Time for a U.S.-Iran Investment Treaty

Return Iran to the fold of global finance.

By Mansoor Dailami

Iran's landmark international nuclear deal has reached implementation stage, opening a new chapter in the country's engagement with the world economy. The International Atomic Energy Agency verified on January 16, 2016, that Iran has complied with its obligations under the Joint Comprehensive Plan of Action signed between Iran and world's superpowers in July 2015.

In connection with this historic day, all nuclear-related United Nations, European Union, and U.S. secondary sanctions, along with certain U.S. primary sanctions, have been lifted. The benefits for Iran will be immense, paving the way for its integration into global financial markets. But U.S. statutory financial sanctions that fall outside the scope of JCPOA, including those related to human rights, regional instability, terrorism, and development of ballistic missiles, will remain in place. As such, U.S. banks will continue to be restricted from virtually all dealings with Iranian entities. In addition, international banks based in Europe, Asia, the Middle East, and elsewhere will remain hesitant to conduct U.S. dollar transactions with designated Iranian banks and other entities that must be cleared through the U.S. interbank payment system, as they would risk losing access to U.S. capital markets themselves.

The next step forward is to think the unthinkable: building on the momentum of the nuclear agreement to begin bilateral negotiations between

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Mansoor Dailami is the former Manager, International Finance, in the World Bank's Development Prospects Group.

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220 I Street, N.E., Suite 200
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Phone: 202-861-0791
Fax: 202-861-0790
www.international-economy.com
editor@international-economy.com

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the United States and Iran to dismantle remaining financial sanctions. Without this, Iran would not be able to fully benefit from increased economic openness it has so desperately strived for.

Certainly, negotiations involving the removal of remaining U.S. financial sanctions on Iran would be complex from a legal and policy perspective. For its part, Iran's negotiating position is strengthened by the UN Security Council Resolution 2231, which endorsed the JCPOA, and now forms the key international legal framework related to its nuclear activities.

Yet U.S. sanctions are driven by foreign policy and security goals and motivated by a variety of human rights, geopolitical stability, and nuclear proliferation concerns, and have been given force through a panoply of regulations and designations administered by the U.S. Treasury Department. While some of the authorizing laws have been enacted specifically against Iran (most notably, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010), others, such as the USA Patriot Act, have been invoked to exercise much more wide-ranging financial power.

Iran, however, has much to contribute to the world, both economically and geopolitically, with an economy

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of $402 billion, a young and well-educated population of eighty million, and the world's largest proven natural gas reserves and the fourth-largest oil reserves. But the country's re-assimilation into the global financial system demands that it shoulder greater responsibility for safeguarding the integrity and stability of the international network of money transfers and communication.

Here, the key is compliance with international anti-money laundering and combating the financing of terrorism standards, in particular addressing the deficiencies identified by the Financial Action Task Force in October 2015. Rectifying these failings would involve working closely with the International Monetary Fund and World Bank to devise the necessary laws and enforcement mechanisms. The IMF's recently released Article IV consultation with Iran provides a useful platform for dialogue on financial reform and transparency needs.

In negotiating with the United States, policymakers in Tehran also would need to accept the reality of contemporary international financial relations. Despite remarkable progress achieved by China to internationalize its currency,

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the renminbi, and the euro surviving the European sovereign debt crisis, there is not, as yet, a credible alternative to the U.S. dollar. About 63 percent of the world's official foreign exchange reserves are held in U.S. dollars, while 86 percent of all foreign exchange transactions involve the dollar. Oil and gas are priced and internationally traded in U.S. dollars. Opting out of the U.S. dollar in favor of other international currencies would be feasible for Iran in principle, but highly costly in practice.

Perhaps the best way forward in setting the stage for discussing the removal of U.S. financial sanctions on Iran would be to establish a bilateral investment treaty. A bilateral investment treaty between the United States and Iran, which would focus attention on mutual economic gains rather than political discord, could be a powerful vehicle for addressing sensitive human rights and geopolitical issues at hand. The large number of bilateral investment treaties signed between advanced and developing countries across the world speaks to their useful role in promoting cross-border trade and investment, and the United States would have the benefit of drawing on a well-established model text for negotiations. ◆