

ORIGINAL ARTICLE

F-35 Crisis: Will Turkish-US Defense Cooperation Continue?

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Abstract

Although Turkish-American defense cooperation goes back many years, recent steps taken by Turkey have led to a serious crisis. Following the decision to withdraw Patriot air-defense batteries deployed in the south of Turkey by Germany and the United States after 2015, Ankara turned to Russia for the S-400 missile-defense system, citing national security. Turkey was then excluded from the F-35 program, in which it had been involved for years. Moreover, it was sanctioned by the White House. In this context, the background of Turkish-American defense cooperation, the F-35 program, the removal of Turkey from the program after the S-400 purchase decision, and the subsequent exposure to sanctions are discussed, and the sanctions analyzed for compliance with international law. It is emphasized that the revival of close defense cooperation between Turkey and the United States is essential for the future of the relationship, and that the parties should find an intermediate formula for compromise.

Turkish-American defense cooperation, which has been going on for about three quarters of a century, has been impaired in the last few years by the exclusion of Turkey from the F-35 program, of which Turkey is one of the project partners, due to Ankara's purchase of the Russian-made S-400 air missile-defense system. Accordingly, CAATSA (Countering America's Adversaries Through Sanctions Act) sanctions began to be implemented against Turkey by Washington. Such developments in recent years have called into question the future of Turkish-American defense cooperation. While some see the negative picture in bilateral relations as a "periodic regression," others see it as "permanent" and "structural."

In this study, the future of Turkish-American defense cooperation is evaluated in the context of the F-35 crisis. First, the background of Turkish-American defense cooperation will be explained. In the second section, the important features of the F-35 project and the process of Turkey's involvement will be summarized. In the third section, Turkey's exclusion from the F-35 project due to the S-400 crisis will be summarized and the process of Ankara's exposure to CAATSA sanctions will be covered. Finally, the compliance of CAATSA sanctions with international law will be investigated.

HISTORICAL BACKGROUND

Defense cooperation between Turkey and the United States started in the last years of the Ottoman Empire. The visit of American entrepreneur Henry Eckford to Istanbul with the corvette named United States in August 1831 and the purchase of that warship by the Ottoman government for \$150,000 marked the beginning of the relationship.¹ While some believe that the transfer cannot be considered within this scope since it was not an intergovernmental transaction, it was not long before sales between the states occurred. The Ottoman Empire, trying to modernize its army, attempted to purchase 40,000 Enfield rifles used in the American Civil War in 1865, and the contract for this purpose was recorded as the first intergovernmental arms trade.² Many arms-procurement projects were implemented between the Ottoman Empire and the United States during this period, the last of which was the purchase of cruisers in 1904.³

When it comes to the period of the Republic of Turkey, from 1923 onward, defense cooperation with the United States in general, and the arms trade in particular, started during World War II. Turkey bought a large number of military supplies from the United States within the framework of the "Lend-Lease Act," stated to have a value of \$95 million.⁴ On the other hand, the deepening of defense cooperation between Turkey and the United States began during the postwar years. The aid agreement signed on February 27, 1946, which envisaged a loan of \$10 million to Turkey for the purchase of unused military equipment, constitutes the starting point.⁵ However, there is no doubt that the acceleration in this field started with the Truman Doctrine, announced to the world by President Harry S. Truman in a speech to Congress on March 12, 1947. It was essentially an aid plan that envisaged supporting American allies in southeastern Europe, Greece, and Turkey against the communist threat. According to the plan, the United States committed to providing a total of \$400 million in aid to Greece and Turkey.⁶

Defense cooperation between Turkey and the United States, which developed with the idea of acting jointly against the threat of the Soviet Union, turned into a "brotherhood in arms" with the Korean War. The fact that Turkey became a member of NATO in 1952 institutionalized

¹ Roger Trask, *The United States Response to Turkish Nationalism and Reform, 1914-1939* (Minneapolis: University of Minnesota, 1971), 7.

² Çağrı Erhan, *Türk-Amerikan İlişkilerinin Tarihsel Kökenleri* (Ankara: İmge Kitabevi Yayınları, 2001), 175.

³ Oral Sander and Kurthan Fişek, *ABD Dışişleri Belgeleriyle Türk-ABD Silah Ticaretinin İlk Yüzyılı (1829-1929)* (İstanbul: Çağdaş Yayınları, 1977), 39-43.

⁴ Mustafa Aydın, "Ödünç Verme-Kiralama (Lend and Lease) Yasası" in *Türk Dış Politikası: Kurtuluş Savaşı'ndan Bugüne Olgular, Belgeler, Yorumlar, Cilt I: 1919-1980*, ed. Baskın Oran (İstanbul: İletişim Yayınları, 2001), 366-439.

⁵ Haydar Tunçkanat, *İkili Anlaşmaların İçyüzü* (Ankara: Ekim Yayınları, 1970), 28.

⁶ Office of the Historian, "The Truman Doctrine, 1947," <https://history.state.gov/milestones/1945-1952/truman-doctrine%23:~:text=With%20the%20Truman%20Doctrine%2C%20President,external%20or%20internal%20authoritarian%20forces.>

the intricate relationship network that has continued until today. Although there were painful periods, as during the arms embargo from 1975–78 after Turkey's Cyprus Peace Operation of 1974, in the final analysis, the United States is the country with which Turkey had the closest defense relationship during the Cold War. The Turkish Armed Forces (TAF), whose weapons, ammunition, equipment, and material needs were met with foreign aid and credit provided by Washington, largely adopted the American model of training and doctrine. The arms embargo implemented by the United States in the period following the Cyprus Peace Operation was a critical moment for Turkey, revealing the negative effects of meeting the TAF's needs from abroad; it brought home the importance of taking steps to create a national-defense industry.

Although the Cuban Missile Crisis and the ensuing 1964 "Johnson Letter" caused questions to be raised in Ankara about the credibility of the United States, no changes were made in the NATO-based defense strategy for Turkey during the Cold War. However, understanding that NATO membership would be insufficient to meet Turkey's needs in the new security environment reversed the situation. As a matter of fact, in the 1990s, Turkey's willingness to increase the resources it allocated to armaments and make intense efforts to develop its national military capabilities were concrete indicators of the change in threat perceptions.⁷ The point that should be underlined here is that the United States lost its dominant role in armament initiatives in the later period. This was undoubtedly due to Turkey's pursuit of a multidimensional foreign policy and the development of its own national-defense industry infrastructure.

In the post-Cold War period, with Turkey's cooperation with different countries, including Israel and South Korea, in the field of defense and, more important, its tendency to focus mainly on national solutions in the 2000s, the weight of US-origin military equipment in the TAF inventory began to decrease. However, as a natural consequence of longstanding defense cooperation, US-origin military equipment still occupies an important place in the TAF inventory, particularly in the air force. All combat aircraft and a significant portion of training, transport, electronic warfare, and other support aircraft originate in the United States. US-origin materiel is used extensively in the maneuver and fire-support elements of the Turkish land forces. Apart from submarines and amphibious assault ships, the Turkish naval forces, which have only received unique design platforms in recent years, enjoy the smallest share of US-origin military equipment.

The US decision to impose sanctions on Turkey as part of CAATSA, because of Turkey's procurement of S-400 air- and missile-defense systems from Moscow, damaged the defense cooperation between the two countries. However, the introduction of sanctions does not mean that defense cooperation has ceased completely. Turkey continues to fulfill its responsibilities in NATO, and, in this respect, cooperates with the United States in the fields of defense, security, and intelligence. Moreover, the fact that projects purchased under previously signed contracts are not affected by CAATSA sanctions and that alternative supply channels exist besides Turkey's Defense Industry Presidency (SSB), the addressee of the restrictions, ensures the continuation of cooperation in the defense industry. At this point, making the supply directly through the Ministry of National Defense and TAF instead of SSB can be considered alternative channels.

One of the most remarkable projects still in progress is the Turkish Utility Helicopter Program. The project, which entered into force on June 7, 2016, following the completion of export licenses, involves the production of the T70 utility helicopter, which will be based on the Sikorsky S-70i International Black Hawk model, at Turkish Aerospace Inc. (TAI) facilities in Turkey. The project is expected to deliver a total of 109 helicopters in two different configurations to six different users

⁷ Serhat Güvenç, "Bir dış politika aracı olarak Türk Silahlı Kuvvetleri: Yetenekler ve uygulamalar" in *Türk Dış Politikasının Analizi*, ed. Faruk Sönmezoğlu (İstanbul: Der Yayınları, 2004), 914.

in the next 10 years.⁸ The first helicopter to come off the production line is to make its first flight in the near future, after the completion of the ground tests.⁹

Another ongoing project is the F-16 Service Life Extension Program. This project, which went into effect on August 10, 2015, aims to increase the existing 8,000 hours of flight life to 12,000 by subjecting 35 F-16C/D Block 30 aircraft in the inventory of the Turkish Air Force to structural modernization. The main contractor is TAI, and the subcontractor is Lockheed Martin. The project, in which six aircraft have been modernized and delivered to the user so far, is planned to be completed in 2023.¹⁰

THE F-35 PROGRAM

Considering the change in air operations, the United States initiated the Joint Strike Fighter (JSF) program in the early 1990s to develop a new generation fighter/bomber. One of the impressive features of the program, in which Lockheed Martin (with the X-35 solution, later named the F-35 Lightning II) was chosen as the main contractor in competition with Boeing is that it was designed as a multinational initiative from the very beginning. Specifically, the United States aimed for the development and production of JSF to be carried out by a multinational consortium both to share the costs and ensure that its allies can act in harmony in joint operations. To this end, it created a model such that the desired countries would take a place in the program according to the level of partnership they preferred. As a matter of fact, on different dates, the United Kingdom participated in the program on the first level; the Netherlands and Italy on the second; and Australia, Denmark, Canada, Norway, and Turkey on the third level with joint status. Thus, the number of member states in the consortium became nine, including the United States.¹¹

JSF, the largest defense-industry procurement project of all time, will replace many combat aircraft, including the F-16, F-18, A-6, A-10, AV-8B, Sea Harrier, Tornado, Jaguar, and AMX. With some design changes to be made on the basic platform, it is intended to meet the needs of different forces. For this purpose, the F-35A, the conventional takeoff and landing version for the air force; the F-35B, the short takeoff and vertical landing version for the marines; and the F-35C, a version built for navy carriers, have been developed. The F-35A made its maiden flight in December 2006, the F-35B in June 2008, and the F-35C in November 2011.¹² As of September 2021, more than 700 of the F-35s, which were delivered as of 2011, have been produced.¹³ The countries that have commissioned or ordered the F-35 to date, other than consortium members, are Belgium, South Korea, Israel, Japan, Poland, and Singapore. The point here is that, contrary

⁸ "TGMHP Nihayet Yürürlüğe Girdi," *Savunma ve Havacılık* 174, no.30 (2016): 44-47.

⁹ Fatih Mehmet, "T-70 Genel Maksat Helikopteri İlk Uçuşa Çok Yakın," *Defence Türk*, October 01, 2021, <https://www.defenceturk.net/t-70-genel-maksat-helikopteri-ilk-ucusa-cok-yakin>.

¹⁰ "F-16 Yapısal Modernizasyon Projesi ve Son Durum," *SavunmaSanayiST.com*, July 13, 2021, <https://www.savunmasanayist.com/f-16-yapisal-modernizasyon-projesi-ve-son-durum/>.

¹¹ "F-35- International Partners," *Global Security*, <https://www.globalsecurity.org/military/systems/aircraft/f-35-int.htm>.

¹² "F-35 Lightning II Joint Strike Fighter (JSF)," *Airforce Technology*, December 11, 2020, <https://www.airforce-technology.com/projects/jsf/>.

¹³ John A. Tirpak, "F-35 Production Set at 156 Per Year Until Completion," *Air Force Magazine*, September 27, 2021, <https://www.airforcemag.com/f-35-production-set-156-per-year-until-completion/#:~:text=Lockheed%20Martin%20and%20the%20F,%E2%80%9Cfor%20the%20foreseeable%20future.%E2%80%9D>.

to expectations, the first country to use the F-35 in real combat conditions is not the United States or any other consortium member, but Israel, which flew this plane in its operations in Syria.¹⁴

The F-35, a fifth-generation fighter/bomber, is considered an extremely capable platform with qualities such as stealth, network-centric warfare capability, high situational awareness, and the capacity to fly at supersonic speeds without using an afterburner. There is no doubt that the aircraft will be capable of high performance, especially in air-ground actions. On the other hand, the F-35 is not without features that lead to criticism and some question marks. The criticisms are mostly focused on the aircraft's low maneuverability, its high initial-purchase and maintenance-sustainability costs, restrictions on access to its software, and requirements that ensure dependence on the United States. The most controversial topic is the cloud-based Autonomous Logistics Information System (ALIS), which the manufacturer states has been developed to provide spare parts more quickly and cost-effectively. ALIS, which contacted the manufacturer before the aircraft took off, created a security vulnerability in this way. Apart from the fact that the system is open to cyber attacks, it is alleged that it transfers information that should be kept confidential to the United States, such as combat readiness and mission planning.¹⁵

It is appropriate here to briefly clarify the role of Turkey in the JSF program. Considering that the first models of the F-4E/the 2020s and F-16C/Ds put into service in the inventory of the Turkish Air Force will be taken out of service in the post-2020 period, Turkey has sought to meet the need for a new-generation fighter aircraft. It was included in the JSF program, which is among the possible alternatives at the concept-demonstration phase established with the 1999 "Letter of Offer and Acceptance," worth \$6.2 million. Turkey obtained third-level partner status on the project in the system-development and demonstration phase on July 11, 2002. After the Turkish Air Force officially chose the F-35 as the new generation fighter aircraft, Ankara participated in the production, sustainment, and follow-on development phase of the program with the memorandum of understanding signed on January 25, 2007.¹⁶

Turkey's participation in the JSF program has opened up the opportunity for many Turkish defense-industry companies to receive work shares in the status of subcontractors. Turkish companies responsible for the development and/or production of aircraft or engine parts are Alp Aviation, ASELSAN, AYESAŞ, Fokker Elmo, HAVELSAN, Kale Aerospace, MİİKES, Roketsan, TUBİTAK SAGE, and TAI.¹⁷ The main contractor, Lockheed Martin, has announced that the financial value of the work undertaken by the listed companies has reached \$12 billion. However, it should be noted that, in practice, \$5.6-6 billion of this figure is contracted, while the rest is in options.¹⁸

With Turkey's official participant in the JSF program being the Turkish Air Force, it emerged that the future force structure will consist of F-35s and modernized F-16s, and plans have started to be made accordingly. After the National Combat Aircraft program came to the fore, it was envisaged that this aircraft would replace the F-16s in the future. The F-35s, which are expected to

¹⁴ Anna Ahronheim, "IAF Commander: Israel First to Use F-35 Jet in Combat," *The Jerusalem Post*, May 22, 2018, <https://www.jpost.com/israel-news/iaf-commander-israel-first-to-use-f-35-jet-in-combat-558030>.

¹⁵ Beyazıt Karataş, "F-35 Savaş Uçağı Hakkında Her Şey," *Veryansın TV*, February 26, 2021, <https://www.veryansintv.com/f-35-savas-ucagi-hakkinda-her-sey-beyazit-karatas-pankus-371>.

¹⁶ İbrahim Sünnetçi, "F-35A Lightning II Programı ve Türkiye," *Savunma ve Havacılık* 169, no.29 (2015): 122-129.

¹⁷ "F-35 Lightning II Program Status and Fast Facts," Lockheed Martin, September 1, 2021, https://www.lockheedmartin.com/content/dam/lockheed-martin/aero/f35/documents/FG21-00000_001%20F35FastFacts9_2021.pdf.

¹⁸ "12 Milyar Dolarlık İş Üstlendiğimiz F35 Askıda," *Dünya*, July 19, 2019, <https://www.dunya.com/gundem/12-milyar-dolarlik-is-ustlendigimiz-f35-askida-ozel-haberi-450223>.

perform mainly air-ground missions within the air force, have been relaunched from the 171st and 172nd squadrons of the 7th Main Jet Base Command stationed in Malatya Erhaç, which still fly with F-4E/2020s. These are intended to be used for equipment. In the next stage, the 1st Main Jet Base Command in Eskişehir and the 3rd Main Jet Base Command in Konya were chosen as the bases to be equipped with F-35s.

Turkey placed its first F-35 order, consisting of two aircraft, on May 6, 2014, and increased the number ordered under various parties to 30 in the following period. It has been announced that the total number of aircraft that Turkey plans to order is 100.¹⁹ These include the F-35A (the conventional takeoff version). However, following the emergence of the TCG Anatolian Multi-Purpose Amphibious Assault Ship, which can partially undertake aircraft-carrier missions and was to be included in the force structure of the Turkish Naval Forces, signals have begun to be received that the F-35B version can also be ordered.²⁰

The first F-35 delivery to Turkey was made on June 21, 2018, with a ceremony at Lockheed Martin's facilities in Fort Worth; in a short time, the number of aircraft produced for the Turkish Air Force reached six. These planes were not brought to Turkey, as they will be used in the training of teacher pilots and maintenance personnel. Moreover, as will be discussed in detail in the following sections, after Ankara's partnership in the JSF Program was suspended because of the S-400 procurement decision, work began on the delivery of these Turkish-owned aircraft to the US Air Force.²¹ It has been announced that the work undertaken by Turkish companies will be shared with other subcontractors following the suspension of Turkey's partnership. However, it was soon realized that some parts would continue to be produced in Turkey, at least until 2022.²²

Due to financial obligations attached to the program, the amount Turkey has paid into the project so far has reached \$1.4 billion, and negotiations are ongoing between Ankara and Washington on how to repay this amount. As reported in the press, during the negotiations Turkey requested the United States supply modernization kits to upgrade 80 of the F-16s in its inventory to Block 70, in addition to 40 new F-16 Block 70 aircraft, on the condition that part of the price be counted toward the said receivable.²³ Without doubt, Washington's attitude toward the purchase of the new F-16s by Turkey has a critical impact for the future of Turkish-US defense cooperation. Despite the negative atmosphere in Congress, it is evaluated that, with the 2022 Russia invasion of Ukraine showing the importance of transatlantic defense cooperation and the key role played by Turkey in this architecture, the possibility of this transaction has increased.

¹⁹ "Türkiye İlk F35'ini Teslim Aldı," *Anadolu Ajansı*, June 21, 2018, <https://www.aa.com.tr/tr/gunun-basliklari/turkiye-ilk-f-35ini-teslim-aldi/1181451>.

²⁰ Kıymet Sezer, "Donanma F-35 Alacak," *Yeni Şafak*, November 09, 2018, <https://www.yenisafak.com/gundem/donanma-f35-alacak-3407520>.

²¹ "Türk F-35'leri Resmen ABD Hava Kuvvetleri'ne Sevk Edildi," *SavunmaSanayist*, July 21, 2020, <https://www.savunmasanayist.com/turk-f-35leri-resmen-abd-hava-kuvvetlerine-sevk-edildi/>.

²² "ABD F-35 Parçaları İçin 2022'ye Kadar Türk Şirketleri ile Çalışacak," *TRT Haber*, July 01, 2020, <https://www.trthaber.com/haber/dunya/abd-f-35-parcalari-icin-2022ye-kadar-turk-sirketleri-ile-calisacak-497524.html>.

²³ "ABD Dışişleri Bakanlığı: Türkiye'ye F-16 İçin Finansal Teklifte Bulunmadık, Pentagon F-35 Sorununun Çözümü İçin Türkiye İle Görüşüyor," *BBC Türkçe*, October 18, 2021, <https://www.bbc.com/turkce/haberler-turkiye-58960473>.

TURKEY-RUSSIA RAPPROCHEMENT

Turkey's Purchase of the S-400s

One of the most important strategic partnerships between Turkey and Russia has been the purchase of the S-400 missile-defense system from Moscow, despite threats of sanctions from the United States. Especially after the failed coup attempt of July 15, 2016, the decrease in personnel with the dismissal of a large number of pilots proves that Turkey needs a serious air-defense system. In addition, the risks arising in the region due to US support for weapons to the People's Defense Units (YPG)—which Turkey designates a terrorist organization, has been established in northern Syria in recent years, and is known as the Syrian extension of the Kurdistan Workers' Party—has left Turkey vulnerable to attacks from its southern border and prepared the ground for an immediate agreement with Russia.²⁴

Another development paved the way for this outcome. In 2015 and 2016, the United States and Germany decided not to extend the terms of the Patriot air-defense batteries, deployed in southern Turkey in February 2013 against threats from Syria, and withdrew them.²⁵ As the justification for this situation, Oğuzlu argues that the focus of the United States and Germany shifted away from the Assad regime over time. ISIS was seen as the primary threat rather than the Syrian national government; this sent a message to Turkey to take steps only in the fight against ISIS, not other actors.²⁶

Since ISIS did not have the technology to launch missile attacks, the United States and Germany did not see any reason to supply Turkey with a defense system. In the face of this move by the United States and Germany, Turkey thought it had been left alone in the region. Unlike its allies, Ankara, which sees the Assad regime and the YPG elements as primary threats, has sought a new military solution based on its increased need for a defense system. Therefore, the differences between the threat perceptions of the Western alliance and those of Turkey have created disagreements on defense priorities. In this process, Moscow has been a beacon of hope for the Turkish defense industry.

Another reason for Turkey's aim to increase its defense capacity is its determination to avoid strife with Moscow after the jet crisis of 2015 and the murder of Russia's ambassador to Ankara, Andrey Karlov, in 2016.²⁷ After the plane crisis, in particular, the sharp decline in Turkey's tourism revenues emphasizes that there is no room for tension in relations with Russia. The main reasons for Turkey's turn to the S-400s are its desire to protect the national infrastructure at critical points and its military, economic, and state facilities, which may be primary targets against airborne attacks,²⁸ as well as to revive the economic, military, and political ties with Russia that have been strained during the Syrian crisis.

²⁴ Mithat Çelikpala, "Viewing Present as History: The State and Future of Turkey-Russia Relations," Centre for Economics and Foreign Policy Studies, no. 6 (2019): 28.

²⁵ "U.S., Germany to Pull Patriot Missiles from Turkey," Reuters, August 16, 2015, <https://www.reuters.com/article/us-germany-turkey-patriots-idUSKCN0QL0DL20150816>.

²⁶ Ece Göksedef, "Patriot kararı ne anlama geliyor?" Aljazeera Türk, August 17, 2015, <http://www.aljazeera.com.tr/aljazeera-ozel/patriot-karari-ne-anlama-geliyor>.

²⁷ Ozan Örmeci, *Türk Amerikan İlişkileri* (İstanbul: Urzeni Yayınevi, 2021), 144.

²⁸ Can Kasapoğlu, "Why Turkey Might Buy Russia's S-400 Defence System," Aljazeera, March 24, 2017, <https://www.aljazeera.com/indepth/opinion/2017/03/turkey-buy-russia-s400-missile-defence-system-170323131537509.html>.

Until the delivery of the S-400s, Turkey did not have a real long-range, high-altitude air-defense system in its inventory. For a state like Turkey, located in unstable geography and having problems with its bordering neighbors, the issue of security is essential. While there is an ongoing discussion about what kind of defense system is preferred, during the meeting between President Recep Tayyip Erdoğan and Russian President Vladimir Putin in Istanbul on October 10, 2016, the Kremlin discussed cooperation on supplying various air- and missile-defense systems; thus, the voices of a new military partnership began to rise on the Ankara-Moscow line.²⁹

Despite the US threat to impose sanctions against the Turkish defense system, Turkey did not back down from its decision to purchase the S-400s. Turkey and Russia signed an agreement in July 2017 for the S-400s, considered one of the most advanced air-defense systems in the world, at a cost of \$2.5 billion. Following the contract, it was announced that the delivery of the entire system and the training of Turkish personnel would be completed by the end of 2019, and the system commissioned in April 2020.³⁰ Thereupon, F-16 flights were carried out on and around the S-400 batteries deployed at Ankara's Mürted Airfield Command in November 2019, and the radar systems of these aircraft with the S-400s were tested.³¹

The S-400s have not been activated since the date of receipt; the intrusion of the pandemic as well as political reservations postponed this move to a later date. In addition to the pandemic, some attribute the delay in activating the S-400s to differences of opinion with Russia, in particular over Libya, and that relations with the United States can progress on a positive basis.³² Although testing and training activities continue, the date on which the S-400s will be launched remains uncertain. Although no steps have been taken regarding the use of the system, Erdoğan stated that Turkey would consider purchasing a new batch of Russian missile systems despite US obstacles.³³ This statement showed Turkey's determination to continue its strategic partnership with Russia on the air-defense system.

Technical Specifications of the S-400 System

The S-400 system was announced to the public by the Russian Air Force in January 1993, although its development started in the late 1980s during the Cold War. The system, which was completed in the early 2000s but was not ready to be activated, became operational in 2007 and was put into service by the First Air Defense Corps, which is responsible for Moscow.³⁴ Over time, Russia has established four S-400 regiments to defend its airspace over Moscow, the Baltic area, and the

²⁹ Cenk Özgen, "Türkiye'nin Hava ve Füze Savunma Mimarisinde S-400'lerin Yeri" in *Sosyal ve İnsani Bilimler: Teori, Güncel Araştırmalar ve Yeni Eğilimler*, ed. Seda Topgül (Karadağ: Ivpe, 2020), 468-492.

³⁰ "Ankara: S-400 savunma sistemi Nisan 2020'de faal olacak," *BBC Türkçe*, September 15, 2019, <https://www.bbc.com/turkce/haberler-dunya-49706558>.

³¹ Joseph Trevithick, "Turkey Tests F-16s and F-4s Against S-400 Radars In Defiance Of U.S. Sanctions Threats," *The Drive*, November 25, 2019, <https://www.thedrive.com/the-war-zone/31187/turkey-tests-f-16s-and-f-4s-against-s-400-radars-in-defiance-of-u-s-sanctions-threats>.

³² Abdülkadir Selvi, "Rus bakanların neden gelmediği belli oldu," *Hürriyet*, June 17, 2021, <https://www.hurriyet.com.tr/yazarlar/abdulkadir-selvi/rus-bakanlarin-neden-gelmedigi-belli-oldu-41543522>.

³³ "Turkey Vows to Proceed with New Round of S-400 Air Defenses," *Daily Sabah*, September 26, 2021, <https://www.dailysabah.com/business/defense/turkey-vows-to-proceed-with-new-round-of-s-400-air-defenses>.

³⁴ "S-400 Triumf," *Missile Threat*, July 6, 2021, <https://missilethreat.csis.org/defsys/s-400-triumf/>.

eastern military region. Air-defense units in the southern military region were equipped with the advanced S-400 until the end of 2012.³⁵

Many details highlight the value of the S-400 defense system. For example, with its radar, other sensors, and missiles, it can close a large area to aircraft that are seen as a threat and detect targets from 600 km away, while its engagement range can reach up to 400 km. In addition, it can track a large number of potential targets, including stealth aircraft, and can be set up and fired in minutes, thanks to its modular structure and high mobility.³⁶ It is claimed that the reaction time of the S-400 system, which allows the use of various missile types, is less than 10 seconds.³⁷

The S-400 system consists of four basic components: the 30K6E combat management system, the 98ZH6E firing unit (which can vary in number), missiles, and the 30TS6E logistics support unit. Meanwhile the 30K6E combat management system includes the 55K6E command-control unit and S-band passive electronic phase scanning 91N6E Big Bird Search Radar, stated in open sources to have a range of 600 km; the 98ZH6E firing unit includes launch vehicles and the X-band PESA 92N6E grave stone engagement and fire-control radar, which is stated to have a range of 400 km in open sources. When operating as an independent battery, the L-band PESA 96L6 cheese-board Search Radar with a range of 350 km can be added to these.³⁸

Most authorities emphasize that the S-400s supplied to Turkey will be used alone, without being integrated into NATO air- and missile-defense architecture. Moreover, these systems will not be integrated with the Link-16 system and the Mod-5 friend-enemy identification system, which are among the most important elements of NATO's network-centered warfare approach and enable target-information sharing with planes in the air.³⁹ It can be said that the approach developed by Turkey regarding the use of the S-400s should allay the concerns of the United States and NATO.

Turkey's Exclusion from the F-35 System and CAATSA Sanctions

The arguments that the air-defense system will be purchased from Russia, which is seen as a threat to NATO's existence, and that the S-400s will not be integrated with NATO systems, indicate that Turkey will face increasing pressure from the West. Other NATO allies, especially the United States, frequently put the S-400 issue on the agenda and warned Ankara. The Pentagon emphasized that Turkey should abandon the S-400 defense system on the grounds that Russia can gain access to NATO's defense systems and seize military information. According to the argument of the US Department of Defense, after Russia deploys the S-400 defense system to Turkey's air bases, it will be able to learn what threats the F-35s pose to Moscow through the track records of its radar.⁴⁰

³⁵ "S-400 Triumph Air Defence Missile System," *Arm Technology*, February 3, 2020, <https://www.army-technology.com/projects/s-400-triumph-air-defence-missile-system/>.

³⁶ Yarno Ritzen, "Why Do Countries Want to Buy the Russian S-400?" *Aljazeera*, October 8, 2018, <https://www.aljazeera.com/features/2018/10/8/why-do-countries-want-to-buy-the-russian-s-400>.

³⁷ Sanal Savunma, "S-400 Uzun Menzilli Bölge Hava ve Füze Savunma Sistemi", <https://www.sanalsavunma.com/s-400-uzun-menzilli-bolge-hava-ve-fuze-savunma-sistemi/>.

³⁸ Özgen, "Türkiye'nin Hava ve Füze Savunma Mimarisinde S-400'lerin Yeri," 479.

³⁹ Sıtkı Egeli, "S-400 Alımı, Hava Savunması, Füze Savunması, NATO: Mitler ve Gerçekler," *Kokpitaero*, 2017, <http://www.kokpit.aero/s400-sitki-egeli>.

⁴⁰ David G. Villars and Ann M. Simmons, "Turkey Receives Russian Missile System, Risking U.S. Sanctions," *The Wall Street Journal*, July 12, 2019, <https://www.wsj.com/articles/turkey-starts-taking-delivery-of-russian-air-defense-missile-system-risking-u-s-sanctions-and-testing-its-position-in-nato-11562920372>.

The idea of preventing the sale of F-35 warplanes to Turkey by the United States was first put forward in 2017. After tension between protesters and Erdogan's bodyguards and sympathizers turned into a fight outside the Turkish ambassador's residence during a visit to Washington on May 17, 2017, a member of the House Foreign Relations Committee, David Cicilline, submitted a new bill and an amendment to the National Defense Authorization Act. In these pieces, a criminal investigation was requested against the president's bodyguards by the US Office of the Attorney General, based on the events in Washington. The amendment, which remained in draft form, required that F-35 warplanes not be sent to Turkey until Ankara cooperated with Washington on the investigation in question.⁴¹

The implementation of the CAATSA sanctions against Turkey, which came into effect on August 2, 2017, after the completion of the S-400 agreement between Turkey and Russia, was also immediately put on the agenda by some members of Congress. After the release request was rejected at the trial of American Pastor Andrew Brunson, who was arrested due to being spy and having a connection with dangerous political groups, including the banned Gulenist movement after a failed coup attempt in 2016, there was an increase in the bills submitted against Turkey in Congress. The drafts prepared in June 2018 focused on Turkey's S-400 agreement, on the one hand, and emphasized the enforcement of sanctions against Turkey, on the other.⁴²

In 2018, a bill passed by both houses of Congress included an article that would stop the delivery of F-35s to Turkey.⁴³ The following year, then-Vice President Mike Pence, speaking at NATO's 70th anniversary celebrations, emphasized that if Turkey procured the S-400 system from Russia, it would face the risk of being removed from the F-35 program.⁴⁴ Thereupon, on July 17, 2019, the Pentagon decided to officially exclude Turkey from the F-35 program, as it opposes Turkey's simultaneous possession of the Russian and American systems. This decision foreshadowed possible sanctions against Turkey's defense industry and created a tense atmosphere between Washington and Ankara.

On April 6, 2021, the CAATSA sanctions against Turkey came into effect in response to the purchase of the S-400s. The law signed by then-US President Donald Trump at the end of 2020 targeted the Presidency of Defense Industries rather than the Turkish economy in general. In this context, sanctions such as not being able to obtain an export license from the United States, not being able to benefit from loans from the Export-Import Bank and international financial institutions of which the United States is a stakeholder, freezing the assets of SSB President İsmail Demir and other personnel on the sanction list, and imposing visa restrictions on these persons⁴⁵ have been implemented.

Although the long-awaited sanctions are considered narrow by some experts, this process could seriously damage the Turkish defense industry. The prohibition of equipment and technology imports from the United States, especially for the projects to be carried out within the scope of the SSB in the coming years, may hinder the industry's development. While the sanctions will not

⁴¹ Hasan Yücel, *Türk-Amerikan İlişkilerinde S-400 Krizi* (İstanbul: SETA Analiz, 2020), 12.

⁴² Yücel, *Türk-Amerikan İlişkilerinde S-400 Krizi*, 12.

⁴³ "ABD Senatosu Türkiye'ye F-35 yaptırımını onayladı," *DW*, August 2, 2018, <https://www.dw.com/tr/abd-senatosu-t-c3%BCrkiye-f-35-yapt%C4%B1r%C4%B1m%C4%B1n%C4%B1-onaylad%C4%B1/a-44920752>.

⁴⁴ White House, "Remarks by Vice President Pence at NATO Engages: The Alliance at 70," 2019.

⁴⁵ U.S Embassy & Consulate in Greece, "The United States Sanctions Turkey Under CAATSA 231," 2020.

cancel existing US-Turkish defense contracts, they could also directly impact nearly \$2 billion in potential cooperation.⁴⁶

Despite all these negativities, other channels were left open for new purchases, as Turkey did not buy everything through the SSB; therefore, other Turkish companies and the Ministry of National Defense may continue to use these channels. In addition, Turkey's search for alternatives regarding the defense system will continue, and within this framework, new military partnership mechanisms can be created with Russia, European countries, and the United Kingdom. For example, the defense agreement signed between Turkey and the UK in 2017 may be revived as Britain gains the post-Brexit authority to sign bilateral agreements independently of the European Union. The signals that a tripartite defense agreement will be signed by Turkey, Italy, and France on SAMP/T air-defense systems at a recent G-20 Summit can be seen as a manifestation of Ankara's rapid progress in creating an alternative defense-system option.

CAATSA SANCTIONS AND INTERNATIONAL LAW

The legality of the CAATSA sanctions, which the United States started to apply against Turkey in 2021, is controversial in many respects. In this section, CAATSA will be analyzed and critiqued in light of international law. Law 115–44, which was proposed in the US Congress by California Republican Representative Ed Royce on July 24, 2017, was passed by the House of Representatives on July 25 with 419 votes in favor and three against, and on July 27 by the Senate, with 98 in favor and two against.⁴⁷ The bill was approved by Trump on August 2, 2017, and entered into force.⁴⁸

The law actually restricts trade relations with three countries. First, to curb Iran's destabilizing activities, it includes Tehran's ballistic-missile and weapons of mass destruction (WMD) programs, the transfer of arms and technical and financial resources to Iran, and cooperation with the Islamic Revolutionary Guards and relevant persons to the presidency. Second, in the context of limiting Russia's influence in Europe and Eurasia, it states that sanctions can be imposed on states and individuals that have relations with Russia in 10 areas: cybersecurity, crude-oil projects, financial institutions, corruption, human-rights violations, avoidance of sanctions, cooperation with Russia's defense and intelligence agencies, oil pipelines, the privatization of state monopoly assets by public officials, and the transfer of arms to Syria.⁴⁹ Third, it states that cargo and shipping relations with North Korea, goods produced in North Korea by criminal and forced labor, and foreign persons who employ North Korean forced laborers may be sanctioned.

CAATSA sanctions have been applied against two countries to date: China, due to the purchase of the S-400 air-defense system and Su-35 aircraft from Russia for the first time in 2018; and Turkey, as of 2021, due to the purchase of the S-400 air missile-defense system from Russia.⁵⁰ There is widespread opinion among the American public that CAATSA sanctions should not be applied to India, a country that has become an important partner for the United States against

⁴⁶ Congressional Research Service, "Turkey: U.S. Sanctions Under the Countering America's Adversaries Through Sanctions Act (CAATSA)," *CRS Insight*, 2020, 1-5.

⁴⁷ "H.R.3364-Countering America's Adversaries Through Sanctions Act," *Congress.gov*, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/3364>.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Kasım İleri, "Pentagon ve CAATSA Yaptırımları," *Kriter* 5, no. 53 (2021), <https://kritdergi.com/dis-politika/pentagon-ve-caatsa-yaptirimlari>.

China, but which recently purchased the S-400 system from Russia and received the S-400 batteries in accordance with the agreement.⁵¹ Therefore, it seems that double standards abound.

There are several reasons to see CAATSA as illegal and against Washington's interests. First of all, CAATSA sanctions are based entirely on the American domestic legal system and are completely different from criminal and restrictive practices that are considered valid in international law, such as sanctions imposed by the United Nations. As a matter of fact, in the "hierarchy of norms," which is one of the main pillars of law, international agreement, and international law are raised above domestic law. However, since the United States is the most influential country in global politics, Washington can use its own domestic law to press other countries. Although this situation is not criticized much due to the global leadership of the United States, it can be argued that a state does not have the right to punish other states through its own domestic law.

Second, CAATSA came into force shortly after Turkey and Russia signed the S-400 agreement. According to the Russian news agency TASS, S-400 negotiations between Moscow and Ankara started in November 2016, and the negotiations were confirmed by the CEO of Rostec, Sergei Chemezov, on February 20, 2017.⁵² After Putin announced on June 1, 2017, that his country was ready to sell the S-400 system to Turkey, Erdoğan announced that the agreement was signed on July 25 (though the exact date is not known).⁵³ The enactment of CAATSA in the United States, on the other hand, was on August 2, 2017. In this context, the non-retroactivity of laws is a fundamental legal principle actively respected in all democratic states. This situation ("ex post facto" in Latin) is also explicitly prohibited in the American Constitution: "No bill of attainder or ex post facto Law shall be passed."⁵⁴ Therefore, the United States imposes CAATSA sanctions on Turkey in contradiction of its own constitution. CAATSA sanctions against Turkey are therefore not legal.

Third, it can be claimed that this law and the sanctions imposed due to the law also harmed the United States in terms of realpolitik. Namely, the CAATSA law, which caused the United States to come face to face with a traditional ally such as Turkey and complicate the defense cooperation, as can be seen in the example of India, the country that is expected to play a key role in Washington's Indo-Pacific policies, may result in the approximation of the Russian-Chinese axis by alienating many US allies. In this context, even when the event is approached from the perspective of realism and purely American interests, CAATSA can be considered as an application that harms Washington. In this context, there is a serious political risk that the United States will start to punish its allies due to CAATSA and this will backfire by not producing the desired results in diplomacy. Moreover, it must be added that, with the 2022 Russian invasion of Ukraine, Turkey's geopolitical position as a NATO ally, acting as "NATO's southern flank," might become a revalued asset for many analysts and decision-makers. In that sense, there is a chance that the United States might reconsider implementing CAATSA sanctions in case Turkey shows its loyalty to NATO and continues to condemn Russian aggression.

⁵¹ Dipanjan, R. Chaudhury, "CAATSA Sanctions Against India Will Trigger Significant Blowback, Warns Influential US Think Tank," *The Economic Times*, November 21, 2021, <https://economictimes.indiatimes.com/news/economy/foreign-trade/caatsa-sanctions-against-india-will-trigger-significant-blowback-warns-influential-us-think-tank/articleshow/87836022.cms>; Nayanima Basu and Snehash Alex Philip, "US Unlikely to Impose CAATSA Sanctions on India for S-400, but Other Russian Deals Won't Be Easy," *The Print*, December 3, 2021, <https://theprint.in/diplomacy/us-unlikely-to-impose-caatsa-sanctions-on-india-for-s-400-but-other-russian-deals-wont-be-easy/775259/>.

⁵² "История контракта на поставку С-400 в Турцию," TASS, 2019, <https://tass-ru.turbopages.org/tass.ru/s/info/6658162>.

⁵³ Ibid.

⁵⁴ Legal Information Institute, "U.S. Constitution Article I," <https://www.law.cornell.edu/constitution/articlei>.

CONCLUSION AND RECOMMENDATIONS

Turkish-American defense cooperation, with its deep-rooted history, has been severely damaged as a result of the crisis that developed due to Turkey's purchase of the S-400 air-defense system from Russia. Turkey has been subjected to the controversial CAATSA sanctions; moreover, it was expelled from the F-35 process, an important project for the future of Turkish-American defense cooperation.

In this context, to ensure the continuity of Turkish-American defense cooperation, Washington's removal of CAATSA sanctions will cause mild winds to blow again in bilateral relations. If Turkish-American relations, which are not of major significance economically and whose strongest dimension is defense cooperation, are damaged precisely in the area where they are strongest, the future of the US-Turkish alliance will be in danger. In a globalizing and increasingly complex world order, even the most powerful state, America, needs reliable partners. Therefore, with the removal of CAATSA sanctions, Turkey's return to the F-35 project and the future of Turkish-American defense cooperation will be ensured. For this to happen, it is quite possible for the parties to work on various formulas and to make forward progress.

In case this does not happen and the crisis continues, there is the risk that Turkey may turn to different markets in the defense industry, and this may cause a break between NATO members that will not be easily repaired. After Turkey was excluded from the F-35 project, it announced that negotiations had been held with Russia on the new-generation warplane. It is considered essential for the parties to act with common sense and a spirit of goodwill so that the breach does not deepen further.

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