

# Don't Rush to Failure on Iran Nuclear Negotiations

*James Phillips*

## KEY TAKEAWAYS

President-Elect Joe Biden has made it clear that he is committed to reviving the flawed 2015 Iran nuclear deal, the Joint Comprehensive Plan of Action (JCPOA).

Doing so would reward a hostile dictatorship, squander the bargaining leverage amassed by the Trump Administration, and reduce the chances of getting a better deal.

The U.S. must maintain sanctions until Iran accepts a more restrictive agreement that does a better job of protecting U.S. interests and allies.

President-Elect Joe Biden has made it clear that he is committed to reviving the deeply flawed 2015 Iran nuclear deal, the Joint Comprehensive Plan of Action (JCPOA). Doing so would reward a hostile dictatorship that has repeatedly reneged on its nonproliferation obligations, violated international laws, and pocketed past concessions without moderating its aggressive foreign policy. Returning to the old agreement would only perpetuate and aggravate the same old problems inherent in that discredited arrangement. Moreover, it would squander the bargaining leverage amassed by the Trump Administration and reduce the chances of negotiating an acceptable follow-on agreement to fill the dangerous gaps in the JCPOA.

Instead of returning to the old agreement, the U.S. should maintain sanctions until Iran agrees to a more restrictive new agreement that includes Iran's ballistic missile program, requires Iran to disclose its

This paper, in its entirety, can be found at <http://report.heritage.org/ib6036>

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | [heritage.org](http://heritage.org)

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

past nuclear weapons efforts, does a better job of protecting the interests of Israel and Arab allies, and is codified in a treaty worthy of attracting bipartisan Senate support.

## Returning to the JCPOA Would Yield the Same Dangerous Results

Jake Sullivan, President-Elect Biden's choice for National Security Advisor, has indicated that the new Administration will first attempt to put Iran "back into the box" of the nuclear deal and then move toward a follow-on negotiation to include Iran's missile program and its destabilizing regional policies.<sup>1</sup> There are many inherent problems in this approach.

First, the nuclear deal never put Iran into a strong box. The U.S. cannot afford to return to the JCPOA, because that deal did far too little for too short a time to restrict Iran's nuclear ambitions. Key JCPOA restrictions on uranium enrichment gradually sunset after a mere 10 years and allow Tehran to expand its uranium-enrichment activities to an industrial scale. This paves the way for a possible sprint to a nuclear breakout if Tehran shrugs off its nonproliferation commitments as it has done many times before. The United Nations arms embargo has already lapsed, as scheduled under the deal, after only five years.

Second, the JCPOA was built on a foundation of Iranian deception from the start. The deal contained inadequate verification provisions that allowed Iran to block U.N. inspectors at undeclared nuclear sites. In 2018, an archive of Iran's nuclear documents was stolen and revealed by Israel's Mossad intelligence agency, exposing Iran's detailed plans for building and testing five nuclear devices, among other things. These plans reportedly were shelved by 2003, when Iran's nuclear weapons program was downsized and re-organized,<sup>2</sup> probably out of fear of a U.S. military action. But the very fact that Tehran retained the nuclear archive shows that it wanted to preserve its nuclear weapon plans and maintain the option of taking them off the shelf again in the future.

Third, if Washington lifts its nuclear sanctions and returns to the old deal, it will let Iran's dictators off the hook and forfeit any chance of reaching an acceptable outcome in follow-on negotiations on nuclear or other issues. The JCPOA did a much better job of dismantling U.S. and U.N. sanctions than in dismantling Iran's nuclear infrastructure.

Negotiations are likely to be much more difficult than many expect, as Iran seeks to resurrect the old deal without any modifications whatsoever. To pressure the U.S., Tehran has boosted its enrichment of uranium to 20

percent, far above the 3.67 percent set by the JCPOA. Should the Biden Administration not agree to meekly return to the JCPOA, Tehran has threatened to kick out U.N. inspectors.

Iran is essentially resorting to nuclear extortion, insisting on the old deal or no deal, despite the regime's urgent need for sanctions relief. If Washington fails to call this bluff, and unwisely returns to the old deal, it will continue to face the same problems that arose under the old deal—only the sunset provisions will come five years sooner. Iran's radical regime will once again pocket billions of dollars in sanctions relief that it will plough back into its military buildup, now unencumbered by the U.N. arms embargo, in its network of terrorist proxy forces, or even in its nuclear program.

## Building a Stronger Nuclear Box for Iran

Although Washington should leave the door open for diplomacy, there should be no return to the JCPOA, which was flawed beyond redemption. A new and much more restrictive arrangement is needed to permanently end Iran's nuclear weapons ambitions. The Biden Administration should return to long-standing U.S. nonproliferation goals—that the Obama Administration had initially proclaimed, and later abandoned, in a rush to seal a deal. The starting point for negotiations with Iran is much better for the U.S. today than it was in 2013. The beleaguered Islamist regime is reeling from President Donald Trump's maximum pressure sanctions strategy, internal divisions, and chronic anti-government protests. What is needed now is patience and firmness to get a far stronger nuclear deal.

In order to conclude a nuclear deal that makes the U.S. and its allies safer, not weaker, the United States should:

- **Insist on a new deal—making clear that otherwise there will be no deal.** Reviving the JCPOA would let Iran off the sanctions hook and undermine prospects for pressuring Iran to curb its malign activities in other spheres. Any new agreement should include permanent restrictions on Iran's nuclear activities, much stronger verification provisions, and restrictions on Iran's ballistic missile program, an integral part of its nuclear weapons efforts.
- **Maintain sanctions on Iran.** There should be no lifting of sanctions merely for the promise of negotiations. If Tehran wants economic incentives, they should come in the form of a limited disbursement of its frozen assets, not in the suspension of sanctions, until Iran has verifiably fulfilled its commitments under a new agreement.

- **Demand that Tehran come clean on its past nuclear efforts.** The stolen nuclear archives prove that Tehran saw the JCPOA as a charade. Washington has no reason to trust Iranian nonproliferation promises in the future unless Tehran acknowledges its nuclear weapons efforts in the past. If Tehran fails to do so, the U.S. should refuse to accept the legitimacy of any Iranian uranium enrichment.
- **Consult regional allies in the course of negotiations.** Reaching a sustainable nuclear agreement requires the buy-in of Israel and the Arab Gulf states, which face the greatest threats from Iran. If they are not included, they are likely to sabotage the agreement or hedge their bets by building their own nuclear weapons options. Washington should put a high priority on building a collective security and economic framework that knits the region together, contributes to stability, and deters Iranian aggression.
- **Cast a new nuclear agreement as a treaty.** Any sustainable long-term agreement requires the bipartisan support of the U.S. Congress. The Biden Administration should not repeat the original sin of the Obama Administration—trying to bypass Congress by structuring the deal as an executive agreement. Any future nuclear deal should come in the form of a treaty to be approved by the U.S. Senate. Trying to do an end run around Congress will only boost the odds that the agreement will eventually collapse, as the last one did, when rejected by a new Administration.

## Conclusion

Iran never fully complied with the JCPOA, which constituted a diplomatic speed bump rather than an insurmountable barrier to its nuclear efforts. A much more restrictive agreement is required to permanently and verifiably dismantle Iran's nuclear weapons program. The Biden Administration should exploit the strong bargaining position it inherited from the Trump Administration's maximum pressure campaign and sanctions innovations to secure a more restrictive agreement. Bowing to Tehran's nuclear extortion and rushing to return to the defective JCPOA would only squander U.S. leverage, generate adverse regional consequences, and allow Iran to set the stage for an eventual nuclear breakout.

**James Phillips** is Senior Research Fellow for Middle Eastern Affairs in the Douglas and Sarah Allison Center for Foreign Policy, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation.

## Endnotes

1. Gordon Lubold and Joshua Jamerson, "Biden National Security Advisor Sees U.S. Rejoining Iran Nuclear Deal," *The Wall Street Journal*, December 7, 2020, <https://www.wsj.com/articles/biden-national-security-adviser-sees-u-s-rejoining-iran-nuclear-deal-11607399179> (accessed January 11, 2021).
2. Joby Warrick, "Archive of Secret Iranian Nuclear Documents Draws Fresh Scrutiny as Tehran Stockpiles Enriched Uranium," *The Washington Post*, March 5, 2020, [https://www.washingtonpost.com/national-security/archive-of-secret-iranian-nuclear-documents-draws-fresh-scrutiny-as-tehran-stockpiles-enriched-uranium/2020/03/05/342894c6-5e44-11ea-b29b-9db42f7803a7\\_story.html](https://www.washingtonpost.com/national-security/archive-of-secret-iranian-nuclear-documents-draws-fresh-scrutiny-as-tehran-stockpiles-enriched-uranium/2020/03/05/342894c6-5e44-11ea-b29b-9db42f7803a7_story.html) (accessed January 11, 2020).