimony was received from Under Secretary of State for Public Diplomacy and Public Affairs, [Richard Stengel](#).

In his opening remarks, HFAC Chairman Royce outlined how the United States has been struggling in the information war with terrorists, specifically against ISIS. In March 2016, in an effort to improve the current stand of the US in this war, the Obama Administration rebranded the office responsible for counter messaging, the Center for Strategic Counterterrorism Communications (CSCC) with a new name, the Global Engagement Center (GEC) with the mission of diminishing the influence of international terrorist organizations. Nevertheless, little



seems to have changed. The hearing gave members an opportunity to press Stengel on the Department's performance. Following Stengel's testimony, many members expressed serious concerns over the effectiveness of the GEC, its financial capabilities, how to best empower third party voices that will discredit ISIS, the lack of coordination with other governmental and foreign agencies and, ultimately, the cooperation with the private sector, especially with the social media companies

Stengel addressed the Committee with insights on each of the concerns that emerged. According to the witness, the GEC proved to be effective and there are many signs of progress: on the Internet, anti-ISIS contents have increased, ISIS own propaganda has decreased and, as a matter of fact, the so-called "Virtual Caliphate" is shrinking. Stengel also stressed how the overall US strategy has become more coordinated and more effective, also thanks to the collaboration of the tech companies, that stepped up their efforts at the government's behest. With regard to its budget Stengel claimed that GEC's budget has tripled in the last year and that more financial resources might be needed to further implement US strategies against the Virtual Caliphate.

VI. In the Think Tanks

On Wednesday, July 13, New America hosted Dr. Husam Zomlot, Palestinian Ambassador-at-Large and Senior Advisor to Palestinian President Mahmoud Abbas, for a lively discussion on the latest Palestine-Israel peace initiative. Led by the French, and backed by a contingent of international powers, these renewed efforts were described by New America host Zaha Hassan as having breathed new life into the peace-seeking process. Throughout the event, Dr. Zomlot's passion for his fellow Palestinians was as evident as his frustration over the perpetual and bloody conflict with Israel.

Zomlot spent a significant amount of time enthusiastically defending the multilateralism driving the negotiations. He made it clear that the Palestinian government does not believe that Israeli Prime Minister Benjamin Netanyahu is truly interested in peace, and it is for this reason that multilateral talks must be the way forward. Moreover, this is a logic buoyed by international consensus. According to the Ambassador, the world now understands that any process toward a two-state solution will require a "balance of pressure and carrots," and this can only be provided by some kind of international mechanism.



That said, Zomlot derided Congress for getting in its own way and undermining efforts toward the US's official policy goal of a two-state outcome. Citing the misguided measures of the pro-Israel body – for instance, punishing the Palestinians for their efforts at the UN, or legislation that would deny assistance or impose trade restrictions or penalties on governments that endorse the Boycott, Divestment and Sanctions (BDS) Movement – the Ambassador labeled Congress as the “number one obstacle” to peace. With that, he asked the audience to assist him in countering the unfair bias that is projected against Palestinians in this country, for which he acknowledged the media is also greatly responsible. In his view, too few Americans understand the context in which this violence is carried out; many of these Palestinian attackers are often part of an increasingly-disaffected youth who have personally suffered from violence at the hands of Israeli occupiers. And moreover, this violence is committed by what Zomlot called “a few crazies” that do not represent the overwhelming majority of Palestinians who favor peace and stability, as well a two-state solution. This is the true reality, he said, that the messaging in this country must begin to reflect, lest American politics continue to hinder the peace process.

Against this backdrop, the Ambassador also defended the Palestinian Authority's (PA) practice of paying Palestinians (and their families) imprisoned by the Israeli government, a highly controversial policy among US lawmakers who view it as “rewarding terrorism.” He explained that this is a long-standing practice of the PA that applies to *every* Palestinian jailed in an Israeli prison regardless of the crime or action committed. This includes accused knife attackers, but it also includes the thousands of Palestinians, many of them young children, who have never been formally charged with a crime. It is a necessary and moral obligation, Zomlot argued, and if Congress wishes to threaten its funding over the matter, he asserted, somewhat loudly, that “the US can keep its money!”

The conversation closed with the Ambassador expressing his wishes for a decisive and definitive statement from the Obama Administration in the coming weeks, one that formally recognizes the right of both Israel and Palestine to exist. In addition, he appealed for the US to call for international consequences in response to Israel's continued expansion of illegal settlements. And finally, he simply asked that the US help facilitate the multilateral peace negotiations - considered by the Palestinians to be a true glimmer of hope, and perhaps even the last.