

THE US WITHDRAWAL FROM THE IRAN DEAL: WHAT TO EXPECT NEXT

BY RICHARD NEPHEW
MAY 2018

Today's announcement that the president was withdrawing the United States from the Joint Comprehensive Plan of Action (JCPOA) is hardly a surprise. Though the JCPOA has withstood many challenges in its short operational period, including campaigns by well-funded and organized groups attempting to kill it, the agreement has been in doubt since the day Donald Trump was elected president. As I noted on Election Day 2016 (to some criticism from my fellow JCPOA proponents), a Trump presidency meant saying "[goodbye](#)" to the JCPOA because the United States and Iran both would take steps to raise tensions and undermine the foundations of the agreement. This day has now come.

A fundamental question is where things go from here. As I have previously written about [the oil market effects](#) of such a decision, this commentary will focus on three other areas of importance:

1. What will Congress do now?
2. What will U.S. partners do now?
3. What will Iran do now?

Congress

It is highly unlikely that Congress will react to today's news by rushing to the defense of the JCPOA beyond supportive statements. If nothing else, the 115th Congress has made clear that it will only counter the wishes of the President in extremis (such as with the decision to pass new Russia sanctions over his objections in July 2017). The JCPOA should not be looked upon in the same vein, in no small part because though many members of Congress disagree with this course of action (and perhaps even a majority, in private), there remains a powerful bloc of members who opposed it in the first place and will not mourn its loss.

Rather than pursue legislation to reverse Trump's decision concerning the sanctions waivers, Congress is likely to consider legislation that would expand U.S. sanctions against Iran and those groups it supports in the region. Members may not decide to escalate dramatically, for fear of encouraging Iran to restart its nuclear program in dramatic fashion. However, there will be consideration and passage of sanctions bills that target Hezbollah and possibly codify the necessity of preventing Iranian nuclear weaponization in this new phase of confrontation

between Washington and Tehran. Recent elections in Lebanon (which will grant Hezbollah and its political allies a [greater presence in the parliament](#)) will probably strengthen the odds of such a move.

It is questionable whether this legislation will achieve much, given the authorities that already exist to confront Hezbollah and other Iranian-backed groups. Once shorn of the need to behave carefully around the topic of Iran sanctions, Congress will in time revert to its previous posture of endorsing virtually any Iran-related sanctions that comes to the fore. Even some JCPOA advocates would probably support such legislation, especially if Iran decides to restart its nuclear program in full in response.

U.S. Partners

Such a reaction by Congress would be particularly unfortunate because the immediate reaction among U.S. partners – especially European partners – will be to seek ways of limiting the fallout from the U.S. decision. They will, first, encourage the Iranians to restrain their reaction and to maintain the limits required by the JCPOA, as well as the access to international inspectors that the JCPOA affords. They will reaffirm their interest in the JCPOA and offer to explore arrangements with the Iranians that will preserve at least the core of the agreement.

Second, since European success will depend on the integrity of sanctions relief, governments will assess whether and how to respond to the threat of U.S. sanctions against their firms. This process will need to begin immediately because, though the president was only required to decide whether to waive sanctions targeting oil purchases, he chose to withdraw the United States altogether and to reimpose all of the sanctions previously in place. The Treasury Department has already published a [specific set of guidance](#) as to what sanctions will be back in place by when, essentially putting less intensive sanctions on a 90-day clock (expiring on August 6) and more intensive ones on a 180-day clock (expiring on November 4).

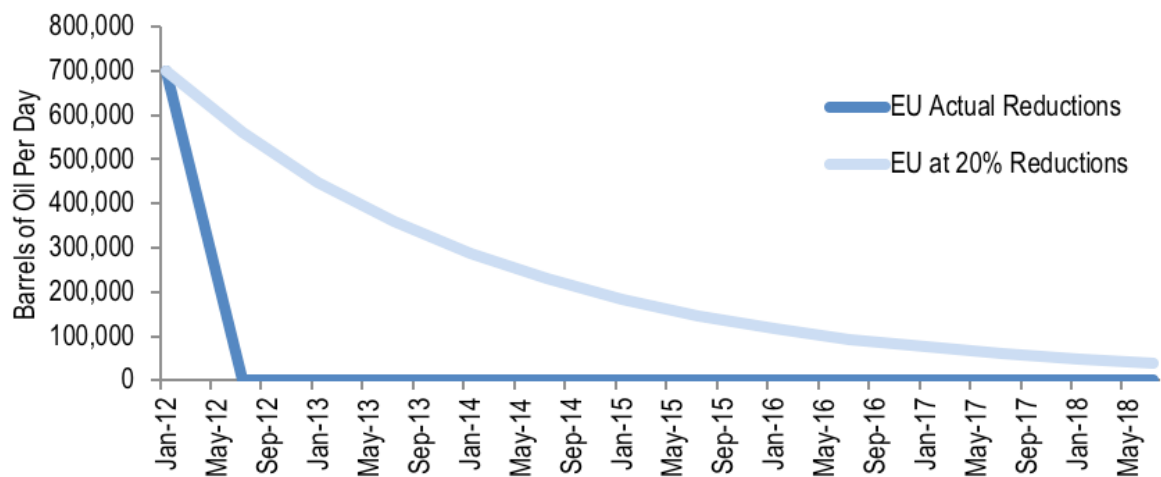
Governments will prioritize further outreach with Washington to understand how the United States will implement the restored sanctions and how rigorously they will be applied in their individual cases. Many different theories have been promulgated since Trump's January ultimatum, including that he will immunize the companies of U.S. negotiating partners and allies. But, the president offered no such accommodation in his speech on May 8 and, instead, directly threatened countries that refuse to cooperate with U.S. sanctions implementation. Still, notwithstanding the new guidance and mindful of decisions made regarding aluminum and steel tariffs, countries will likely reach out to the United States to seek clarification as to exactly what will be demanded of them and their companies. Depending on the U.S. response, countries will then decide whether to cooperate with the United States, to play for time while insulating their firms as best they can, or to confront the United States and retaliate for sanctions imposition.

Of the U.S. partners, those in Europe are in the best position to reject this decision and to retaliate, even if they decide not to do it. As David Mortlock and I wrote [previously](#), there are existing authorities for European Union member states to use in retaliating against U.S. economic interests in Europe. Set in the context of a souring political relationship (including with tariff threats crossing the Atlantic on a frequent basis), it is possible – if not yet likely – that the European governments most affected by a decision to restart sanctions against Iran will respond using these authorities.



Even if they do not (and recent conversations with European officials suggest a more moderate European response), this is no victory for the United States. Sanctions against Iran had success in the 2006-2013 period not merely because we were able to threaten and bully our partners into cooperating (though coerced multilateralism did have a role). Instead, we were successful because we also secured their political support for action. The consequences of this in terms of actual pressure against Iran are hard to prove, but one example may bear out the point: in 2012, the United States began to push countries to reduce their purchases of Iranian oil significantly. We used as our metric of merit oil volumes and demanded 20% cuts every 180 days. But, we had no such need to engage European governments as the EU decided in early 2012 to bring European purchases to zero within six months. Put in barrel terms, rather than seek 20% reductions against the then-average of 700,000 barrels per day of purchases, we were able to secure zero purchases almost immediately. In other words, as Figure 1 shows, had we approached the EU like any other country – rather than as a partner – it would have taken six years to achieve through pressure what the United States did in six months with cooperation.

Figure 1: European purchases of Iranian oil, real and potential



Source: Author's calculations.

Indeed, one of the many reasons why JCPOA proponents are skeptical that a restart of sanctions in this context will work is because grudging cooperation is no way to generate real pressure on the Iranians. Such cooperation is inherently limited and will make policing evasion harder, as well as securing voluntary agreements to stop any smuggling activity. Moreover, there is a real risk that other countries – including, perhaps, China – will actively undermine sanctions by increasing their purchases from Iran, especially if the Iranians [offer discounts or preferential terms](#).

Iran

How Iran responds will be a crucial to determining the success of the current US strategy. The Iranians have three options, though the potential variations are endless:

1. Retaliate immediately by restarting all restricted nuclear activities and terminating their

JCPOA-mandated monitoring commitments;

2. Accept this U.S. decision without response, other than to play the victim; and,
3. Use the opportunity to split the U.S.-led coalition by playing the victim to a certain degree and restarting some aspects of their still restrained nuclear program.

Based on some of the comments made by Trump Administration officials and those advising them, it appears as if there is some confidence that the Iranians will simply absorb this decision, fearful of losing what economic relief they would still receive. Though this is directly contrary to all Iranian talking points associated with the JCPOA, there is some sense to this idea, not least coming from the fact that Iran's economy is as fragile as it is due to the ongoing currency and investment crisis. Iran's leaders could certainly decide, especially if the U.S. implementation phase of renewed sanctions is going to be comparatively mild, that it is better to leave well enough alone for the time being.

However, this is an optimistic read of Iranian demands, politics, and history. A number of factors drive Iran's leadership, but a key one is that of seeking respect from the international community and maintaining Iran's God-given place in the global pecking order. That they would take an insult from an adversary is suspect, especially because any reduction in sanctions relief under the JCPOA would be a violation of the JCPOA. Iranian President Rouhani – and, much less, Supreme Leader Khamenei – would be in no position politically to restrain those in the Iranian system who thought the agreement was a mistake. Moreover, it is not at all certain that they would wish to.

What is more likely is that Rouhani will seek to persuade Khamenei that the opportunity now exists to present Iran as a constructive state that is attempting to stabilize the Middle East and international security through negotiated solutions to problems. Iran's leaders frequently point to the fact that they, unlike other countries, were invited into Syria to help arrest instability and conflict. That the United States disagrees with this interpretation and finds it morally repugnant (given that this invitation has also included supporting horrors visited upon the Syrian people) may not matter much in an international environment that has come to see the United States as a source of instability and conflict. Trump's decision, which flies in the face of global opinion on the JCPOA, will reinforce the impression that the United States is the aggressor in this situation and that Iran is a comparatively innocent party; reporting from the International Atomic Energy Agency (IAEA) that Iran remains in compliance with its obligations under the JCPOA will help make this case.

But, in time, Iran's nuclear program will need to expand beyond its JCPOA restrictions, even if this happens slowly and in pace with sanctions implementation. When this happens, the President will face another crucial decision: whether to pursue sanctions in earnest as a means of arresting Iran's nuclear program, in hopes of eventually restarting negotiations toward a "better" deal, or to abandon sanctions. Unfortunately, I expect that the implementation of sanctions Trump is likely to experience as a result of this capricious and rash decision will not reinforce their value to him. And, once more, the United States will then be forced to decide between acquiescing to Iranian nuclear activities that raise the specter of an imminent weapons breakout or undertaking military action to set back the nuclear program.



About the Author

Richard Nephew joined the Center on Global Energy Policy in February 2015 directly from his role as Principal Deputy Coordinator for Sanctions Policy at the Department of State, a position he held since February 2013. Nephew also served as the lead sanctions expert for the U.S. team negotiating with Iran. From May 2011 to January 2013 Nephew served as the Director for Iran on the National Security Staff where he was responsible for managing a period of intense expansion of U.S. sanctions on Iran.

The views represented in this commentary represent those of the author.

This work was made possible by support from the Center on Global Energy Policy. More information is available at <http://energypolicy.columbia.edu/about/mission>.



ABOUT THE CENTER ON GLOBAL ENERGY POLICY

The Center on Global Energy Policy provides independent, balanced, data-driven analysis to help policymakers navigate the complex world of energy. We approach energy as an economic, security, and environmental concern. And we draw on the resources of a world-class institution, faculty with real-world experience, and a location in the world's finance and media capital.

Visit us at www.energypolicy.columbia.edu

   @ColumbiaUenergy



ABOUT THE SCHOOL OF INTERNATIONAL AND PUBLIC AFFAIRS

SIPA's mission is to empower people to serve the global public interest. Our goal is to foster economic growth, sustainable development, social progress, and democratic governance by educating public policy professionals, producing policy-related research, and conveying the results to the world. Based in New York City, with a student body that is 50 percent international and educational partners in cities around the world, SIPA is the most global of public policy schools.

For more information, please visit www.sipa.columbia.edu