

The Iran Nuclear Deal After One Year: Assessment and Options for the Next President

JINSA's Gemunder Center Iran Task Force

Chairman Ambassador Eric Edelman
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Task Force and Staff

Chairman

.....

Ambassador Eric Edelman

Former Under Secretary of Defense for Policy

Members

.....

The Honorable Chris Carney

Former U.S. Representative from Pennsylvania

Professor Eliot Cohen

Director of Strategic Studies Program at Johns Hopkins School of Advanced International Studies

Lt. General (ret.) David Deptula

Former Deputy Chief of Staff for Intelligence, Surveillance and Reconnaissance, U.S. Air Force Headquarters

Larry Goldstein

Founder and Director of Energy Policy Research Foundation, Inc.

John Hannah

Former Assistant for National Security Affairs to the Vice President

Admiral (ret.) Gregory Johnson

Former Commander of U.S. Naval Forces, Europe

Steve Rademaker

Former Assistant Secretary of State for Arms Control and Nonproliferation

Ray Takeyh

Senior Fellow for Middle Eastern Studies, Council on Foreign Relations

General (ret.) Charles Wald

Former Deputy Commander of U.S. European Command

Mort Zuckerman

CEO and Chairman of the Board of Directors, Boston Properties, Inc.

Gemunder Center Staff

.....

Dr. Michael Makovsky

Chief Executive Officer

Jonathan Ruhe

Associate Director

Blake Fleisher

Policy Analyst

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Executive Summary

A year after the Joint Comprehensive Plan of Action (JCPOA) on Iran's nuclear program was announced, Iran unquestionably has gotten the better of the deal. The agreement made public last July in Vienna, and the policy decisions attending its implementation, show a clear pattern of unilateral Iranian demands being met by unforced U.S. concessions. In consequence, Iran's nuclear weapons program and sway in the Middle East will continue to grow, while U.S. deterrence and influence will diminish and the risks of conflict mount.

To reverse these negative trends, the next president must restore the credibility of the U.S. pledge to use every means necessary to prevent a nuclear Iran. This requires a coherent and comprehensive strategy toward Iran while addressing the many challenges confronting the JCPOA and its implementation. These can be understood only in the context of the faulty logic that the Obama Administration used to sell the deal:

- It prevents Iran from obtaining a nuclear weapon;
- It is a comprehensive agreement;
- We will know exactly what Iran is doing;
- Sanctions can snap back;
- We will maintain pressure on Iran;
- There are no side deals;
- It's this deal or war; and
- The deal will lead to improved relations with Iran.

The JCPOA accomplishes none of these. It allows Iran to steadily ramp up its nuclear program, then promptly expires. It is far from comprehensive, with no real restrictions on delivery vehicles and weaponization activities. New information regularly surfaces about side deals and other additional commitments. There are major verification shortfalls, leaving much of Iran's nuclear program opaque. Sanctions are unlikely to snap back, both because Iran can abrogate the JCPOA if they do, and because the Administration is unraveling the broader sanctions architecture supposedly left in place by the deal. The JCPOA is not a safe alternative to war; in fact, it gives Iran the resources and a green light to step up aggression. Finally, no amount of engagement will make the Iranian regime more cooperative, and hardliners are already exploiting the agreement.

In coming months and years, the JCPOA's deficiencies increasingly will be felt as restrictions on Iran recede further – especially if U.S. leverage recedes in tandem. This confronts the next president with multiple challenges:

- Iran's advancing capacity to produce fissile material, given weak inspections and enrichment restrictions;
- Growing Iranian ballistic missile capabilities, due to the deal's silence on this issue, expansive sanctions relief and waning U.S. credibility;
- Lack of transparency on Iran's nuclear program, because weaponization and enrichment activity are not fully verifiable under the JCPOA;
- Severely diminished U.S. leverage – particularly sanctions – given Iran's unpunished violations and the Administration's follow-on concessions; and
- A Middle East even more ridden with conflict, as the JCPOA triggers offensive arms races and devalues U.S. security commitments.

Faced with these challenges, the United States urgently needs a new approach to restore its credibility, bolster regional stability and ensure Iran cannot advance its nuclear program:

- Taking serious steps to block further advances in Iran's increasingly dangerous ballistic missile program;
- Abandoning the chimera of a Saudi-Iranian regional equilibrium, and instead strengthening the region's new partnerships against Iran with advanced missile defense systems, among other means;
- Halting any new concessions to Iran, and reversing any previous concessions not included in the JCPOA;
- Leveraging the authorities granted by the U.N. Security Council, including use of force, to prevent Iran accessing materials to advance its nuclear program;
- Getting Iran to remove the JCPOA's sunset clauses and make all restrictions on its enrichment capability permanent.

The JCPOA's sunsets may seem far off, but to be effective each mutually-reinforcing element of this strategy must be implemented immediately. Absent prompt and forceful restoration of U.S. credibility, much stronger public statements and a significant change of direction that imposes real penalties on Iranian aggression, the prospects for successfully contesting Iran's regional ascendancy will diminish and the costs will rise, long before the JCPOA expires.

The Administration's Faulty Logic

The JCPOA Prevents Iran from Obtaining a Nuclear Weapon

According to the White House's official statements, the JCPOA is "the historic deal that will prevent Iran from acquiring a nuclear weapon."¹ For this to be true, the agreement would have to be permanent, or include airtight verification and monitoring mechanisms to detect any violations reliably and promptly.

The JCPOA accomplishes neither of these. It is referred to as "the final deal," but most restrictions end over the next decade-plus. Indeed, the key provisions that roll back Iran's breakout time beyond one year – 97 percent reduction in enriched uranium stockpiles, operating centrifuge numbers halved, replacing the Arak heavy water reactor core – expire within the next 10-15 years. Furthermore, Iran already can conduct research and development (R&D) on centrifuges (IR-2m, IR-4, IR-5) several times more efficient than the IR-1 machines currently operating by the thousands under the deal. It also retains significant latent nuclear infrastructure, since every centrifuge dismantled under the JCPOA remains available in Iran for eventual reassembly and re-use.

This provides a solid base for Iran to ramp up its enrichment program. No more than eight years from now, and very possibly sooner, Iran can apply its R&D to produce even more advanced centrifuges (IR-6, IR-8) and assemble them in cascades. Roughly 18 months after that – by January 2026 – Iran can begin replacing its operating IR-1s with these advanced machines.

After another five years, all remaining restrictions on Iran's nuclear program expire. It will be able to enrich weapons-grade uranium, build new enrichment facilities and reactors and reprocess spent fuel into weapons-grade plutonium. The JCPOA does not prevent, but grants and even legitimizes, an Iranian nuclear program capable of producing dozens of nuclear weapons' worth of fissile material every year.

The JCPOA Is Comprehensive

The word "comprehensive" is in the name. As Secretary of State John Kerry remarked last September, "we made clear from the outset that we would not settle for anything less than an agreement that was comprehensive, verifiable, effective, and of lasting duration" – one based on "examin[ing] carefully every step that we might take to close off each of Iran's potential pathways to a bomb." The White House factsheet echoes this: "everything needed to prevent Iran from acquiring a nuclear weapon is spelled out within the JCPOA..."²

In reality, the JCPOA focuses only on one of three necessary components for a nuclear weapon: fissile material. It shunts responsibility for the second component – weaponizing this material in a nuclear explosive device – to the International Atomic Energy Agency (IAEA), while failing to address delivery vehicles. Thus when U.S. officials talk about blocking Iran's pathways to a bomb, they refer solely to the ways Iran could acquire fissile material: its declared facilities at Natanz, Fordow and Arak, and a possible covert enrichment facility.³

This obscures Iran's actual progress toward nuclear weapons capability, past and future. The IAEA officially ended its inquiry into possible military dimensions (PMD) of Iran's nuclear program last December, despite Iran failing to resolve concerns about its headway on a nuclear explosive device. With the PMD file closed and the JCPOA impeding serious inspections from military sites – where it appears previous weaponization work occurred – Iran could continue working on a nuclear weapon during the agreement.

The JCPOA omits delivery vehicles entirely, despite Iran having the Middle East's largest ballistic missile arsenal. The U.N. Security Council Resolution (UNSCR 2231) endorsing the deal actually removes the legally-binding ban on ballistic missile activities by Iran, replacing it with softer language that merely calls upon Iran not to conduct such activities. After eight years UNSCR 2231 also permits international assistance for Iran's ballistic missile program, portending further improvements to its delivery vehicles.

We Will Know Exactly What Iran Is Doing

The Obama Administration steadily adjusted its logic for the JCPOA as negotiations unfolded. Faced with Iran's intransigence on enrichment limits, the Administration instead emphasized the deal would make Iran's nuclear program transparent. In fact, this was the central bargain the Administration used to convince even some skeptics that the deal was worth supporting despite its manifest flaws. Iran would be allowed a much larger number of centrifuges than anticipated in exchange for much greater transparency about its program. Iran's enrichment capability was unimportant, because inspectors would catch any violations.

As Secretary Kerry declared, “the arrangement that we worked out with Tehran is based exclusively on verification and proof,” and later that “we will know exactly what they’re doing [during the deal], and if they try to cheat, we will know it.” The White House contended “this deal includes the most comprehensive and intrusive verification regime ever negotiated.”⁴

In actuality, much of Iran’s nuclear program remains dangerously opaque. Despite repeated promises from the Administration, the JCPOA does not grant “anytime, anywhere” inspections of suspected undeclared facilities. Most glaringly, Iran was allowed to self-inspect its Parchin military base where the IAEA believes extensive weaponization work occurred. Furthermore, Iran has said it will prohibit follow-up visits to Parchin, a site inspectors and the Obama Administration have since concluded was tied to Iran’s past covert nuclear weapons program. Given Iran’s lengthy track record of declaring covert activities and facilities only after they were discovered by the P5+1, much uncertainty remains whether Iran could sneak out to a bomb.⁵

Iran’s enrichment activities at its declared facilities also become less transparent under the JCPOA. IAEA reports since the agreement was implemented do not provide specific numbers for Iran’s LEU production or stockpiles, nor centrifuge production or R&D.

Sanctions Can Snap Back

Iran receives substantial sanctions relief under the JCPOA, including most U.S. and E.U. measures that pressured it into negotiations in the first place. The Administration promised these “nuclear” sanctions against Iran’s vital economic sectors could be re-imposed. As President Obama said when announcing the agreement, “if Iran violates the deal, all of these sanctions will snap back into place. So there’s a very clear incentive for Iran to follow through, and there are very real consequences for a violation.”⁶

The agreement, however, explicitly recognizes Iran will treat this “as grounds to cease performing its commitments under this JCPOA in whole or in part.”⁷ In a letter to President Hassan Rouhani, Khamenei declared “any imposition of sanctions at any level and under any pretext (including repetitive and fabricated pretexts of terrorism and human rights) on the part of any of the countries involved in the negotiations will constitute a violation of the JCPOA and the [Iranian] government would be obligated to ... stop its activities committed under the JCPOA.” Notably, he included “non-nuclear” sanctions – terrorism, human rights – which the Administration vowed would remain on the books under the JCPOA.⁸

Even if the United States or its partners attempt to re-impose such measures, one key element of the sanctions regime certainly cannot snap back. Iran is repatriating foreign exchange assets previously frozen overseas as part of the JCPOA’s sanctions relief. Once back in Iran, these funds – estimated to be at least \$30 billion, roughly seven percent of GDP – cannot be recaptured by future sanctions. Instead, they are available for Tehran to spend at home or on a range of destabilizing activities abroad.⁹

We Will Maintain Pressure on Iran

Beyond its vows to snap back sanctions if necessary, the Administration suggested it would consider additional measures to prevent Iran from advancing toward a nuclear

weapon. As Secretary Kerry said succinctly last September: “we will maintain international pressure on Iran.”¹⁰

However, rather than push back against Iranian provocations – testing nuclear-capable missiles or blocking IAEA access to Parchin – the Administration has gone out of its way to avoid pressuring Iran, and opposes such efforts by Congress. Iran has been quick to take advantage. Its leaders insist the United States must roll back sanctions beyond what was spelled out in the JCPOA, specifically removing the “psychological remnants” of sanctions by encouraging investment and trade with Iran. In response the Administration retreated further from its promises to maintain pressure, instead saying it would try to convince Iran the United States is a good faith partner.

First, Secretary Kerry said the United States would waive sanctions limiting visa-free travel for anyone who had traveled to Iran (among other countries) in the wake of the San Bernardino shooting if they interfere with Iran’s “legitimate business interests,” even though the State Department still designates Iran as a state sponsor of terrorism. The Energy Department later announced it would buy Iran’s excess heavy water stockpiles – essentially paying Tehran to comply with the JCPOA – despite the onus being on Iran, not the United States, to fulfill its end of the agreement.¹¹

At the same time, Treasury Secretary Jack Lew has said the Administration will “make sure Iran gets relief” from sanctions against transacting in U.S. dollars, including possibly removing Iran’s blacklist by the global counter-money laundering Financial Action Task Force. These specific measures were not actually rescinded by the JCPOA, since they target Iran’s financing for its missile program, terrorism and other illegal activities, but the Administration snapped into action after Iran complained these were hampering new business deals and recovery of assets unfrozen by the agreement. When it does implement new sanctions, like those against Iran’s illegal ballistic missile launches last October, the Administration drags its feet for months and then targets only minor entities.¹²

Taken together, these actions drain all credibility out of the Administration’s promises to maintain pressure on Iran to adhere to the deal.

There Are No Side Deals with Iran

According to the White House, “there are no secret ‘side’ deals between the P5+1 and Iran.” Everything needed to prevent Iran from acquiring a nuclear weapon “is publicly available for the world to see.” As State Department spokesman John Kirby stated: “there’s no side deals; there’s no secret deals, between Iran and the IAEA, that the P5+1 has not been briefed on in detail.”¹³

To this day, uncertainty remains about what may still be open to negotiation. In other words, the JCPOA truly is just a plan of action. According to the State Department, it “is not a treaty or an executive agreement, and is not a signed document,” but rather a nonbinding political agreement.

Therefore it is unsurprising Tehran interprets the agreement its own way. Iran’s parliament and Supreme Leader Ali Khamenei endorsed a version requiring all sanctions, current and future,

be completely and irrevocably cancelled (not suspended, as in the Administration's account). They also said Iran would expand its enrichment capacity far beyond the JCPOA's limits in several years if this condition is not met.¹⁴

Similarly, there was no indication when the deal was announced that Iran's nuclear program would become *less* transparent. Given the Administration's emphasis on transparency, the IAEA's sudden notice in March that it will report far less information on Iran's nuclear program was disconcerting, given its negative impacts on verification.

It's This Deal or War

From day one, the Administration framed the choice of the JCPOA very starkly. According to President Obama, "Put simply, no deal means a greater chance of more war in the Middle East." Indeed, "the choice we face is ultimately between diplomacy or some form of war. Maybe not tomorrow, maybe not three months from now, but soon." Secretary Kerry asked Congress rhetorically for their alternative: "So, what's your plan? Knock out their entire capacity? Erase their memory of how to do a fuel cycle? Totally go to war?"¹⁵

This argument is fallacious for several reasons. First, it directly contradicts the Administration's previous mantra that "no deal is better than a bad deal." Had American negotiators been willing to walk away in response to Iran's obstinacy during negotiations, either the risk of war was negligible, or the costs of conflict would be manageable. Yet the Administration changed tack once the JCPOA was announced, arguing the agreement was the only acceptable outcome.

Second, war did not result from the seven separate breakdowns in talks during 2005-13, including in 2010 when the P5+1 rejected a proposal accepted by Iran. In that instance, the United States, its allies and the UNSC followed up with sanctions and efforts to bolster credible military options. This helped deter Iranian aggression and ultimately pushed it back to the negotiating table.

Third, the JCPOA is actually increasing the prospects of conflict, even as the United States tries assiduously to avoid it. Iran's financial windfall from repatriated assets and sanctions rollback gives it greater resources to modernize and expand its military and increase its involvement in Syria, Iraq, Yemen and with its global terrorist networks. Over the next eight years, the JCPOA also ends the international arms embargo and ballistic missile ban against Iran. In response the rest of the region already is ramping up spending. Middle East countries are devoting 5-12 percent of GDP to defense, compared to only two percent by countries around the East China Sea.

The Administration's illogic becomes self-detering and self-defeating. If the only alternative is war, anything that might provoke Iran to abrogate the deal must be avoided at all costs. Yet this only encourages Iran in its destabilizing behavior. Many U.S. actions in the past year reflect this reticence, including the aforementioned expansion of sanctions relief and Secretary Kerry's response to Iran's taking 10 U.S. Navy sailors hostage at gunpoint in the Persian Gulf and parading the images publicly, conveying his "gratitude to Iranian authorities for their cooperation in quickly resolving this matter... That this issue was resolved peacefully and efficiently is a testament to the critical role diplomacy plays in keeping our country safe, secure and strong." This contrasts directly with the U.S. Navy's investigation, which concluded "Iran

violated international law by impeding the boats' innocent passage transit, and they violated our sovereign immunity by boarding, searching and seizing the boats, and by photographing and video recording the crew."¹⁶

The JCPOA Could Lead to Improved Relations with Iran

A final fallacy is that the deal can create momentum for cooperation. Specifically, the political capital from the landmark agreement will accrue to, and thus empower, the supposed moderates of the Rouhani Administration that hammered it out. As President Obama said shortly after the JCPOA framework was released in April 2015:

"It is possible that if we sign this nuclear deal, we strengthen the hand of those more moderate forces inside of Iran.... So, I think that it's important for us to recognize that, in fact they're engaged in international business, and there are foreign investors, and their economy becomes more integrated with the world economy, then in many ways it makes it harder for them to engage in behaviors that are contrary to international norms."¹⁷

The day the final agreement was announced, Obama reiterated that "a different path, one of tolerance and peaceful resolution of conflict, leads to more integration into the global economy, more engagement with the international community, and the ability of the Iranian people to prosper and thrive. This deal offers an opportunity to move in a new direction."¹⁸

Iran's behavior shows the argument's deficiencies. First, Tehran's foreign policy is becoming more aggressive. It has escalated its support for the Assad regime in Syria in close cooperation with Russia, and used its seat at the peace talks to stymie the U.N. plan for a transition of power. In December a Revolutionary Guards (IRGC) Navy vessel fired rockets near a U.S. aircraft carrier in the Persian Gulf, and – most notoriously – Iran has conducted a series of nuclear-capable ballistic missile tests in defiance of UNSCR 2231.

Second, hardliners are exploiting the JCPOA to strengthen their grip at home. Though tacitly accepting the deal, Khamenei leads the hardliners' strident opposition what they fear it represents: the encroachment of Western money and values that ultimately threaten the Islamic Revolution. For the country's leadership, the response is resistance. As Khamenei said in a nationally-televised speech in June, the JCPOA negotiations show "the United States will never stop its destructive role" and thus Iran must avoid "the enemy's deceptive plots to entangle Iran in its projects" – comments echoing many of his statements since the deal was announced. Nor can the next supreme leader be expected to hold softer views: elections since the JCPOA confirmed hardliners' dominance in the institutions that will determine his successor, including the Guardian Council and Assembly of Experts.¹⁹

Third, there is little reason to believe the ostensibly moderate factions in Iran, headed by Rouhani, share his American counterpart's optimism. For them, the JCPOA can rejuvenate Iran's sanctions-plagued economy and legitimize its nuclear aspirations, in the process strengthening the regime's grip at home and its influence abroad. Referencing Khamenei's focus on developing a "resistance economy" by "immunizing the country so that we will no longer tremble in the face of sanctions," this spring Rouhani underlined that "an emphasis of the policies of economic resistance is constructive engagement with the world, and the path of our administration has been economic resistance."²⁰

For Iran's leadership, rapprochement with the outside world is at most tactical. Cooperation can generate urgently-needed funds for the regime, but any deeper or more sustained interaction threatens the Islamic Republic's existence.

Challenges for the Next Administration

These fallacies already are apparent. In the coming years, these shortcomings increasingly will impact U.S. policymakers as restrictions on Iran recede – especially if U.S. leverage recedes in tandem. This creates several challenges likely to confront the next president.

Growing Iranian Enrichment Capacity

The JCPOA is the final, but impermanent, deal to curb Iran's ability to produce fissile material. Even if it adheres to these 10-15-year limits, Iran can still expand its latent enrichment capacity over the next decade, beginning now. This will determine the scale of the nuclear program the United States will have to confront as or before the JCPOA sunsets.

President Obama articulated the problem: “in year 13, 14, 15, they have advanced centrifuges that enrich uranium fairly rapidly, and at that point the breakout times would have shrunk almost down to zero.” There are other ways, however, Iran can ramp up its nuclear program without violating the JCPOA. It can already conduct R&D on both advanced IR-2m and IR-4 centrifuges in cascades with uranium, and on spent fuel reprocessing. This is a real opportunity for Iran to improve enrichment rates before the eight-year restriction on testing and mass-producing IR-6 and IR-8 centrifuges lifts, and to better recover weapons-grade plutonium once the restrictions on heavy water reactors expire in 15 years.²¹

Iran can also grow its already-large natural uranium stockpiles, of which it already has multiple nuclear weapons' worth, by shipping out excess LEU and building additional yellowcake production and uranium conversion capacity (all permitted under the deal). Expanding this stockpile, which is enriched to create LEU, would not alter Iran's breakout time. Rather, it would increase the amount of material Iran could enrich at the sunset of the deal, when its centrifuges could be much more numerous and efficient. As with R&D, this would enable Iran to scale up its nuclear program very rapidly as the JCPOA expires, or during the deal if it tried to sneak out.

Advanced Iranian Ballistic Missile Program

The JCPOA is not a comprehensive agreement, in large part because it does not address Iran's large ballistic missile arsenal. Under UNSCR 2231, Iran no longer is prohibited from undertaking “any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology.” Though an international embargo on Iran's missile programs remains in effect until October 2023 at the latest, Tehran's progress on delivery vehicles – including provocative test launches – is already underway.

Since the deal was adopted last October, Iran has tested at least four medium-range ballistic missiles (MRBM) capable of targeting the Middle East and NATO countries in the Balkans – as many as it tested in four years before the deal. The scientific knowledge accruing from these firings helps Iran develop longer-range, more survivable and accurate missiles, in turn spawning further tests, and so on. The IRGC already has significant production capabilities, and the MRBMs tested since October are indigenous upgrades of imported missiles. Sanctions relief for Iran’s mining, metallurgy, chemicals, construction and financial sectors could bolster these capabilities by giving the IRGC civilian cover to obtain dual-use items for ballistic missile research and production, similar to how Iran built its nuclear program.²²

There is another vicious cycle at work here, beyond the technical advances deriving from these tests. Each launch has been met with muted U.S. response, whether failing to condemn the launches or trying to avoid sanctioning even insignificant companies that assisted Iran. This damages Washington’s credibility in the eyes of both Tehran and U.S. allies, thus encouraging additional, even more provocative tests.

Indeed, in January Iran responded to U.S. sanctions by vowing to ramp up its ballistic missile program. The next test, in March, had “Israel must be wiped off the Earth” stamped on two MRBMs. The message was clear: if Iran can threaten one of America’s closest allies without repercussions, the rest of the region has little hope of U.S. protection. Absent a clear change in policy, U.S. allies will search elsewhere for security – including possibly rapprochement with Iran – as Tehran’s coercive capabilities grow during the JCPOA.

Iran’s Nuclear Program Remains Opaque

The next administration will face significant difficulties assessing Iranian advances toward nuclear weapons capability, for three major reasons. First, the United States receives less information about Iran’s declared facilities under the JCPOA. Reduced IAEA reporting on enrichment levels, stockpiles and centrifuges muddle any evaluations of Iran’s adherence to JCPOA caps at Natanz, where it retains significant excess enrichment infrastructure. Iran is prohibited from enriching uranium at Fordow, but it is unclear if IAEA information can alert the United States to activities that could further decrease Iran’s breakout time.

Second, Iran’s weaponization program will remain a black box. Because the IAEA closed its investigation, the United States still has no baseline. Going forward, inspectors do not have full access to sites where they discovered irregularities, most notably Parchin. Meanwhile Iran could procure dual-use technology to advance its program – especially as embargos on conventional weaponry and ballistic missiles expire. Worryingly, many of the IAEA’s previous PMD concerns stemmed from Iran’s experiments with dual-use items.²³

Third, the lack of “anytime, anywhere” inspections and reporting on centrifuge production creates problems verifying Iran has no undeclared facilities. Despite a history of covert nuclear activities, Iran can slow-play inspectors for more than three weeks on visiting undeclared facilities suspected of enrichment or weaponization. To date, other intelligence like satellite imagery has been useful only in detecting cover-ups at suspected sites before inspections.

This opacity limits understanding of Iran’s evolving breakout time, and how close it could be to a covert sneakout capability. This is no small problem. Intelligence communities regularly failed

to predict other countries' approaches to the nuclear threshold, from the Soviet Union, China and France, to Iraq (by 1991), South Africa and Syria.

Weakened U.S. Leverage

The next administration will inherit a credibility deficit from more than a decade of unenforced U.S. redlines by Administrations of both parties, from the first time Iran spun up its centrifuges, to the promise that all “non-nuclear” sanctions would remain in place during the JCPOA, and now Iran’s continual reinterpretation of what the deal requires from other parties. Such sanctions were effective previously; indeed, their psychological remnants still hamper Iran’s economic recovery. Yet because it has little fear of repercussions, Tehran acts as though continuation of the agreement depends on the United States enticing it to comply.

This undermines U.S. leverage in crucial respects. First, the next administration will encounter difficulties coercing Iran with sanctions. This stems from the lack of sanctions snapback, and is exacerbated by the Administration’s willingness to remove or revise “non-nuclear” sanctions whenever Iran demands. To gauge the next president’s resolve to enforce the deal, Iran will likely resort to its tried-and-true – and largely successful – tactic of cheating piecemeal. Since the interim agreement began in 2014, Iran has committed several small, but unequivocal, violations against: UNSC sanctions on illicit procurement for its nuclear program, caps on stockpiles, advanced centrifuge R&D, oil exports and heavy water stocks. Each violation was unmistakable, yet insufficient to trigger U.S. punishment.²⁴

Second, this credibility deficit will continue negatively impacting other U.S. interests. Since the JCPOA’s adoption last October, Tehran’s missile launches and its policies in Syria, the Persian Gulf and at home reinforce the regime’s logical conclusion: the United States is so invested in the success of the deal that it will not risk generating any serious tension in the U.S.-Iran relationship, even if Iran is undeniably belligerent.

Heightened Prospects for Middle East Conflict

The deal’s most pressing legacy for the next president will be a Middle East even more ridden with conflict than today. Though many factors in the region’s ongoing upheaval precede the nuclear agreement or are unrelated to Iran, the JCPOA is aggravating these drivers of conflict, as well as introducing its own.

First, the deal is spurring a region-wide spending spree on advanced weapons – both by Iran, and by its rivals hedging against Iran’s growing power-projection capabilities. For Israel and the Gulf Arab states, the looming expiration of arms and ballistic missile embargos against Iran is all the more reason to get a head start bolstering their own arsenals. Many of the deal other flaws – Iran’s growing enrichment capacity, ballistic missiles and potential weaponization – reinforce their wariness and sharpen the sense of competition with Iran.

Second, the agreement sends unmistakably disturbing signals about U.S. intentions to regional allies. The Administration’s serial concessions to Tehran are seen as U.S. acquiescence to, or even encouragement of, a new regional order with Iran as a legitimate arbiter. Indeed, the Administration’s inclusive attitude toward Iran on Syria and economic ties underscores

Obama's assertion that Iran and U.S. allies should "share the neighborhood and institute some sort of cold peace."²⁵

Relatedly, the JCPOA undermines confidence in long-standing U.S. security commitments. The U.S. credibility deficit against Iran is convincing Israel, Saudi Arabia and others to diversify their security partnerships away from Washington – for instance, Prime Minister Netanyahu meeting with Russian President Putin four times in the past year – at the same time as they take on more active roles in regional security issues. The Administration's rhetoric that the deal forestalls war and offers a new relationship with Iran only reinforces the perception that the United States cannot be counted on for its allies' defense.

Combined, these developments accelerate the prospects for conflict across the region, while decreasing the U.S. ability to prevent or influence them. Without a credible U.S. security umbrella for its allies, the concept of a Saudi-Iran "cold peace" is dead on arrival. The regional sectarian conflict playing out over the past several years – embodied in the Riyadh-Tehran rivalry – shows no signs of stabilizing, let alone abating, as Tehran fills the void opened by the United States. Both sides are already undertaking years-long procurement drives in the Persian Gulf that could militarize the world's most vital energy chokepoint to an unprecedented degree.

In Syria, Iran prolongs the conflict by surging IRGC ground forces to coincide with Russia's air campaign, and deploying large numbers of Shia militias from around the region. This increases the destabilizing refugee exodus – for which Iran's Syrian ally already bears the main blame – while escalating sectarian violence in the heart of the country, weakening moderate rebel forces and detracting from the campaign against ISIS.

Iran's reliance on similar militias in Iraq raises the prospects of renewed intercommunal bloodshed as they reclaim territory from ISIS alongside the United States. Iran's involvement in Yemen, while minimal compared to Syria or Iraq, subsumes an intractably complex but largely local conflict into a proxy war between Tehran and the Sunni Gulf states. Like Syria, this generates a vacuum for al-Qaeda in the Arabian Peninsula (AQAP) and ISIS to expand their bases of operations. Like the Persian Gulf, this compounding chaos undermines stability astride a vital global energy bottleneck.

Key U.S. regional allies like Saudi Arabia also have declared they would move to acquire nuclear programs should Iran do so. Though Iran may not reach this point for more than a decade, the next president could be faced with a nascent nuclear arms race in the region.

Shoring Up the U.S. Position

A year after the JCPOA announcement, Iran unquestionably has gotten the better of the deal. Its unilateral violations are encouraged and rewarded by unilateral U.S. concessions. Its nuclear weapons program and regional influence can continue expanding, made permissible by the agreement's omissions on delivery vehicles, weaponization efforts past and future, insufficient enrichment restrictions, poor transparency and open-ended interpretation of sanctions relief. This seriously undermines U.S. deterrence and raises the already-high risk of conflict.

To reverse these alarming trends, the next U.S. president must institute a coherent and comprehensive strategy to bolster regional stability and ensure Iran cannot advance its nuclear program. The JCPOA's sunsets may seem far off, but each of the mutually-reinforcing elements of this strategy must begin to be implemented immediately.

Absent a prompt reestablishment of U.S. credibility, much stronger public statements and a significant change of direction that imposes real penalties on Iranian aggression, the prospects of successfully contesting Iran's regional ascendance will diminish, and the costs will rise.

Block Further Advances in Iran's Ballistic Missile Program

Iran's repeated ballistic missile tests are the most glaring evidence of the JCPOA's shortcomings. They allow Iran to flout the deal, advance its nuclear weapons program, intimidate U.S. allies and undercut U.S. deterrence. The Administration's tepid responses reinforce these problems.

Therefore if Iran's dangerous ballistic missile tests continue, the next U.S. administration, in concert with other parties to the JCPOA, must consider serious steps to deal with this unacceptable behavior. The United States and its international partners have a range of options, including but not limited to: tougher sanctions against Iranian missile proliferation networks than those enacted in January, and potentially unilateral military steps – including threats to shoot down future ballistic missile tests if necessary.

The intention to arrest any future progress in Iran's missile program must be conveyed to Tehran in no uncertain terms. State Department spokesman John Kirby's statement in March, when Iran tested two missiles with "Israel must be wiped out" stamped in Hebrew, was a good start:

"It is very clearly a violation of 2231, the new U.N. Security Council resolution. [W]e're not going to shy away from confronting Iran over this particular development of this particular technology.... We will hold you accountable for what you violated. An appropriate response could be inclusive of other tools at our disposal, to include unilateral tools as well.

"They don't have the right, according to the international community and the U.N., to develop ballistic missile technology. They do not. [T]here are limits with respect to Iran about the kinds of capabilities they're allowed to pursue. Ballistic missile technology is not one of them."²⁶

The next administration must carry this torch, while also making its intentions clear with actions and not just words. Iran backs down whenever the United States backs up its red lines, for instance sending an additional U.S. Navy carrier group into the Persian Gulf after Iran threatened to block the Strait of Hormuz in 2011-12. Rotating additional missile defense cruisers and destroyers through the Middle East from Spain or the Pacific, and visible demonstrations of new U.S. interceptors set to come online in the next few years, would underscore U.S. readiness.

Simultaneously, Tehran's stock-in-trade refrain – its tests are legal because the missiles are for conventional warheads – should be anticipated and rebutted systematically. Many of the missiles it tests are derived from nuclear-capable delivery vehicles, and the Pentagon has assessed in unclassified reports that Iran "continues to develop technological capabilities that

could be applicable to nuclear weapons and long-range missiles.” Furthermore, every other country that has deployed such missiles has placed nuclear warheads on them.²⁷

Strengthen the Region’s New Partnerships against Iran

The JCPOA is altering the Middle East order. With Iran seen on the way up, and the United States on the way out, Israel, Turkey and Sunni Arab states are rebuilding – and in some cases, building for the first time – diplomatic, economic and defense ties to isolate Iran and counter its drive for regional hegemony.

Saudi Arabia is becoming the hub for these relationships, whether multilaterally with countries like Egypt, U.A.E. and others in Yemen, bilaterally with Turkey against Assad or behind the scenes with Israel. Riyadh is also forging a broader security cooperation forum against Iran’s growing influence beyond the Middle East. Simultaneously, Israel has unprecedented security ties with Egypt and Jordan, and restarted intelligence and defense coordination with Turkey. These are welcome advances for the United States, even though they are not U.S. initiatives.

To reinforce these developments, that United States should integrate advanced U.S., Israeli and Arab missile defense capabilities into multi-tiered systems to defend large swathes of the Middle East from Iran’s growing offensive capabilities.

The Gulf states are particularly susceptible to Iranian intimidation, given the small number of vulnerable and valuable targets concentrated along their coasts – cities, energy installations, military bases – that Iran can hold in danger cheaply and easily with its vast array of ballistic and cruise missiles. These countries possess a handful of U.S.-made missile defense batteries to intercept small numbers of targets. However, these are not enough against Iran, which according to the Defense Intelligence Agency “exercises near simultaneous salvo firings from multiple locations to saturate missile defenses.” Indeed, these systems already are insufficient against Iranian cruise missiles, and will leave these countries increasingly unprepared against Iran’s growing ballistic missile and air attack capabilities – especially as the arms and ballistic missile embargos expire.²⁸

Providing the most advanced systems, particularly the joint Israel-U.S. David’s Sling, as added layers to their existing missile defense capabilities will help reverse the offense-defense imbalance currently swinging in Iran’s favor. By softening the perception of ebbing U.S. commitment to the region, it will reduce acute insecurity felt by allies like Saudi Arabia and U.A.E. – the same insecurity stretching their resources in Yemen and contributing to an expensive, and potentially destabilizing, offensive arms race in the Persian Gulf.

No More Concessions

One year out, the nuclear agreement reads differently than the paper on which the JCPOA was printed. Iran’s conditions for compliance have expanded, and the United States has conceded ground in virtually every instance. Despite assurances of no side deals, new details and evolving arrangements seep out periodically – always detrimental to the United States and favorable to Iran.

The next president must state unequivocally that this will stop. A new administration will be under no obligation for any informal or secret pledges made to Iran during JCPOA negotiations or implementation. Nor must it entertain Iran's reinterpretations of the deal whenever adverse circumstances arise – for instance, demanding the United States encourage investment in Iran by blaming the country's horrible business climate on sanctions' "psychological remnants." Indeed, the Obama Administration's gratuitous efforts to co-opt Iran, including buying heavy water and trying to drum up business deals, can just as easily be reversed, and must be halted.

As prior rounds of talks illustrate, the JCPOA alternative need not be war, especially since its parameters have evolved since it was announced. A strong stance here can do much to restore U.S. leverage: it will still be upholding the agreement, while forcing Iran to choose between accepting the new terms and incurring the onus of threatening to break the deal.

Make the Procurement Working Group Work

The JCPOA allows Iran's nuclear program to remain opaque. This is a major concern given Iran's history of obtaining illicit nuclear materials, including for ballistic missiles, through international proliferation networks – something which is being encouraged by ongoing sanctions relief for dual-use items. German intelligence agencies reported Iran's illicit procurement efforts in the country remained "at a quantitatively high level" throughout 2015, with attempts to acquire missile technology showing an "upward trend." Furthermore, just last month Iran attempted to procure significant quantities of carbon fiber, a dual-use material that could help it expand production of advanced centrifuges beyond JCPOA limits. These are timely reminders the United States must prevent Iran accessing items that could advance its nuclear program.²⁹

The JCPOA established the Procurement Working Group of the P5+1 and Iran to coordinate with the UNSC for just this purpose. The United States and its partners need to ensure the prompt and proper functioning of this procurement channel, and make full use of the Group's authority to provide experts to verify the end-use of all items in Iran. Because the Group makes decisions by consensus, the United States must exercise an effective veto if its concerns are not resolvable by Iran. Finally, because the resolution endorsing the JCPOA includes binding restrictions under Chapter VII of the U.N. Charter, American diplomats must be clear that they can and will consider enforcement actions against material breach by Iran – including economic sanctions or use of force.

Make the JCPOA's Restrictions Permanent

The end of the JCPOA's nuclear restrictions could begin under the next president, with Iran producing advanced centrifuges no later than March 2024. As these and other provisions are set to expire, the Joint Commission created to oversee the agreement should determine whether to extend it. There is significant precedence in arms control agreements. The Non-Proliferation Treaty (NPT) is renewed on a five-year basis, and the series of U.S.-Russia strategic arms treaties dating back to the 1970s permitted not only extensions, but also further arms reductions in follow-on agreements.

Of all the elements of a new U.S. strategy, removing the JCPOA's sunsets likely will be the heaviest lift diplomatically. Tehran currently feels no compunction to constrain its behavior, and other members of the Joint Commission – the P5+1 and the E.U. – may have little appetite to revisit the deal. Therefore U.S. credibility will be crucial to securing any additional limits on Iran's nuclear program. Persuading Iran to make the JCPOA's restrictions permanent will require extensive, sustained and forceful application of all the other elements of policy detailed above.

Endnotes

1. White House webpage on the Joint Comprehensive Plan of Action (accessed May 18, 2016), <https://www.whitehouse.gov/issues/foreign-policy/iran-deal>
2. White House webpage on FAQs regarding the Joint Comprehensive Plan of Action (accessed June 9, 2016), <https://www.whitehouse.gov/issues/foreign-policy/iran-deal/q-and-a>; U.S. State Department, "Remarks by Secretary Kerry on Nuclear Agreement with Iran," September 2, 2015.
3. See, for example: U.S. State Department, "Iran Nuclear Agreement: The Administration's Case," opening remarks by Secretary Kerry before the House Committee on Foreign Affairs, July 28, 2015; White House webpage on the Joint Comprehensive Plan of Action (accessed May 18, 2016), <https://www.whitehouse.gov/issues/foreign-policy/iran-deal>
4. White House webpage on FAQs regarding the Joint Comprehensive Plan of Action (accessed June 9, 2016), <https://www.whitehouse.gov/issues/foreign-policy/iran-deal/q-and-a>; U.S. State Department, "Remarks by Secretary Kerry on Nuclear Agreement with Iran," September 2, 2015; "U.S. State Department "Secretary Kerry Interview With Mika Brzezinski, Joe Scarborough, Willie Geist, and Andrea Mitchell of MSNBC's Morning Joe," April 5, 2016.
5. Jay Solomon, "Uranium Provides New Clue on Iran's Past Nuclear Arms Work," *Wall Street Journal*, June 19, 2016. The P5+1 consists of the five permanent U.N. Security Council members, plus Germany, which together negotiated the JCPOA with Iran.
6. White House Office of the Press Secretary, "Statement by the President on Iran," July 14, 2015.
7. U.S. State Department, "Iran Joint Comprehensive Plan of Action (JCPOA)," July 14, 2015, 13-14, <http://www.state.gov/documents/organization/245317.pdf>
8. Islamic Republic of Iran Ministry of Foreign Affairs, "Ayatollah Khamenei sends a letter to President Hassan Rouhani about the JCPOA," October 21, 2015.
9. "Iran: End of Sanctions Unlocking \$32 Billion in Assets," VOA News, January 19, 2016; Glenn Kessler, "Kerry's claim that Iran has only received '\$3 billion' from the nuclear deal," *Washington Post*, May 11, 2016.
10. U.S. State Department, "Remarks by Secretary Kerry on Nuclear Agreement with Iran," September 2, 2015.
11. Jay Solomon, "U.S. to Buy Material Used in Iran Nuclear Program," *Wall Street Journal*, April 22, 2016; Matthew Lee, "Kerry: US open to further clarifying Iran sanctions relief," Associated Press, June 15, 2016; "Zarif and Kerry meet in Norway, talk a bit more about JCPOA and Syria," *Tehran Times*, June 16, 2016.
12. Jay Solomon, Asa Fitch and Benoit Faucon, "Iran's Central Bank Chief Warns Banking Access Issues Jeopardize Nuclear Deal," *Wall Street Journal*, April 15, 2016; "Full committee hearing on 'Iran Nuclear Deal Oversight: Implementation and its Consequences (Part II)," Federal News Service, May 25, 2016.
13. Martin Matishak, "Obama officials deny 'secret deals' in Iran nuclear pact," *The Hill*, July 22, 2015; White House webpage on FAQs regarding the Joint Comprehensive Plan of Action (accessed July 9, 2016), <https://www.whitehouse.gov/issues/foreign-policy/iran-deal/q-and-a>.
14. U.S. State Department, "State Department Daily Press Briefing," March 10, 2015; Y. Carmon and A. Savyon, "Iranian Supreme Leader Khamenei's Letter of Guidelines to President Rohani on JCPOA Sets Nine Conditions Nullifying Original Agreement Announced July 14, 2015," Middle East Media Research Institute [English translation of original document], October 22, 2015; U.S. State Department Bureau of Legislative Affairs, "Reply to Hon. Mike Pompeo Regarding JCPOA," November 19, 2015, http://pompeo.house.gov/uploadedfiles/151124_-_reply_from_state_regarding_jcpoa.pdf
15. White House Office of the Press Secretary, "Statement by the President on Iran," July 14, 2015; Molly O'Toole, "From 'No Deal is Better than A Bad Deal' to 'This Deal or War'," *Defense One*, July 23, 2015; "Full text: Obama gives a speech about the Iran nuclear deal," *Washington Post*, August 5, 2015.
16. U.S. State Department, "John Kerry Press Statement: On U.S. Navy Sailors' Departure from Iran," January 13, 2016; Tom LoBianco and Ryan Browne, "Navy report: Failure at every level for US ships captured by Iran," CNN, June 30, 2016.
17. Steve Inskeep, "Obama Compares Iran Deal to a House Under Contract, Awaiting Appraisal," NPR, April 7, 2015; "Transcript: President Obama's Full NPR Interview On Iran Nuclear Deal," NPR, April 7, 2015.
18. White House Office of the Press Secretary, "Statement by the President on Iran," July 14, 2015.
19. Rick Gladstone, "Iran's Supreme Leader on America: Don't Trust, Don't Cooperate," *New York Times*, June 3, 2016.
20. Arash Karami, "After criticism, Rouhani defends his economic performance," *Al-Monitor*, March 22, 2016; Ray Takeyh, "Iran's 'Resistance Economy' Debate," Council on Foreign Relations, April 7, 2016.
21. "Transcript: President Obama's Full NPR Interview On Iran Nuclear Deal," NPR, April 7, 2015.
22. For an in-depth examination of Iran's domestic ballistic missile production capabilities, see: Saeed Ghasseminejad, "Iran's Ballistic Missile Program and Economic Sanctions," Center on Sanctions & Illicit Finance (FDD), March 2016.

23. International Atomic Energy Agency, "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran – Report by the Director General," November 8, 2011, 8; International Atomic Energy Agency, "Final Assessment on Past and Present Outstanding Issues Regarding Iran's Nuclear Programme – Report by the Director General," December 2, 2015.
24. Louis Charbonneau, "Exclusive: U.N. experts' report shows Iran's deceptive procurement tactics," Reuters, May 12, 2014; Jonathan Saul and Alex Lawler, "Iran's oil exports drop in June, stay above Western limits," Reuters, July 1, 2014; David Albright and Andrea Stricker, "Update on IR-5 Centrifuge Issue: Taking Stock," Institute for Science and International Security, December 16, 2014; Reuters and Armin Rosen, "Report: Iran's stockpile of enriched uranium has actually grown, despite the nuclear deal," *Business Insider*, November 18, 2015; Jay Solomon, "U.S. to Buy Material Used in Iran Nuclear Program," *Wall Street Journal*, April 22, 2016.
25. Jeffrey Goldberg, "The Obama Doctrine," *The Atlantic*, April 2016.
26. "John Kirby: Daily Press Briefing," U.S. State Department Office of Press Relations, March 8, 2016.
27. Anthony H. Cordesman, *Iran's Rocket and Missile Forces and Strategic Options* (Washington, DC: CSIS, 2015), 86-7.
28. DIA Director Lt. Gen. Michael T. Flynn, "Annual Threat Assessment," statement before the Senate Armed Services Committee, February 11, 2014; for an in-depth examination of the salvo competition in the Middle East, see: Mark Gunzinger and Bryan Clark, *Winning the Salvo Competition: Rebalancing America's Air and Missile Defenses* (Center for Strategic and Budgetary Assessments, 2016).
29. David Albright and Andrea Stricker, "Iranian Atomic Energy Organization Attempted Carbon Fiber Procurement," Institute for Science and International Security, July 7, 2016; Frank Jordans, "Germany wary of Iran's nuclear, missile procurement efforts," Associated Press, July 8, 2016.



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