

REVIVING THE JCPOA IS THE BETTER ALTERNATIVE — BUT CAN IT BE MADE SUSTAINABLE?

ROBERT EINHORN

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EXECUTIVE SUMMARY

With almost all issues resolved, negotiations to revive the 2015 Joint Comprehensive Plan of Action (JCPOA) have gridlocked over the Iranian demand, resisted by the Biden administration, that the Islamic Revolutionary Guard Corps (IRGC) be removed from the U.S. list of Foreign Terrorist Organizations (FTOs). The issue of IRGC delisting is largely symbolic, with little practical effect on economic pressures facing the organization. But it has outsized political importance in Tehran and Washington, and leaders in both capitals have been unwilling to risk the potential fallout from abandoning their positions. Although European negotiators are reportedly renewing their efforts to find a way to end the impasse, prospects for doing so are uncertain at best, and Biden administration officials have grown increasingly pessimistic that agreement will be reached to return to the JCPOA.

But before pulling the plug on the negotiations, the administration should take a dispassionate look at the implications of not having any nuclear deal in place and compare that outcome to the alternative of reviving the JCPOA. In such a comparison, a restored JCPOA, despite its shortcomings, is the better choice.

A revived JCPOA could verifiably prevent Iran from becoming a threshold nuclear weapon state for at least another eight years and reduce the prospect of a regionwide military confrontation that could embroil the United States and trigger a covert Iranian crash program to acquire nuclear weapons. In the absence of a deal, the United States would be unable to generate sufficient economic pressure to squeeze the resources available to Iran's destabilizing nuclear, missile, and regional activities or force Tehran to accept a nuclear agreement more restrictive than the JCPOA. And forgoing a return to the JCPOA would give Iran a free hand to ramp up its nuclear program and move dangerously close to the nuclear weapons threshold as early as this year.

A revived deal, however, would surely be the target of intense criticism, both at home and by America's partners in the Middle East, raising once again the question of its durability in the face of future political developments and presidential transitions. To temper opposition to the deal over time and make it more sustainable, a Biden administration decision to return to the JCPOA would have to be complemented by a resolute regional strategy — one that assertively supports America's Middle East partners and counters Iran's efforts to dominate the region, while keeping the door open to diplomacy if Iran is prepared to rein in its regional ambitions and accept durable restrictions that keep it a safe and verifiable distance from the nuclear weapons threshold.

RESTORING THE JCPOA

Reviving the JCPOA would reinstate the 2015 deal's strict quantitative and qualitative restrictions on Iran's nuclear capabilities. Iran's return to compliance would roll back most of the major gains Tehran made in its nuclear program since it abandoned those restrictions in response to the Trump administration's JCPOA withdrawal; halt its rapid advance toward the nuclear weapons threshold; and prohibit it from producing enough weapons-grade uranium for a single nuclear weapon for a significant additional number of years. Critically, it would also keep in place the JCPOA's unique and far-reaching monitoring and inspection arrangements, which give the international community a timely and comprehensive picture of nuclear developments in Iran. Moreover, by alleviating near-term fears of a nuclear-armed Iran, JCPOA revival could reduce pressures for preemptive military actions that could trigger regionwide armed conflict and involve the United States in another Middle East war.

In exchange for coming back into compliance, Iran would receive the lifting of the most consequential U.S. sanctions that were imposed since the U.S. 2018 withdrawal from the deal. This sanctions relief would give Iran an economic boost, including by allowing other countries to purchase Iranian crude oil without penalty, releasing to Iran billions of dollars of Iranian funds blocked in overseas accounts, and giving Iran greater access to the international financial system.

This would be the same basic "nuclear restrictions for sanctions relief" bargain that produced the 2015 JCPOA. In the Vienna talks that began in April 2021, the Biden administration essentially sought to return to the original deal, and the administration has achieved most of its negotiating objectives. But if an agreement emerges from the current impasse, it will not be everything the Biden administration wanted it to be. In some respects, it will not be as favorable, from of U.S. perspective, as the 2015 JCPOA.

WHY A NEW DEAL IS LIKELY TO BE CRITICIZED

Shortened breakout time. Because of the knowledge and experience the Iranians gained operating advanced centrifuges during the period it exceeded JCPOA restrictions, Iran's return to compliance with the 2015 agreement's enrichment limits would not restore the original deal's one-year "breakout time" – the time Iran would need to break out of the agreement and produce enough weapons-grade uranium for a single nuclear weapon. The Biden administration reportedly told the Israelis in January 2022 that the breakout time under a revived deal had been reduced to as short as six to nine months.¹

In security terms, that shorter period is not a major issue. Provided that a revived JCPOA contained the original's robust IAEA verification measures, a breakout time as short as six months would provide sufficient opportunity for the United States to learn of an Iranian breakout attempt and intervene decisively to stop it, including with military force if necessary.² But because a one-year breakout time was advertised as one of the JCPOA's central achievements and would be the benchmark against which the revived deal would be judged, critics would see this shortened time as a major deficiency and grounds for opposing the deal.

No Iranian commitment to follow-on negotiations. The Biden administration regarded a return to JCPOA compliance as a relatively quick and easy first step that would provide a promising starting point for the negotiation of follow-on arrangements that would extend the JCPOA's limited-duration nuclear restrictions (some of which expire in 2024, some in 2026, and the remainder in 2031) and also address Iran's destabilizing regional and missile activities. But Iran rejected the U.S. proposal that it commit to negotiations on follow-on measures, declaring that after the JCPOA's nuclear limits expire in 2031, it should be free to pursue a civil nuclear program without quantitative or qualitative constraints.

On the positive side, the restored JCPOA would still buy at least eight more years in which remaining nuclear restrictions (especially the cap on enrichment level at 3.67% and the ceiling on enriched uranium stocks at 300 kilograms) would not permit Iran to produce enough weapons-grade fissile material for a nuclear weapon, and in which the United States could seek to mobilize pressures and incentives to persuade

Iran to revisit its position and consider follow-on arrangements. But given the importance the Biden administration placed on returning to the JCPOA as a bridge to a “longer and stronger” deal, the failure even to get Iran to commit to follow-on talks would increase uncertainty about whether nuclear restrictions would continue after 2031 and would cast doubt on the value of returning to the agreement.

EXPIRATION DATES OF KEY JCPOA PROVISIONS

Many of the nuclear and other restrictions of the JCPOA and U.N. Security Council resolution 2231 are of limited duration. Here are the expiration dates of key provisions:

October 2020

Prohibition under UNSCR 2231 on the transfer of conventional arms to and from Iran was terminated.

October 2023

Restrictions on missile-related activities under UNSCR 2231 end.

2024 & 2029

Limits on research and development activities for advanced centrifuges are relaxed and then terminated.

2026

Limit on the number of installed centrifuges (5060) and requirement that all Iranian civil nuclear imports be approved by the JCPOA “procurement channel” end.

2031

Ceilings on enrichment level (3.67%) and stocks of enriched uranium (300kg) and prohibitions on spent fuel reprocessing, construction of new heavy water reactors, and enrichment at the Fordow facility end.

N/A

Commitments not to acquire nuclear weapons or engage in activities associated with nuclear weapons development do not expire.

Sanctions relief not required by the JCPOA. The Iranians demanded that all Trump-imposed sanctions be suspended under the revised deal – not just those imposed in response to Iran’s nuclear program (which are required to be suspended under the JCPOA) but also those imposed for human rights abuses, ballistic missile activities, and support for terrorist groups. The Biden administration maintained that most of the sanctions imposed for nonnuclear reasons were warranted and should be retained, but it agreed to lift some of those sanctions that it considered inconsistent with the U.S. JCPOA commitment to refrain from actions that would interfere with Iran realizing the full benefit of sanctions relief required by the JCPOA. When Iran pressed for more, U.S. negotiators eventually agreed to lift a number of additional sanctions beyond what it deemed necessary to meet that U.S. commitment – in other words, beyond what the JCPOA requires.

In its defense, the administration could point out that these nonnuclear sanctions could be reimposed on previously sanctioned entities if and when warranted by their future behavior. And it could argue that the suspension of nonnuclear sanctions would not bring Iran much economic benefit, especially compared to that of much more economically consequential nuclear sanctions (e.g., on the purchase of Iranian crude oil). But critics could charge that suspending nonnuclear sanctions would undermine the deterrent against future objectionable Iranian nonnuclear activities and would be an unwarranted concession not required by the JCPOA.

Other features of the emerging deal. Reports circulating publicly about what has been agreed to date, although not officially confirmed, suggest other aspects of a revived deal that could prove controversial.

- Although the United States called for destroying advanced centrifuges that Iran installed and operated in violation of the JCPOA, a revived deal would

apparently provide for their storage under IAEA seal, rather than destruction. In a breakout scenario, taking centrifuges out of storage would take considerably less time than building new ones. Depending on the numbers involved and the types of centrifuges, this could mean some reduction in overall breakout time.

- Iran did not succeed in its demand that, in conjunction with JCPOA revival, the IAEA’s ongoing investigation of possible Iranian undeclared nuclear activities be closed. But the issue of suspect activities would remain unresolved, with Iran unwilling to come clean on the full dimensions of its past nuclear program. Although the IAEA discovered processed uranium particles at several Iranian facilities and maintains that Iran has not provided a plausible explanation, the agency has not found evidence that undeclared nuclear activities continue in Iran. The Biden administration believes the IAEA investigation must continue but does not believe the issue should stand in the way of JCPOA revival. Critics, however, could be expected to argue that restoration of the JCPOA is unjustified as long as Iran is allowed to continue stonewalling the IAEA and questions persist as to whether Iran still retains undeclared nuclear materials.
- Iran also did not succeed in getting a binding commitment that no U.S. administration would again withdraw from the JCPOA and reimpose sanctions. Instead, Biden apparently would assure Iran that, as long as it complied with the revived JCPOA, his administration would not withdraw. Opponents of JCPOA revival might object to even that assurance, as well as to the reported intention of the Biden administration to mollify the Iranians by making active efforts to assure international banks and business that, as

long as Iran remained in compliance, they could take full advantage of the revived deal's sanctions relief by engaging with Iran without fear of being penalized.

So, a revived JCPOA would not be without shortcomings and would provide plenty of grist for attacks by opponents. But the option of restoring the JCPOA needs to be compared with the alternative of having no deal at all.

IMPLICATIONS OF NO DEAL

Domestic and foreign opponents of returning to the JCPOA argue that, instead of reviving the deal and providing sanctions relief that would give Tehran an economic windfall and increase the resources available to fund its nuclear, missile, and regional ambitions, the United States should end the negotiations and double down on sanctions and other pressures. The goal would be to limit the resources Iran could devote to its destabilizing activities and eventually compel it to accept a new nuclear deal that would be more restrictive and longer lasting than a revived JCPOA.

Limited coercive utility of sanctions pressure. But the case for no deal overestimates the ability of sanctions and other pressures to constrain Iranian behavior. The Trump administration's "maximum pressure" campaign certainly did great damage to the Iranian economy. But despite this damage, Iran managed to find the resources to make major strides in its nuclear program since 2019 and to continue diversifying and expanding its missile capabilities.

Moreover, although U.S. sanctions have constrained the resources available to advance Tehran's regional ambitions – for example, they have resulted in a sizable cutback of financial assistance to Hezbollah⁴ – Iran's destabilizing regional behavior has continued and even intensified.⁵ With Iran's encouragement and material support, including the transfer to its proxies of equipment and technology for missiles,

rockets, and unmanned aerial vehicles, the threat to U.S. regional partners and interests posed by Hezbollah, the Houthis in Yemen, and Iranian-allied Iraqi militias has significantly increased.⁶

The maximum pressure campaign didn't choke off resources allocated to Iran's nuclear, missile, and regional activities, largely because Iran's leaders assign an extremely high priority to those activities even under conditions of great economic hardship and at the expense of pressing domestic needs. This would not change even if it were possible to significantly ratchet up sanctions pressure under current circumstances, and that is very unlikely.

The Trump administration pulled out all the stops in its imposition of sanctions, targeting broad sectors of Iran's economy and a wide range of individual entities and leaving little room for doing more. Additional U.S. sanctions would likely have marginal economic impact. In theory, greater U.S. willingness to penalize Chinese entities for involvement in the purchase of Iranian crude oil in defiance of the U.S. crude oil sanction could reduce future Chinese purchases. But Beijing seems determined today to provide an economic lifeline to Iran and in the past has found ways to circumvent sanctions and continue sanctionable activities, despite U.S. sanctions on individual Chinese entities. Moreover, prospects for additional sanctions by the United Nations Security Council would be virtually nil, with Iran's strategic partners China and Russia certain to block further council measures.

Not only would it be difficult to increase sanctions pressure, but it would even be difficult to maintain current pressures, which have been weakening in the last few years. Iran has actively pursued measures to evade sanctions, including a clandestine banking and finance system that has increased trade roughly to pre-sanctions levels.⁷ In addition, key states have been relaxing their sanctions enforcement. Iran's oil exports, mostly to China, rose 30% in the first three

months of 2022. An Iranian official said Iran is now selling as much as 1.2 million barrels per day, the highest amount since U.S. sanctions were reimposed by the Trump administration.⁸ In a no-deal environment, sanctions pressures would likely continue to decline.

Expanding nuclear capacities and shrinking breakout time. Instead of forcing Iran to accept a new, more restrictive deal, ending the JCPOA and doubling down on sanctions would allow Iran to continue expanding its nuclear program and reducing its breakout time. The 2015 JCPOA increased Iran's breakout time to at least one year. In response to President Donald Trump's withdrawal from the agreement in 2018, Iran built up its nuclear program and now has a breakout time of a month or less.⁹ In the absence of any deal, breakout time could continue to shrink to a matter of days.

Moreover, with no agreement, the unique monitoring and inspection arrangements provided for in the JCPOA would be gone, leaving the IAEA to rely on the much less intrusive and extensive arrangements contained in the agency's basic safeguards agreement with Iran. Therefore, as Iran built up its nuclear capacities, the United States and the international community would have a smaller window into Tehran's nuclear program and a more limited ability to detect Iranian preparations for moving rapidly toward nuclear weapons.

As Iran moved closer to the nuclear threshold – and did so without robust verification arrangements in place – pressure would grow for a preemptive strike against its nuclear facilities. Israel has made no secret of its willingness to conduct such a strike, and the Biden administration's apparently firm commitment to prevent Iran from acquiring nuclear weapons suggests that, at a certain point, the United States would also be prepared to use force to stop Iran (albeit a point probably still undecided and not necessarily the same as Israel's).

A preemptive military strike would be a serious setback for Iran's nuclear program, the extent of which would depend on the scope and effectiveness of the attack. But sooner or later, the Iranians would rebuild their nuclear infrastructure, perhaps over two to four years.¹⁰ And there is little doubt that Iran would use all the capabilities at its disposal to retaliate. Tehran could target U.S. regional partners and U.S. forces and interests throughout the Middle East by carrying out conventional military strikes and possibly terrorist campaigns (either through regional proxies or on its own). Such a regionwide military confrontation would directly threaten important U.S. interests, likely drawing the United States into the conflict, notwithstanding the desire of the Biden administration and the American public to reduce the U.S. military role and presence in the Middle East.

Moreover, an attack against Iran's nuclear facilities would increase the likelihood and accelerate the timetable of the outcome it was intended to prevent: Iran becoming a nuclear-armed state. Iran could invoke the withdrawal provision under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which authorizes withdrawal if "extraordinary events" have jeopardized "the supreme interests" of a treaty member. Tehran could also evict IAEA inspectors and monitoring equipment it was no longer obligated to accept, and then proceed at secret locations to rebuild its nuclear program, which would be directed toward building nuclear weapons as quickly as possible.

An unstable and unpredictable regional security environment. Of course, such a dire scenario is not inevitable. It is conceivable that Iran would act with restraint, avoiding actions that might trigger military preemption and enhanced economic pressures. Possibly it would stop deploying additional advanced centrifuges or accumulating more enriched uranium, especially at the 60% level. Perhaps it would continue abiding by the JCPOA's unique monitoring arrangements even if it was no longer committed to doing so.

But realistically, such unilateral Iranian restraint is not very likely. Iran may not have made a decision to build nuclear weapons, but it seems determined to acquire a threshold nuclear weapons capability – and that requires having extensive nuclear infrastructure in place. In the absence of a deal, and in the face of continued U.S. sanctions pressure, Iran would be expected to continue increasing the scale and sophistication of its nuclear infrastructure, justifying a large-scale enrichment program as necessary to produce fuel for current and future civil nuclear reactors. And having railed against being forced to accept JCPOA monitoring and inspection measures that go beyond what other NPT parties are required to accept, it would be expected to abandon such measures if the JCPOA is not revived.

So, without a nuclear deal, Iran would almost surely build a nuclear program that would reduce its breakout time to a matter of days and would do so without the IAEA being able to monitor the full scope of nuclear developments in Iran. Suspicions of Iranian nuclear intentions would grow, and the option to attack Iranian nuclear facilities would remain very much on the table and could be triggered at any time. Increasing fears of a nuclear-armed Iran would provide incentives for other countries in the region to hedge their nuclear bets, especially Saudi Arabia. The no-deal environment in the region would be highly unstable and unpredictable.

JCPOA REVIVAL – THE BETTER CHOICE

The alternatives of JCPOA revival and no nuclear deal both have downsides. But the no-deal alternative is riskier. It gambles that forgoing near-term nuclear restrictions and maintaining the freedom to inflict massive sanctions pressure is a more promising means of eventually preventing a nuclear-armed Iran than moving now to reimpose restrictions that are scheduled to expire. But there is little

prospect of ramping up or even maintaining the current level of sanctions pressure. And in the absence of nuclear constraints, Iran would be free to move very quickly – indeed this year – to the nuclear weapons threshold, increasing the likelihood of regional armed conflict and Iran pursuing a covert, crash program to produce nuclear weapons.

Reviving the JCPOA is no panacea. Nuclear restrictions would expire in stages and could be gone in 2031. Sanctions relief would provide additional economic resources that Iran could allocate to its nuclear and missile programs and its support for regional proxies. But a revived deal would verifiably prevent Iran from becoming a threshold nuclear weapons state for eight more years and perhaps more if Iran can be induced to accept follow-on restrictions. And it would thus reduce the prospect of near-term preemptive attacks on Iranian nuclear facilities and regionwide armed conflict that could draw in the United States and strengthen Iran's determination to acquire nuclear weapons. Despite its shortcomings, JCPOA revival is the better option.

REMAINING OBSTACLES TO AGREEMENT

Officials from countries involved in the negotiations suggest that only a handful of relatively technical issues remain to be worked out. And they all seem to agree that these issues can be readily resolved – if major political obstacles can be overcome.

IRGC's FTO designation. The obstacle that has attracted the most public attention is Iran's demand that the IRGC be removed from the U.S. FTO list. Iran has so far been adamant about removal. It hopes that removal would elevate the standing of the Guards as a legitimate military organization responsible for defending the Islamic revolution and would provide a basis for claiming to wary foreign investors that the

regime is not involved in terrorist activities. Iranian opponents of the JCPOA, happy to make the IRGC issue a deal-breaker, are presumably arguing against compromising Iran's position on the issue.

But while Iran's leaders are apparently not desperate for JCPOA sanctions relief and believe they can make do economically without a deal if necessary, they would very much like to see the substantial boost that an agreement would give their economy. That is what motivated the hardline administration of President Ebrahim Raisi after taking office to rejoin the negotiations and eventually make concessions that brought a deal within reach. Recent protests in at least six Iranian provinces over rising food prices, which spilled over into discontent with the country's leadership, could provide additional incentive for the regime to come to terms on JCPOA revival.¹¹ It is still possible, therefore, that Iran will find a way to drop its demand or accept a face-saving solution.

Enrique Mora, the European Union's coordinator of the JCPOA negotiations, visited Tehran on May 11 and 12 in a renewed effort to end the deadlock. According to Western officials, Mora told the Iranians that the United States would not remove the FTO designation as part of a nuclear deal but might discuss the issue once the nuclear talks are settled. Reportedly, the Iranians indicated that they might be prepared to seek other U.S. concessions as an alternative to their IRGC demand. Josep Borrell Fontelles, the EU's chief foreign policy official, said Mora's talks in Tehran had "gone better than expected."¹² But later, the United States and Iran officially reiterated their existing positions. A State Department spokesperson said "a deal remains far from certain. Iran needs to decide whether it insists on extraneous conditions."¹³ Iranian Foreign Minister Hossein Amir-Abdollahian asserted that "a good and credible outcome is within reach if the U.S. makes its decision and adheres to its commitments."¹⁴ Discussions to break the deadlock are expected to continue.

Matthew Levitt, a counterterrorism expert formerly at the U.S. Treasury Department, points out that removing the FTO designation would be largely symbolic because the IRGC would remain the target of several other U.S. sanctions authorities (including as a terrorist group) and therefore the substantial risks for foreign banks and companies of doing business with the IRGC or affiliated entities would not be reduced. But Levitt nonetheless opposes IRGC delisting, arguing that dropping the designation while the organization continues to engage in nefarious activities would undermine the efficacy of U.S. non-nuclear sanctions and would heighten fears of America's regional partners about future IRGC disruptive activities. He maintains that the United States should only drop terrorism-related sanctions in response to changes in the targeted entity's behavior, not as a bargaining chip.¹⁵ Delisting the IRGC is also strongly opposed by members of Congress of both parties, as well as by Israel and some Gulf Arab countries.

Releasing American hostages. Another potential obstacle to JCPOA revival is Iran's holding of four American citizens hostage for several years on trumped up charges. The Biden administration describes the hostage issue as unrelated to the nuclear negotiations, with diplomatic talks on releasing the hostages held separately from the Vienna nuclear negotiations. But as a practical political matter, the issues have become linked.

In part, they have become linked because of the 2016 release of four U.S. hostages from Iran, which occurred at the time of concluding the JCPOA and was widely perceived as part of, or at least closely related to, the nuclear deal. The 2016 release of the Americans took place concurrently with a cash payment of \$400 million to Iran, which the Obama administration said was a portion of a \$1.7 billion settlement of a decades-old bilateral legal dispute. It was also accompanied by the release of seven Iranians convicted in the United States for sanctions violations and the dismissal of charges against 14 other Iranians for similar

violations whose extradition to the United States was considerable unlikely. Republicans attacked the prisoner exchange, especially what they called a \$400 million ransom payment.¹⁶

The issue of Iranian hostage-taking has assumed greater prominence in Europe with the recent detention of two French citizens and a statement by an Iranian official that a Swedish-Iranian academic faces execution in the near future. Human rights activists report that up to a dozen hostages, including British and German citizens, remain in Iran. Although most European countries strongly support JCPOA revival, public pressures have grown for bringing the hostages home.¹⁷

Biden administration officials have not formally made release of American hostages a precondition for revival of the JCPOA, but they have come pretty close. Earlier this year, U.S. Special Envoy for Iran Rob Malley said, “It is very hard for us to imagine getting back into the nuclear deal while four innocent Americans are being held hostage by Iran.”¹⁸ Having staked out that position, the administration’s conclusion of the nuclear deal without gaining the release of the hostages would be heavily criticized. Indeed, even if a deal to release them is reached before or in conjunction with reviving the JCPOA, its terms — including the possible release of Iranians justifiably in U.S. custody and any financial payments to Iran — would be closely scrutinized and almost surely would be the target of strong partisan attacks.

Politically difficult endgame for Biden. The Biden administration believes, with justification, that the almost completed JCPOA deal on the table, even with its deficiencies, is in the security interest of the United States and the Middle East. It is frustrated that the agreement could slip away because of largely political issues that, in its view, do not affect the underlying merits of the nuclear deal. From the outset, the administration has known that, given Republican and some Democratic opposition, any deal to revive the JCPOA would face political headwinds. But it was prepared to deal with the political consequences,

especially if agreement could be reached early in 2021 and if it contained features that might reduce opposition (e.g., an Iranian commitment to negotiate a “longer and stronger” agreement).

Now, however, the endgame has arrived during a highly partisan election year, the deal on the table is not everything the Biden team had hoped for, and the administration faces remaining, highly charged issues that significantly elevate the political stakes. A reasonable case can be made that, even if the FTO designation is removed (and other terrorism sanctions against the IRGC are retained) and even if the hostages are not released when the nuclear deal is concluded (as long as active efforts to release them continue), the security benefits of the revived JCPOA would still justify going forward, despite the political blowback likely to ensue. But with the midterms approaching and President Joe Biden unwilling to give his opponents more targets for partisan attacks — and with the president not wishing to jeopardize domestic and foreign support for his current top foreign policy priority, Ukraine — it is understandable that the administration would be reluctant to make that case.

Still, avoiding hard choices and leaving negotiations in limbo, as tempting as that might be politically, is not an answer. With negotiations barely on life support, Iran continues to expand its nuclear capabilities, and sanctions pressure continues to atrophy. Since March, the Biden administration has remained largely passive and seemingly resigned to failure in its efforts to resurrect the JCPOA. Rather than allowing the JCPOA to die by default, the administration, working mainly with the Europeans, should explore whether politically acceptable solutions can be found on the two main obstacles blocking a deal. Iran should be urged to defer the FTO question — if necessary, in exchange for a U.S. concession on a less politically fraught issue. And Iran should be pressed by the Europeans, the United States, and others to release the hostages, and to do so on reasonable terms (perhaps as a straight swap of prisoners without financial compensation).

NO MATTER WHAT, JCPOA REVIVAL WOULD BE HIGHLY CONTROVERSIAL

At this stage, it is uncertain whether the IRGC impasse or the hostage issue will be resolved and therefore whether the JCPOA will be revived. What is certain is that any agreement to return to compliance with the JCPOA would be highly controversial at home and in the Middle East. That would be the case regardless of whether Washington is seen as making unwarranted concessions to break the IRGC impasse or repatriate the hostages.

Most Republicans and some Democrats would oppose the deal because they believe either that any JCPOA revival would be a mistake or that the particular deal emerging from the Vienna negotiations has too many defects. Some Republicans would oppose it for no other reason than the Biden administration negotiated it.

A restored JCPOA would win approval from America's European negotiating partners, countries such as Japan and South Korea with strong commercial interests in rebuilding trade and investment relationships with Iran, and friends of Iran such as China and Russia. But that approval would not be shared by America's partners in the Middle East, especially Israel and Saudi Arabia. At best, the Biden administration could expect relatively muted public criticism from its dissatisfied partners and private demands for U.S. policies and assistance that could mitigate what they considered to be the adverse implications of the deal for their security.

The agreement to restore the JCPOA would almost surely have to be reviewed and voted by Congress in accordance with the Iran Nuclear Agreement Review Act (INARA). As in 2015, when the original deal was brought before Congress, opponents of the revived deal would not be able to muster the two-thirds majorities

required to block it.¹⁹ And so, Biden, like former president Barack Obama in 2015, would be free to implement the agreement.

Still, the congressional review would be highly contentious and expose strong opposition to the restored JCPOA, especially among Republicans. Questions would once again be raised in the minds of domestic and foreign audiences, including the Iranians, about the sustainability of the JCPOA in the polarized politics of the United States.

MAKING THE DEAL MORE SUSTAINABLE

There is little the Biden administration could do in the immediate wake of a deal that would win over critics at home and abroad. But it could pursue policies that may temper criticism over time, improve the odds of sustaining the deal despite future presidential transitions, and perhaps even increase the likelihood of follow-on arrangements with Iran. The administration would need to adopt an approach to the Middle East that strongly supports its partners and assertively counters Iranian efforts to destabilize and dominate the region. At the same time, it would need to implement a restored JCPOA in a way that benefits all of its participants (including Iran), and it would have to keep the door open to diplomacy if Tehran is prepared to restrain its regional activities and accept durable restrictions on its nuclear program. As part of such a broad regional strategy, the United States should:

- Build on the Abraham Accords, including by encouraging additional adherents, to foster a strong coalition of regional partners able to safeguard their collective security against encroachments by Iran and its proxies;
- Share intelligence and provide strong material support, including defensive systems against missiles, rockets, and drones, to help protect regional partners against attacks by Iran and its proxies;

- Respond forcefully – by assisting partners or acting on its own, as appropriate – to attacks against U.S. or partner interests by Iran or its proxies;
- Lead international efforts to interdict illicit Iranian transfers of weapon systems, components, and technology to its proxies;
- Support continuing Israeli military actions to stop Iran from establishing missile production, assembly, and other military facilities in Syria or elsewhere that pose a direct threat to Israel;
- Impose and enforce sanctions on Iran, its proxies, and other foreign entities when warranted for engaging in future sanctionable nonnuclear activities;
- Hold Iran to a strict standard of compliance with the restored JCPOA (including by strongly supporting IAEA efforts to investigate possible Iranian violations);
- Maintain credible U.S. military options and capabilities to stop a possible Iranian attempt to break out of its JCPOA commitments and produce HEU for nuclear weapons; and not least,
- Remain engaged in the region diplomatically and militarily.

The Biden administration should make clear that, while it will work with its partners to deter and respond to attacks or other disruptive activities by Iran or its proxies, the United States is not looking to engage in armed conflict with Iran unless provoked. It should indicate that it is prepared to reduce tensions and explore cooperative solutions to problems if Iran is willing to do the same.

The administration should encourage the resolution of ongoing regional disputes, especially in Yemen, as well as support efforts by its Gulf partners to engage with Iran and address their

differences. On issues where U.S. and Iranian interests may overlap (e.g., fighting the Islamic State group, coping with the COVID-19 pandemic, and dealing with Afghanistan’s humanitarian and refugee challenges), Washington and Tehran should explore ways – directly or through third parties – to cooperate.

While insisting on conscientious Iranian compliance with a restored JCPOA, the United States would need to avoid taking actions that would prevent Tehran from receiving the economic benefits to which it would be entitled under the agreement. And it should continue to pursue follow-on nuclear arrangements with Iran, including by outlining to Tehran the benefits it could expect to receive by agreeing to such arrangements as well as the potential consequences of rejecting them.

IMPEDIMENTS TO SUCH A REGIONAL STRATEGY

Such a U.S. strategy, combining JCPOA revival with a determination to remain engaged in the region in a stabilizing role in close cooperation with U.S. partners, would face significant hurdles.

At least in the near term, the JCPOA would remain deeply divisive in U.S. domestic politics. The tug-of-war between JCPOA opponents seeking to undermine the revived deal and supporters determined to protect it would expose its fragility. And of course, the main question mark hanging over the revived JCPOA would be whether the person elected president in November 2024 will want to preserve the deal or withdraw from it once again.

The goal of organizing and energizing a coalition of like-minded states to counter aggressive Iranian regional designs would need to overcome the recent tendency of some traditional partners to distance themselves from Washington and explore alternative means of ensuring their security. Saudi Arabia and the United Arab Emirates, in particular, have become increasingly

alarmed by what they see as U.S. disengagement from the Middle East and failure to respond effectively to Iranian-supported attacks against their facilities and interests. Their dissatisfaction is evidenced by their growing contacts with China and Russia and by their resistance to U.S. requests that they increase oil production and join in international efforts to isolate and punish Moscow for its invasion of Ukraine. Bringing the Saudis back into the fold would be complicated by strained relations between the United States and the Kingdom and between Biden and Saudi Crown Prince Mohammed bin Salman.

Another challenge would be to generate sufficient international support and pressure to persuade Iran to forgo ramping up its enrichment program and achieving a threshold nuclear capability when JCPOA restrictions expired – preferably by committing to follow-on restrictions. Persuading Iran would require positive inducements, including sanctions relief beyond what is required to revive the JCPOA. But it would also require making clear to Iran that it would face strong pressures if it chose a provocative path. Discouraging Tehran from making that choice would not be possible without broad international support, including from countries benefiting from renewed commercial relations with Iran and especially from Russia and China. Depending on the state of U.S. relations with Moscow and Beijing at that time, such support could prove elusive.

Perhaps the biggest challenge to a strategy calling on the United States to remain engaged in the region diplomatically and militarily is the strong tide of American public opinion that favors scaling back U.S. commitments to the Middle East and redirecting U.S. energies and resources to other regions, especially East Asia and now Europe, given Russia's invasion of Ukraine. Indeed, a significant slice of U.S. opinion would prefer cutting back on U.S. overseas commitments altogether, not just redirecting U.S. efforts from the Middle East to other regions. Unlike partisan divisions over the JCPOA, where

opposition comes mainly from Republicans, the desire to pull back from the Middle East and avoid involvement in armed conflicts there has significant bipartisan support.

COMBINING JCPOA REVIVAL AND A RESOLUTE REGIONAL STRATEGY: A TALL ORDER BUT NECESSARY

Overcoming these hurdles would require strong leadership by the Biden administration, both at home and abroad. At home, it would require building a bipartisan coalition involving JCPOA supporters and those JCPOA skeptics who believe a strong regional policy can address what they regard as the agreement's main deficiency. Abroad, it would require demonstrating convincingly to U.S. regional partners that the United States is serious about remaining engaged and defending their security interests – and that it recognizes the importance of protecting those interests despite serious concerns about aspects of a partner's behavior (mainly Saudi Arabia). It also would mean making clear to China and Russia that, unless they help to persuade Iran to moderate its regional activities and limit its nuclear program after JCPOA restrictions expire, prospects for armed conflict and nuclear proliferation in the region would significantly increase, jeopardizing their own interests. And it would require making a strong case to the American people that the United States continues to have important interests at stake in the Middle East and that, if it fails to remain engaged there, it could later find itself drawn back to the region in more difficult circumstances to protect those interests.

This is a tall order, especially at a time when the United States is preoccupied by a range of major domestic and international challenges. But the prospect of an Iran with nuclear weapons or the capability to build them quickly – and the extremely adverse implications of a nuclear or near-nuclear

Iran for the security and stability of the Middle East, for U.S. and partner interests there, and for the future of the global nonproliferation regime – will require that the Biden administration and succeeding U.S. administrations give sufficient priority to preventing such an outcome.

JCPOA revival, despite its shortcomings and the controversy that would accompany it, would make a critical contribution toward averting

such an outcome. But it is not enough. It would have to be complemented by a regional strategy that addressed the wider security and political challenges posed by Iran and that could, at the same time, help shore up domestic and international support for the JCPOA and make it a more sustainable barrier to a nuclear Iran.

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ABOUT THE AUTHOR

Robert Einhorn is a senior fellow in the Strobe Talbott Center for Security, Strategy, and Technology at Brookings. During his 35-year career at the U.S. Department of State, he served as assistant secretary for nonproliferation in the Clinton administration and special adviser to the secretary of state for nonproliferation and arms control in the Obama administration. From 2009 to 2013, he was a member of the U.S. negotiating team on the Iran nuclear deal.

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