



The Mirage of Renegotiating the Iran Deal

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With the election of Donald Trump, those who were opposed to or skeptical of the Joint Comprehensive Plan of Action (JCPOA) have ebulliently set out their various visions for addressing what they see as a “fatally flawed” deal.^{1,2,3} They will soon have a president who may be willing to take them up on their promise of renegotiation.

Where we stand

It is no surprise that a Trump Administration would reconsider the JCPOA. The Republican Party adopted a platform that stated in bald terms its views of the JCPOA:

We consider the Administration's deal with Iran, to lift international sanctions and make hundreds of billions of dollars available to the Mullahs, a personal agreement between the President and his negotiating partners and non-binding on the next president. Without a two-thirds endorsement by the Senate, it does not have treaty status. Because of it, the defiant and emboldened regime in Tehran continues to sponsor terrorism across the region, develop a nuclear weapon, test-fire ballistic missiles inscribed with “Death to Israel,” and abuse the basic human rights of its citizens. A Republican president will not be bound by it. We must retain all options in dealing with a situation that gravely threatens our security, our interests, and the survival of our friends.⁴

Very few conservative commentators have indicated, after the election, that they believe the most appropriate response is to “rip up the deal on day one” as most of the Republican candidates during the Presidential primary season proclaimed would be their intention. John Bolton is the lone example of a conservative holding such views that I could identify, though there may be and probably are others.⁵ Instead, many have insisted that the prudent course is to renegotiate the JCPOA, using the combined threat of reinvigorated U.S. economic sanctions and military force to pry concessions out of Iran that the Obama Administration could not obtain. Common elements of a renegotiated deal, some of which were elucidated throughout the past year, include:

- Iranian acceptance of a much smaller, likely symbolic, nuclear program
- Much more intrusive international inspections of Iran's nuclear facilities and activities

¹ <http://www.timesofisrael.com/repairing-the-iran-nuclear-deals-damage/>

² <http://foreignpolicy.com/2016/11/11/trump-will-make-iran-policy-great-again/>

³ <http://foreignpolicy.com/2015/08/17/how-to-get-a-better-deal-with-iran-congress-reject-nuclear-treaty/>

⁴ [https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL\[1\]-ben_1468872234.pdf](https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf)

⁵ <http://nypost.com/2016/11/13/trump-needs-to-reverse-the-iran-deal-and-assert-our-interests/>



- Longer duration for restrictions on and monitoring of Iran’s nuclear program
- Iranian commitments on non-nuclear issues, such as to stop supporting terrorism, violating human rights of their population, and promoting instability around the Middle East
- Iran’s abandonment or sharp curtailment of its ballistic missile program

Not all proposals for a renegotiated JCPOA reflect all of these various elements, which I’ve summarized and combined for purposes of expediency. Moreover, none that I have seen suggest that Iran would receive anything of particular value in return, other than – in some cases – being permitted to continue operating a much different nuclear program and, presumably, U.S. forbearance of the continued existence of the Islamic Republic of Iran.

Some JCPOA proponents have urged reconsideration of a hardline stance against Iran by Donald Trump’s administration, with the suggestion that increased economic activity between the United States and Iran could help create an incentive to keep the deal. Advocates of this line of thinking have alluded to Trump’s statements during the campaign that underscored irritation that the JCPOA did not carve out an opportunity for U.S.-Iran business activity. But this suggestion runs counter to the prevailing train of thought from conservative circles on the deal and does not stand much of a chance in practice, if we assume that the people who will staff the Trump administration will come from this camp.

Renegotiation in theory

In theory, those arguing for a renegotiation of the JCPOA have an attractive case to make. A further diminished Iranian nuclear program would help to reduce concerns associated with Iranian nuclear breakout during the period of restrictions by making it even more difficult for Iran to translate a breakout attempt into success given even more time to overcome. A more heavily monitored Iranian nuclear program would reduce tensions in the Middle East and help restore confidence in Iran’s nuclear future, as would more transparency from the Iranians on their past nuclear activities. And, an Iranian commitment to change some of its most fundamental regional and domestic policies, such as on terrorism and human rights, would be an inarguable improvement over the status quo, creating stability in the region and aiding the Iranian people themselves.

Many of those who advocated on behalf of the JCPOA essentially characterized it as “a good deal, but not ideal” in part because these sorts of wide-ranging Iranian concessions were not a part of it. To my mind, it is inarguable that the JCPOA would be stronger and better with such changes. But, those are not the terms of the debate. Rather, the three questions that will face Trump once in office:

1. Can you get more from Iran as part of a negotiated arrangement?
2. How much more do you need to get to declare success?
3. What will you risk in order to get it?



Renegotiation in practice

In answering these questions, I believe that it becomes clear that any attempt at renegotiation will not achieve their goals.

First, can more be obtained from Iran as part of a negotiated arrangement? Almost certainly, the JCPOA could be improved in small ways. In fact, the Joint Commission established by the JCPOA was – in effect – designed to serve as precisely this sort of mechanism: a body that would examine implementation of the deal and make adjustments where sensible. The JCPOA permits reconsideration of the deal every two years. However, as there are no set rules for this game, if all parties – defined as the P5+1 (China, France, Germany, Russia, the United Kingdom, and the United States) and Iran – decide to make a change, they can at will.

“Will” is precisely the right term. The critical question that follows is: Can there be common will and agreement as to what changes should be sought and what changes can actually be obtained?

Iran has given no cause for confidence on this score. The Iranians labored hard during the negotiations to concede as little as possible to the United States and its negotiating partners in the P5+1. It is important to note that the Iranians did this during a period when their economy was stalled and under extreme international political pressure to come to agreement. What’s more, Tehran resisted pressure from the United States and its partners for nearly thirteen years before that, when it was apparent to all but the most cynical that Iran had been acting in violation of its nuclear obligations for decades.

A belief that Iran would be prepared to concede more now assumes either that the pressure that can be mounted against Iran will be greater than in the past or that the international community will perceive Iran at fault for renewed confrontation. The latter point seems inconceivable due to the current widespread international perceptions (save perhaps in Russia and a few other countries) that Donald Trump is unfit and unprepared for the presidency. He and the United States will doubtless absorb the blame on the international stage for the JCPOA’s collapse.

Advocates of renegotiation must therefore believe that the pressure they can bring to bear will dwarf that imposed from 2002-2013 and with only a modicum of international support for the cause. Of course, as an abstract matter, there certainly is more that could be done to impose pressure on Iran’s economy than was even the case in 2013. Iran was still selling some oil in 2013, though less than half of what it was selling in 2011, and other Iranian industries were as yet untargeted for sanctions (such as Iranian cement production and export). Even accounting for some amount of smuggling, the United States can bring more pressure to bear – again, in theory – and Iran’s economy could be decimated through a largely global embargo spearheaded by the United States.

But, is such an embargo achievable beyond theory? Would it have the effect of channeling Iran into new concessions? Consider the obstacles. Even with a globally popular president in Barack Obama,⁶

⁶ <http://www.pewglobal.org/2016/06/29/as-obama-years-draw-to-close-president-and-u-s-seen-favorably-in-europe-and-asia/>



the United States had to labor considerably to obtain and enforce the sanctions it achieved against Iran until 2013. Donald Trump does not enjoy such standing at the moment. Moreover, even if he did, the sorts of other foreign policies that he has signaled – including a “trade war” with China, hardened economic competition with Mexico, a recalibration of our alliances in Europe and in Asia – will make assembling the necessary coalition that much more difficult.

As for whether Iran would accept new concessions, much would depend on how a Trump administration positioned the United States in beginning the crisis as well as Iranian perceptions of American resolve, the integrity of the sanctions coalition aligned against Iran, and how much pain sanctions could actually bring to bear. Even assuming a best case scenario, the United States would be flying blind in its assertion that Iran would make sweeping changes to the terms of the deal as outlined above. The history of 2002-2013 suggests that there are some concessions Tehran simply cannot make. Military force and the threat of sanctions existed in 2003-2004, when Iran’s nuclear program was first exposed to the world. Yet, unlike Libya’s Qaddafi (who was also caught with a clandestine nuclear program), Iran did not agree to dismantle its nuclear program. Iran’s nuclear program then was more established than Libya’s, and nowhere near what it is today. Iran put billions of dollars into the program and endured much suffering on its behalf in the intervening years. And though Iran’s economy was struggling mightily in 2011-2013, the JCPOA represents all the concessions Iran was willing to make at that time. (We will leave aside the scurrilous and inaccurate suggestion that the Obama Administration did not ask for more than was obtained in the JCPOA.)

Of course, some concessions are easier to make than others. It is conceivable that, in exchange for maintaining the JCPOA, Iran would accept deeper reductions in its operational nuclear capacity, or a longer period of restrictions and monitoring, and even changes to its regional and domestic policies. But, herein lies the second question that Trump will have to face: how much is enough for a renegotiated JCPOA? What does success look like?

Let us assume that he sets his bar at an additional 1,000 centrifuges being removed from operation, more intrusive and frequent inspections of Iranian non-nuclear facilities, and an agreement not to test ballistic missiles of longer than 1,000 kilometers. Would this be considered sufficient for Trump and his Administration? Perhaps. But, judging on the reaction to the JCPOA in 2015, it is hard to see this as sufficient for the many opponents and skeptics of the deal. Some have argued that Iran cannot be permitted to have much of a fuel cycle at all. As such, in their view eliminating another 1,000 more centrifuges would be better than the status quo. But would it be sufficient? Others have said that no nuclear deal could or should be completed until all U.S. citizens held in Iranian prisons are released. Would Iran have to agree to never arrest a U.S. citizen again in the future to satisfy this constraint? Could any state make such a concession? And, some have indicated that the mere provision of any sanctions relief to Iran is unacceptable while Iran continues to support terrorism. Would a renegotiated JCPOA that does not include a ban on support to Hezbollah be acceptable?

Certainly, like the Bush and Obama Administrations before it, the Trump Administration would have to decide what kinds of compromises it might be prepared to accept in its effort to renegotiate the JCPOA. But, thus far, the rhetoric from the JCPOA opposition that appears ready to come into power has not indicated either willingness to compromise nor a sense that compromise is necessary.



This is especially troubling since the JCPOA itself is delivering real results to the American people and to US partners and allies around the world. Iran's nuclear program has been significantly constrained by the terms of the JCPOA. Iranian nuclear breakout time has been lengthened considerably. In the case of a plutonium-based program, breakout is now measured by many years. Transparency into the Iranian nuclear program for the United States and its partners is better than it has ever been, even if reports by the International Atomic Energy Agency (IAEA) do not provide as much data as they could for wider interpretation and analysis. Under the JCPOA, these benefits will last for at least the next 7-14 years, in the case of Iranian nuclear restrictions, and 19-24 years in terms of Iranian nuclear transparency.

An American attempt at renegotiation will imperil these benefits considerably. Of course, it is arguably true that Trump could attempt to negotiate a better deal for the United States and, failing that, choose to let the JCPOA stand. Some may argue that there is no harm in trying. But, attempting to renegotiate the JCPOA will not be costless even if, in the end, the United States declares itself satisfied with the current deal. For one thing, the apparent strategy of renegotiation derives its leverage from increased economic pressure on Iran and the threat of military force. Iran is still upset that President Obama maintained the option to use force, even as he authorized moving forward with the JCPOA. A more direct invocation of force as an option to secure renegotiation of the deal will likely catalyze the forces in Iran that dislike the deal as much as their ideological compatriots in the United States and who would act to scupper any new negotiations that promised greater hardship or loss of face for the OPEC nation.

Augmenting sanctions pressure on Iran will be even worse. The JCPOA is already under some strain, as Iran has used the continuing existence of some U.S. sanctions as an excuse for its own economic inadequacy. This is the environment in which Secretary of State John Kerry is laboring constantly – along with the rest of the U.S. government – to advance the JCPOA and ensure Iran receives the economic benefits it paid for with nuclear concessions. In an environment in which the United States is potentially reversing some of those JCPOA steps – either directly or via reapplication of sanctions for other causes – there will be even less desire on Iran's part to maintain the deal.

Expecting Iran's current government – defined in this case as the Islamic Republic, not just the administration of President Hassan Rouhani – to renegotiate the JCPOA along more favorable terms for the United States in this context is to engage appears to be a very beguiling fantasy.

Conclusion

Though an attempt at JCPOA renegotiation appears almost assured, it is difficult to see how the deal could stand up under the pressure as both sides let fly acrimonious charges of cheating. Modest, but still problematic, violations by Iran of JCPOA have given U.S. opponents of the deal such ammunition. The detection of slight accumulations of heavy water beyond the JCPOA thresholds may be technically insignificant in terms of advancing Iran's nuclear capabilities, but they do create a narrative that opponents of the JCPOA are all too eager to pounce upon. In this, the US opponents



mirror Iran's hardline elements, who see U.S. failure to hand-deliver billions of dollars in new business to Iranian companies as a violation of the deal.

Which is not to say there is absolutely no hope for the JCPOA or for the future of nuclear stability in the Middle East. The Trump administration could adopt more moderate policies than his campaign rhetoric (and the rhetoric of some of his potential staff who have been highly critical of JCPOA) that allow the United States to negotiate with Iran on a long-term resolution of some of these broader problems.

There was a hope from some of those involved in Hillary Clinton's foreign policy circles that, after confronting Iran on its destabilizing activities throughout the region and enforcing the JCPOA vigorously, it might have been possible to negotiate long-term arrangements both for managing Iran's nuclear future and the other Middle East security problems. Certainly, this would not have occurred early in her term of office. But, it might have been in the cards, with the JCPOA serving as a foundation for trust and credibility for both Iran and the United States.

This path remains open to Trump. He can advocate a hardline toward Iran for the future and insist on strict enforcement of the JCPOA, as well as a tough approach on regional matters, while not undermining the principles and basis for the JCPOA itself. This approach would preserve the benefits of the JCPOA and demonstrate that, rather than reflexively opposing Obama's legacy, he will take a more thoughtful, careful approach to the situation in the Middle East.