

Iran's Nuclear Humpty Dumpty: The JCPOA Should Not Be Put Back Together Again

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KEY TAKEAWAYS

The nuclear talks provide an opportunity to redress the fatally flawed 2015 Joint Comprehensive Plan of Action (JCPOA).

Any new deal must include restrictions on ballistic missiles, enrichment and production of fissile material, stronger verification provisions, and full transparency.

Iran must end its violations of the Nuclear Non-Proliferation Treaty and comply with the terms of a new agreement before U.S. sanctions are lifted.

The stalled diplomatic talks to revive the 2015 Iran nuclear agreement, formally known as the Joint Comprehensive Plan of Action (JCPOA), face many obstacles and are unlikely to succeed. Under the rubric of the JCPOA, the United States has conducted six rounds of “proximity” talks with Iran in Vienna, Austria, hosted by the European Union and supported by the other signatories to the pact, between April and June 2021.¹ The talks were adjourned on June 20 and were slated to resume shortly thereafter, but Tehran delayed returning to negotiations after Ebrahim Raisi, Iran’s ultra-hardline new president, “won” Iran’s rigged national election in June. Raisi’s new government apparently has assessed that time is on its side as it continues to enrich uranium to build its negotiating leverage. After vaguely

This paper, in its entirety, can be found at <http://report.heritage.org/bg3661>

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indicating in September that negotiations could resume “very soon,” Iran’s foreign ministry spokesman recently suggested that talks could resume by early November.²

The nuclear talks provide an opportunity to permanently prevent Iran from becoming a nuclear weapons state—but *only* if they result in a new agreement that corrects the fundamental flaws in the JCPOA. The original agreement, rife with shortcomings, legitimized Iran’s nuclear program and awarded Tehran a huge economic windfall in the form of long-term sanctions relief in exchange for temporary and easily reversible restrictions on uranium enrichment and plutonium production that gradually phase out without adequate verification provisions.³ The JCPOA’s flaws led the Trump Administration to withdraw from the agreement and re-impose U.S. nuclear sanctions on Iran in 2018.

The Biden Administration made a mistake by trying to resurrect the original deal, which put Tehran on a possible glide path to establishing a nuclear weapons capability as key JCPOA restrictions “sunset”—expire—during the next decade, leaving Iran free to establish an industrial-scale uranium enrichment infrastructure that would enable a sprint to a nuclear finish line. The Biden Administration’s goal of reviving the JCPOA and then negotiating a follow-on agreement to address some of the JCPOA’s weaknesses is now more unlikely than ever after the installation of an even more hardline Iranian regime led by new Iranian president Ebrahim Raisi. Iran insists on lifting all U.S. and United Nations sanctions and obtaining a guarantee that, if any agreement is reached, the United States will not pull out of it—something that the Biden Administration cannot promise.

The United States should rule out returning to the JCPOA, which Iran never fully complied with, as revealed by Iran’s nuclear archives that were covertly accessed and publicly revealed to the world by Israel’s Mossad intelligence agency.⁴ Washington should insist upon a more effective new nuclear agreement with Iran that includes a permanent ban on Iranian nuclear weapons, stronger verification requirements, permanent restrictions on uranium enrichment and plutonium production, limitations on ballistic missile programs, and a full accounting for Iran’s past nuclear weapons efforts.

In short, the Biden Administration should *not* simply settle for returning to the JCPOA. That flawed deal is worse than no deal at all because it rewards Iran with disproportionate economic benefits in return for weak, temporary, and easily reversible restrictions on key aspects of its nuclear program—and no restrictions whatsoever on its ballistic missile program, the most likely Iranian platform for delivering a nuclear weapon.

Iran's New Government

Ebrahim Raisi, inaugurated on August 5 as Iran's new president, is likely to take a harder line on the nuclear issue than his predecessor, Hassan Rouhani. The former chief of Iran's judiciary, Raisi is an ultra-hardline cleric who rose through the judiciary ranks by supervising the investigation, imprisonment, and execution of thousands of the regime's political opponents. A protégé of the Supreme Leader, Ayatollah Ali Khamenei, who orchestrated his elevation to the presidency, Raisi has little experience in foreign affairs.

Raisi's rise has consolidated the power of the ultra-hardliners inside Iran's multiple power centers. Raisi has close ties to the leaders of Iran's Islamic Revolutionary Guard Corps (IRGC), the regime's praetorian guard and the custodian of its nuclear program. He has appointed many IRGC veterans to key positions within his government, including seven of the 19 members of his cabinet. The IRGC is likely to play an enhanced role in economic policy, as well as military and regional policies.⁵ Raisi's foreign minister, Hossein Amirabdollahian, also has close ties to the IRGC, as well as Hezbollah, the Lebanese terrorist group that is one of Tehran's most lethal proxy groups.⁶

President Raisi's aides have signaled that his government is open to resuming nuclear talks, but that any understandings reached in Vienna at talks prior to his election were invalid and open to renegotiation.⁷ Foreign Minister Hossein Amirabdollahian already has escalated Iran's demands. In early October, he told Iran's state television network that he had been approached by the United States about restarting negotiations through "various channels" at the September U.N. summit of world leaders, but had responded that Washington should release at least \$10 billion of frozen Iranian funds if it wants Tehran to resume nuclear talks.⁸ Raisi's regime is likely to double down on Iran's nuclear brinkmanship and other belligerent activities in the Middle East and try to stampede the Biden Administration back into the old deal to quickly reduce tensions—especially after the shambolic U.S. withdrawal from Afghanistan, widely seen as a foreign policy failure.

Former President Rouhani's chief nuclear negotiator, Abbas Araghchi, was replaced by Ali Bagheri, a protégé of Raisi who served as his deputy for international affairs when Raisi was chief of Iran's judiciary. Bagheri is a harsh critic of the 2015 nuclear deal and the recent Vienna negotiations. He has repeatedly criticized Rouhani's government for accepting restrictions on Iran's nuclear activities and granting "foreigners" access to Iranian nuclear plants and other "sensitive security facilities."⁹

Bagheri previously participated in nuclear negotiations under then-President Mahmoud Ahmadinejad's hardline government. Iran's uncompromising approach to negotiations under Ahmadinejad led to the failure of nuclear talks with the EU-3 (Britain, France, and Germany) in 2005. If Bagheri returns to his previous negotiating style (as is likely), then negotiations could break down—if they even get started—once again under Raisi.

Iran's Escalating Nuclear Brinkmanship

After the election of President Joe Biden, Tehran escalated its nuclear brinkmanship, which began in 2019, to unprecedented levels. In January 2021, Iran began to enrich uranium up to 20 percent, once again exceeding JCPOA limits and shortening the time it would need to reach 90 percent highly enriched uranium, the level—known as weapons grade—required for a nuclear weapon.

In February, Iran produced JCPOA-prohibited uranium metal that could be used in a nuclear weapon, banned snap inspections at undeclared nuclear sites, and restricted the access of International Atomic Energy Agency (IAEA) inspectors to its declared nuclear sites. In April, it boosted uranium enrichment to 60 percent and began testing advanced IR-9 centrifuges—despite the fact that under the agreement, only first-generation IR-1 centrifuges are allowed to operate until 2025.

The result is that Iran's nuclear "breakout time"—the term used to describe the time required to produce enough weapons-grade uranium for one nuclear weapon—has been reduced significantly. By mid-September Iran had accumulated enough enriched uranium to produce one nuclear weapon in one month in a worst-case scenario—and two more weapons within five months, according to the Institute for Science and International Security.¹⁰

Iran claims that all of its violations of the nuclear agreement could be easily and quickly reversed if the United States were to rescind its punitive economic sanctions. But this is not actually the case. Indeed, through its JCPOA violations, Iran has acquired new technical knowledge and experience across its nuclear enterprise, including in the building and operating of advanced centrifuges and producing uranium metal components that would be useful in producing a nuclear weapon.

Iran has also failed to provide transparency on the possible military dimensions of its past nuclear efforts and has refused to satisfactorily answer the questions of the IAEA on suspicious, undeclared nuclear sites.

These actions come on top of the JCPOA's failure to include "anytime, anywhere" inspections. Tehran currently considers its military and paramilitary facilities off-limits to inspections, despite the fact that key portions of Iran's nuclear program are managed by the IRGC.

Iran also has been repeatedly caught red-handed in illicit attempts to import prohibited nuclear technology and equipment. In September, for example, a German–Iranian businessman was arrested for trying to export equipment to Iran outside the procurement channel created by the JCPOA and in violation of EU sanctions.¹¹

NPT Safeguards Violations. In addition to exceeding the limits set by the JCPOA, Iran stands accused by the IAEA of failing to fulfill its obligations under its Nuclear Non-Proliferation Treaty (NPT) Safeguards Agreement. According to the Institute for Science and International Security, which was given access to the confidential IAEA NPT Safeguards report, "The IAEA report presents a picture of near total Iranian stonewalling of the IAEA's investigation into Iran's undeclared nuclear material and activities, an inquiry that began anew in 2018."¹²

Iran also failed to adequately explain or answer the IAEA's questions about particles of nuclear material found by IAEA inspectors at three locations as well as suspected nuclear activities at a fourth location. According to the Institute for Science and International Security, IAEA Director General Rafael Grossi assessed in the confidential report that:

The Director General remains deeply concerned that nuclear material has been present at undeclared locations in Iran and that the current locations of this nuclear material are not known to the Agency. The Director General is increasingly concerned that even after some two years[,] the safeguards issues... in relation to the four locations in Iran not declared to the Agency remain unresolved.¹³

At least some of the suspicious sites about which the IAEA is concerned were first revealed in Iran's exfiltrated nuclear archives, exposed by the Israeli government. The nuclear archives revealed that Iran was much farther along with its nuclear weapons program than the Obama Administration knew when it negotiated the JCPOA. The archive also showed that Tehran never acknowledged or recounted its nuclear weapons efforts as it was required to do under the agreement. Tehran continues to insist that it never had a nuclear weapons program, despite massive evidence to the contrary that it is lying—and has been for years.

Missile Issues

Stopping Iran from developing nuclear weapons is a clear national security imperative for the United States. So, too, is preventing Iran from developing the means to deliver these weapons to potential targets in the region—or beyond, including against the United States.

Though purportedly restricted by U.N. Security Council Resolutions, one of the key shortfalls of the JCPOA is that the deal does not address the growing threat of Iran’s ballistic missile programs. Today, Tehran has the largest missile arsenal in the Middle East, which threatens not only the entire region (including Israel), but also south-eastern Europe.¹⁴

According to the 2018 *National Defense Strategy*: “In the Middle East, Iran is competing with its neighbors, asserting an arc of influence and instability while vying for regional hegemony, using state-sponsored terrorist activities, a growing network of proxies, and its missile program to achieve its objectives.”¹⁵ The report notes that Iran “remains the most significant challenge to Middle East stability.”¹⁶

Indeed, the U.S. cannot forget that in January 2020, in retaliation for the U.S. drone strike that killed IRGC General Qassem Soleimani, Iran launched more than 10 ballistic missiles armed with high explosives at the Ain al-Asad base in Iraq, injuring a significant number of U.S. troops posted there. Without the benefit of highly capable intelligence-gathering systems that provided significant advanced warning of the attack, the cost of the strike could have been much higher for U.S. forces.

Space Program. The Iranian space program, which Tehran insists is peaceful, is also of concern. For instance, while Iran previously launched civilian research satellites and space-launch vehicles (SLVs), last April the IRGC launched Tehran’s first military reconnaissance satellite into space, revealing the military nature of Iran’s space program.¹⁷

The concern is that Iran’s space program may serve as a convenient, plausible cover for an intercontinental ballistic missile (ICBM) program that could one day hit distant targets—including the U.S. homeland. Indeed, as noted in the Defense Intelligence Agency’s 2019 report, *Iran: Military Power*, “Progress in Iran’s space program could shorten a pathway to an ICBM because [space launch vehicles] use inherently similar technologies.”¹⁸ The lift technology for SLVs and ICBMs is essentially the same, allowing the space program to support and develop Iran’s long-range ballistic missile program.

Rejecting a Faustian Bargain

The JCPOA was a Faustian bargain that has outlived its usefulness.¹⁹ It gave Iran enormous economic benefits in the form of sanctions relief that enabled and emboldened Tehran to threaten its neighbors and expand its regional interventions in Iraq, Lebanon, Syria, and Yemen, and at sea in the Persian Gulf—and beyond.²⁰ The JCPOA yielded questionable benefits: Tehran promised to adhere to nuclear nonproliferation commitments that it had violated repeatedly in the past and could quickly discard at its convenience in the future.

Although it was billed as a permanent barrier to Iran's nuclear weapons ambitions, the 2015 nuclear deal was more of a diplomatic speed bump than a stop sign. Key restrictions on uranium enrichment progressively would have been lifted after 10 to 15 years under the JCPOA, leaving Iran free to expand its uranium enrichment program to an industrial scale that would facilitate a possible—even likely—dash to fielding a nuclear weapons capability. The production of plutonium, another fissile material used in nuclear weapons, is another possibility.

The JCPOA did too little for too short a time to block Iran's nuclear weapons ambitions. Tehran further diluted the proposed benefits of the agreement by failing to come clean on its previous nuclear activities and expanding its violations of the restrictions imposed by the agreement in recent months. Not only has it exceeded the quantitative and qualitative limits on uranium enrichment set by the JCPOA, but it has fielded new advanced centrifuges and gained experience in forging uranium metal, both of which accelerate the process of building a bomb.

The Biden Administration should have discarded the JCPOA and sought a more restrictive new deal; however, if Iran officially abandons the JCPOA, it is not much of a loss, given the fact that Tehran already has ignored its key restrictions for many months. The Raisi government's ultra-hardline policies will make it even less likely to cobble the nuclear "humpty dumpty" agreement back together again.

Iran needs a new deal more than the United States does. U.S. sanctions have triggered an economic crisis within Iran's long-anemic economy and have further eroded the regime's shrinking base of political support. The falling value of Iran's currency, rising inflation, and worsening unemployment situation have contributed to waves of anti-government protests, along with the regime's repression, corruption, and lack of accountability. Prolonged U.S. sanctions, coordinated with allies and partners, would exacerbate all of these sources of political discontent and make the regime more vulnerable to a popular backlash and internal instability.

By violating its JCPOA and NPT commitments, Tehran seeks to blackmail Washington into rejoining the flawed nuclear deal. But this nuclear brinkmanship strategy underscores the weakness of Iran's nuclear non-proliferation commitments and the ease with which Tehran can violate those commitments.

Iran also risks provoking an Israeli preventive strike if it continues its nuclear pressure tactics. Tehran would then find itself at war with Israel while still under U.S. sanctions—or even worse, from its point of view, at war with the United States and Israel. Escalating its nuclear violations also could lead Britain, France, or Germany to trigger snapback U.N. sanctions against Iran, which would inflict additional economic pain while undermining its bargaining leverage.

The United States and its European allies had hoped to revive nuclear negotiations on the sidelines of the U.N. General Assembly in late September, but Iran apparently vetoed that opportunity as part of its brinkmanship strategy. If and when the seventh round of the Vienna nuclear talks commence, progress is likely to be slow and the talks may break down in the face of the intractable demands of the recalcitrant Raisi regime.

Iran insists on the lifting of all U.S. and United Nations sanctions and a guarantee that, if any agreement is reached, the United States will not pull out of it—something that the Biden Administration cannot promise. Iran may overreach and risk collapse of the talks to create a crisis and increase pressure—especially from European partners—on the U.S. to compromise. Although it is in their interest to support nuclear nonproliferation, Russia and China can be expected to be of little help to the U.S. in these negotiations—and will likely lobby for Iran's interests in hopes of improving long-term ties.

Recommendations

In light of this situation, the United States should:

- **Refuse to lift sanctions unless Iran agrees to a longer and stronger new nuclear deal and has taken concrete actions to that end.** A new deal should include improving and strengthening verification provisions to allow “anytime and anywhere” inspections to ensure access to suspicious, undeclared nuclear sites (including military and paramilitary bases), which may harbor nuclear activities; restrictions on Iran's ballistic missile program; and a permanent ban on Iranian uranium enrichment and plutonium production. Iran must also come

clean about its past nuclear weapons efforts, providing a baseline to IAEA or other international inspectors. As long as it continues to mislead about its past efforts, its commitments to forego nuclear weapons in the future will lack any credibility.

- **Rule out lifting sanctions until all American hostages are released and Iran halts proxy attacks on U.S. troops in Iraq, Syria, and elsewhere.** Iran continues to hold four innocent Americans in prison under false charges: Baquer and Siamak Namazi, Morad Tahbaz, and Emad Shargi.²¹ Tehran should not enjoy *any* sanctions relief until they are released and Iran halts attacks by its proxy militias against Americans and U.S. forces in the region.
- **Refuse to reward terrorism by lifting sanctions imposed to combat Iranian terrorist threats and human rights abuses.** Iran's radical Islamist regime has unleashed terrorism to seize power, retain power, and inflict pain on its adversaries. The regime's long history of terrorism, going back to the seizure of American diplomats held as hostages in Tehran from 1979 to 1981, is one of the major reasons that Iran cannot be allowed to acquire the world's most terrifying weapons. Sanctions imposed due to the regime's terrorism or human rights abuses should not be lifted so long as Iran continues its malign policies on those fronts.
- **Coordinate closely with U.S. allies, especially Israel and European JCPOA partners, while negotiating with Iran.** While no country should have a veto over U.S. policies, the support of allies and partners would only strengthen any deal. In particular, Washington should make contingency plans with Britain, France, Germany, and the European Union to re-impose U.N. sanctions on Iran if it rejects a new deal or prolongs its delaying tactics. It should also look to allies and partners in Asia, including India, Japan, and South Korea to restrict trade—especially energy—with Iran. It is critical that Tehran realizes that if it continues to delay negotiations or rule out concessions, the sanctions will escalate and force it to pay an increasingly high price for its intransigence, belligerence, and JCPOA and NPT violations.
- **Reject Iran's nuclear brinkmanship.** Tehran hopes to rope the U.S. into another bad deal by escalating its uranium enrichment

efforts to pressure the Biden Administration into dangerous compromises. Iran may believe that the administration is looking for a foreign policy “victory” to offset a string of foreign policy failures and challenges such as Afghanistan and North Korea, which would give Washington additional incentives to make concessions to close a deal. Washington should refuse to be intimidated by this gambit and should warn Tehran that its brinkmanship will only serve to revive U.N. sanctions—and possibly trigger an Israeli or American preventive military attack on Iran’s nuclear infrastructure if it continues on that path.

An acceptable negotiated solution is unlikely unless diplomacy is backed by the credible threat of force. Sanctions alone are unlikely to halt Iran’s nuclear weapons efforts, just as they failed to halt North Korea’s nuclear program. Ultimately, Iran’s obstinate regime will make the necessary concessions for reaching a more restrictive agreement only if it assesses that its political survival depends on gaining sanctions relief and avoiding a war that it cannot win.

Do Not Attempt to Put Humpty Dumpty Back Together Again

Stopping Iran from developing nuclear weapons is a top national security priority for the United States, its allies, and partners. The JCPOA did not permanently block Iran’s nuclear weapons aspirations and efforts, but only delayed them. Returning to the deeply flawed JCPOA would be a step backward that undermines long-term U.S. national security interests while giving Iran sanctions relief that would finance expanded Iranian threats and violence in the Middle East—and beyond.

After the disastrous Afghanistan pullout, which resulted from a half-baked “peace plan” the Biden Administration inherited from the Trump Administration, President Biden should not risk returning to the flawed and progressively expiring JCPOA that was poorly negotiated by the Obama Administration.

Only a permanent and more restrictive new deal is worthy of negotiation. The 2015 agreement failed to fully capture Iran’s nuclear and ballistic missile programs. Moreover, Iran has hollowed out the ostensible benefits of the JCPOA by violating its restrictions for more than two years. The nuclear Humpty Dumpty cannot be put back together in a satisfactory fashion that supports U.S. national security interests.

The JCPOA nuclear negotiations provide a historic opportunity to redress the shortcomings of the agreement. But the Iranian regime must be convinced that its nuclear brinkmanship not only threatens Iran's national security and economic interests, but also undermines the narrow ideological interests of the regime itself, threatening its survival. A failure of the Biden Administration to halt Iran's nuclear and ballistic missile programs would make an Iran armed with nuclear-tipped ICBMs inevitable.

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Endnotes

1. “Proximity” talks mean that Iran and the United States are not meeting directly at these negotiations, something Iran refuses to do, arguing that the United States left the JCPOA in 2018. The JCPOA comprises eight parties, including China, the European Union, France, Germany, Iran, Russia, the United Kingdom, and the United States.
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