



October 17, 2017

Ryan Law
Director, FOIA & Transparency:
FOIA/PA Request
FOIA and Transparency
Department of the Treasury
Washington, D.C. 20220
Telephone: (202) 622-0930
Fax: (202) 622-3895

RE: FOIA Request to U.S. Department of the Treasury for Records Regarding Boeing and Airbus Jets Sold to Iranian Airlines in Spite of Knowledge that Iran Air Transported Military Troops and Equipment

Dear Sir or Ma'am:

This letter is a request ("Request") in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (ACLJ)¹ on behalf of itself and over 119,000 of our members who have signed our petition to demand the truth about the previous Administration's infamous Iran deal, entitled the Joint Comprehensive Plan of Action (JCPOA). The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, the numbered requests contained herein seek any and all records concerning the connection between the Joint Comprehensive Plan of Action (JCPOA), OFAC licenses issued to Boeing and Airbus allowing agreements for well over 200 jets, U.S. government knowledge of Iran's past use or intended or possible future use of Iran Air jets to transport military personnel and/or equipment, and any discussions prior to the JCPOA concerning Iran Air's use or possible use of jets for those purposes.

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity with respect to international affairs, and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring the ongoing viability of freedom and liberty in the United States and around the world.



Background

This Background provides certain relevant contextual information, to the extent known, as contemplated by the Department of the Treasury's pertinent FOIA regulation 31 CFR 1.5(d), instruction that, "[w]henever possible, a request should include specific information about each record sought, such as the date, title or name, author, recipients, and subject matter of the record."

According to an industry publication, in April of 2017, Boeing

announced its second deal to sell aircraft to an Iranian airline in the last four months following the signature of a memorandum of agreement with Iran Aseman Airlines covering thirty 737 Max narrowbodies worth \$3 billion. The deal includes a provision granting the Iranian airline purchase rights for another 30 of the airplanes.²

According to the report, "Boeing ha[d] already gained an OFAC license allowing for a so-called definitive agreement signed with Iran Air in December covering fifty 737 Max 8s, fifteen 777-300ERs and fifteen 777-9s valued at \$16.6 billion at list prices."³ Boeing obtained its license from OFAC in September of 2016.⁴ Airbus has also entered into agreements with Iran Air.⁵

The publication cited Boeing as stating: "Boeing continues to follow the lead of the U.S. government with regards to working with Iran's airlines, and any and all contracts with Iran's airlines are contingent upon U.S. government approval." The publication quoted Boeing as having said in December of 2016 that "it 'coordinated closely' with the U.S. government throughout the process leading up to the sale and that it continues to follow all license requirements as it moves toward implementation of the sales agreement."⁶

According to reports, deliveries by Boeing to Iran Air under the first agreement are set to begin in 2018,⁷ with delivery under the second agreement beginning in 2022.⁸

² Gregory Polek, *Boeing And Iran Aseman Airlines Agree on Order for 30 Max Jets*, AIN ONLINE (Apr. 4, 2017, 9:44 AM), <http://www.ainonline.com/aviation-news/air-transport/2017-04-04/boeing-and-iran-aseman-airlines-agree-order-30-max-jets>.

³ *Id.*

⁴ Gregory Polek, *Boeing, Iran Air Announce Deal Worth \$16.6 Billion*, AIN ONLINE (Dec. 12, 2016, 10:55 AM), <http://www.ainonline.com/aviation-news/air-transport/2016-12-12/boeing-iran-air-announce-deal-worth-166-billion>.

⁵ In March of 2017, "Iran Air ha[d] taken delivery of a new Airbus A330-200, the first of 45 A330-family jets on order" at the time. Gregory Polek, *Iran Air Takes Its First A330-200 as Fleet Upgrade Continues*, AIN ONLINE (Mar. 10, 2017, 9:32 AM), <http://www.ainonline.com/aviation-news/air-transport/2017-03-10/iran-air-takes-its-first-a330-200-fleet-upgrade-continues>. "The delivery continues the implementation of Iran Air's major fleet renewal plan, launched in December 2016 with a firm order for 100 Airbus airplanes, including 46 single-aisle A320-family jets, 38 A330s and 16 A350s. Iran Air took the first airplane on order—a CFM56-powered A321—on January 11."

Id.

⁶ Polek, *Boeing, Iran Air Announce Deal Worth \$16.6 Billion*, *supra* n. 4.

⁷ *Id.*

⁸ Polek, *Boeing And Iran Aseman Airlines Agree on Order for 30 Max Jets*, *supra* n. 2.

According to an Iranian press report:

Iran's Kish Airline has announced an ambitious plan to purchase over a dozen new planes from global aviation giant Airbus and Boeing.

....

Kish Airline belongs to Kish Free Zone Organization and currently has 14 planes, including 2 Airbus-320 [planes], 2 Airbus-321 [planes], seven MD planes and 3 Fokker-100 planes, IRNA added in its report.

Airbus has already sealed deals to sell a total of 173 new aircraft to Iranian airlines with a collective value of tens of billions of dollars.

On the same front, Boeing had accrued orders and options for 140 planes, while the smaller European turboprop-maker ATR attracted orders and options for 40 aircraft.

Iran Air – the country's national flag-carrier airline – appears to be the most active buyer of new planes. The company would buy a total of 220 new planes from Airbus, Boeing and ATR, covering both wide and narrow-bodied jets as well as turboprops. Airbus and ATR made their first deliveries of several planes over the past few months but Boeing deliveries would start in 2018.

Among the country's smaller carriers, Iran Aseman Airlines would buy 30 new Boeing 737 Max 8 jets, with options for 30 more.

Iran Airtour would also purchase 45 Airbus A320neo aircraft.

And Zagros Airlines would acquire 28 Airbus aircraft, including 20 of its A320neo model and eight of its larger A330neo.⁹

And as another Iranian publication recently reported:

Most of the sanctions imposed on Iran's economy were lifted in January 2016, when the [P5+1] nuclear pact was implemented.

The aviation deals were part of the nuclear bargain. Based on the JCPOA, the United States is required to "allow for the sale of commercial passenger aircraft and related parts and services to Iran."¹⁰

⁹ *Iran's Kish Airline to Buy Boeing, Airbus Planes*, PRESS TV (Aug. 28, 2017), <http://www.presstv.ir/Detail/2017/08/28/533273/Irans-Kish-Airline-to-buy-Boeing-Airbus-planes>.

¹⁰ Saeed Jalili, *Iran Air: Boeing Deal Safe From US JCPOA Pullout*, FINANCIAL TRIBUNE (Oct. 2, 2017), <https://financialtribune.com/articles/economy-business-and-markets/73315/iran-air-boeing-deal-safe-from-us-jcpoa-pullout>.

The deals between airline manufacturers and Iran Air are contingent upon “approval from the U.S. Treasury Department’s Office of Foreign Assets Control (OFAC),” because “[e]xport to Iran of any commercial aircraft with at least 10 percent U.S. technology content requires approval from the OFAC.”¹¹ OFAC has granted licenses to Boeing for both agreements, and has also granted a license to Airbus.¹²

Congress, however, has expressed its disapproval of the U.S. government’s treatment of Iranian airlines. For example,

the U.S. House of Representatives in November voted 234 to 174 for a bill prohibiting any U.S. transaction connected with the export of passenger airplanes to Iran. The bill would next need to pass the Senate, which, although Republican controlled, failed to pass an earlier bill this summer [2016] that would have blocked sales of commercial aircraft with a certain amount of U.S. content. At the time President Obama vowed to veto any such bill.¹³

And, as Rep. Peter Roskam explained in his bill, the Terror-Free Skies Act:

Iran, through its Islamic Revolutionary Guard Corps (IRGC), provides material and financial support to Foreign Terrorist Organizations (FTO), including Hamas, Hezbollah, and Kata’ib Hezbollah, as well as to the Bashar al-Assad regime in Syria which is responsible for over 400,000 civilian deaths.

Iran has systematically employed its national air carrier, Iran Air, as well as numerous private and publically owned Iranian and Syrian airliners, including Mahan Air, to ferry weapons, troops, and military equipment on behalf of the IRGC and Iran’s Ministry of Defense and Armed Forces Logistics (MODAFL) to FTOs and rogue regimes around the world.

On June 23, 2011, the U.S. Department of the Treasury designated¹⁴ Iran Air pursuant to Executive Order 13[3]82 for providing material support and services to the IRGC, including shipping military-related equipment on behalf of the IRGC since 2006 and transporting rockets or missiles to Syria.

On January 16, 2016, Iran Air was delisted as a Specially Designated National (SDN) by the U.S. Department of the Treasury even though Iran Air had not ceased its illicit and sanctionable activity.

¹¹ Polek, *Boeing And Iran Aseman Airlines Agree on Order for 30 Max Jets*, *supra* n. 2.

¹² Polek, *Iran Air Takes Its First A330-200 as Fleet Upgrade Continues*, *supra* n. 5.

¹³ Polek, *Iran Air Announce Deal Worth \$16.6 Billion*, *supra* n. 4.

¹⁴ According to the State Department, “Designations under E.O. 13382 prohibit all transactions between the designees and any U.S. person, and freeze any assets the designees may have under U.S. jurisdiction.” *Executive Order 13382*, STATE.GOV, <https://www.state.gov/t/isn/c22080.htm> (last visited Oct. 9, 2017).

Iran Air remains owned and operated by the Iranian government and has, since January 16, 2016, flown numerous unscheduled flights on well-known weapons supply routes between Iran and Syria. . . .

Evidence supports that despite being removed from the Specially Designated National (SDN) on January 16, 2016, Iran Air has since continued its illicit and sanctionable activity in support of the IRGC, MODAFL, Hezbollah, and the Bashar al-Assad regime since January 16, 2016.¹⁵

Indeed, on August 23, 2017, Rep. Roskam and others wrote a letter to Secretary of the Treasury Steven Mnuchin, copied to Director of National Intelligence Daniel Coats, urging an investigation into newly surfaced photos that show Iran Air transporting militants to Syria on commercial craft.¹⁶ The Congressmen enclosed copies of the photos in the letter, and declared: “Iran’s use of commercial aircraft for military purposes violates international agreements as well as Iranian commitments under the JCPOA.”¹⁷

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enterprise Institute v. Office of Science and Technology Policy*, No. 15-5128 (D.C. Cir. July 5, 2016)¹⁸ (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person(s).

¹⁵ Terror Free Skies Act, H.R. ___, 115th Cong. (2017), available at <https://roskam.house.gov/sites/roskam.house.gov/files/1-13-17%20Terror-Free%20Skies%20Act%20FULLTEXT.pdf>.

¹⁶ Letter from Rep. Peter Roskam to Secretary of Treasury Steven Mnuchin (Aug. 23, 2017), available at https://roskam.house.gov/sites/roskam.house.gov/files/Iran_Air_Letter_8.23.pdf.

¹⁷ *Id.*

¹⁸ [https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/\\$file/15-5128-1622973.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/75450CA390CB52C985257FE7005038BD/$file/15-5128-1622973.pdf).

For purposes of this Request, the term “Treasury official” includes, but is not limited to, any person who is (1) employed by or on behalf of the U.S. Department of the Treasury (“Treasury”) in any capacity; (2) contracted for services by or on behalf of Treasury in any capacity; or (3) appointed by the President of the United States to serve in any capacity at Treasury, all without regard to the component or office in which that person serves.

For purposes of this Request, all sources, documents, letters, reports, briefings, articles and press releases cited in this Request are incorporated by reference as if fully set forth herein.

To the best of Requestor’s knowledge and belief, the Treasury offices/bureaus implicated by this Request are the Office of Foreign Asset Control (OFAC) within the Office of Terrorism and Financial Intelligence, the Office of International Affairs, the Office of Legislative Affairs, and the Office of the Secretary of the Treasury

For purposes of this Request, the timeframe of records requested herein is January 1, 2012, to the date this Request is processed, unless otherwise indicated.

Pursuant to FOIA, 5 U.S.C. § 552, ACLJ hereby requests that Treasury respond to the following numbered requests and produce all responsive records:

1. Records Regarding U.S. Treasury/OFAC Delisting Iran Air as SDN

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any Treasury official referencing or regarding in any way U.S. Department of the Treasury/OFAC’s delisting of Iran Air or any other Iranian airline as a Specially Designated National (SDN) on January 16, 2016, or any other time that same month, as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, Treasury electronic mail or message accounts, non-Treasury electronic mail or message accounts, personal electronic mail or message accounts, Treasury servers, non-Treasury servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. Records Regarding JCPOA and Iranian Airlines Purchasing Jets from Boeing or Airbus

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any Treasury official referencing or regarding in any way the JCPOA and Iran Air, Iranian Aseman Airlines, Iran Airtour, Kish Airline and/or Zagros Airlines purchasing jets from Boeing Airbus and/or ATR, as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, Treasury electronic mail or message accounts, non-Treasury electronic mail or message accounts, personal electronic mail or message accounts, Treasury servers, non-Treasury servers, and personal servers, as well as any electronic

mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. Records Regarding the Use of Jets by Iran Air or Iranian Airlines to Transport Military

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any Treasury official referencing or regarding in any way Iran Air's and/or any other Iranian airline's use of jets to transport military personnel and/or equipment, specifically, that of the IRGC and/or Iran's Ministry of Defense and Armed Forces Logistics (MODAFL), as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, Treasury electronic mail or message accounts, non-Treasury electronic mail or message accounts, personal electronic mail or message accounts, Treasury servers, non-Treasury servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

4. Records Regarding Rep. Roskam's August 23, 2017, letter to Secretary Mnuchin

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any Treasury official referencing or regarding in any way Rep. Roskam's August 23, 2017, letter to Secretary Mnuchin, as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, Treasury electronic mail or message accounts, non-Treasury electronic mail or message accounts, personal electronic mail or message accounts, Treasury servers, non-Treasury servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

5. Records Regarding Rep. Roskam's Terror-Free Skies Act

All records, communications or briefings created, generated, forwarded, transmitted, sent, shared, saved, received, or reviewed by any Treasury official referencing or regarding in any way the Terror-Free Skies Act, introduced by Rep. Roskam, as referenced in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, Treasury electronic mail or message accounts, non-Treasury electronic mail or message accounts, personal electronic mail or message accounts, Treasury servers, non-Treasury servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message

carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

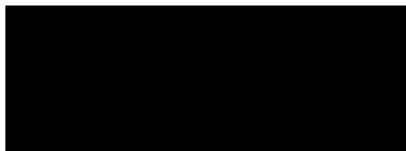
CONCLUSION

If this Request is denied in whole or in part, ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any statutorily or judicially required explanatory information, including but not limited to a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Carly F. Gammill, Senior Litigation Counsel
Benjamin P. Sisney, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

Handwritten signature of Jordan Sekulow in black ink.

Jordan Sekulow
Executive Director

Handwritten signature of Carly F. Gammill in black ink.

Carly F. Gammill
Senior Litigation Counsel

Handwritten signature of Benjamin P. Sisney in black ink.

Benjamin P. Sisney
Senior Litigation Counsel