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Iran Nuclear Negotiations Crash Course

In November 2014, Iran and the P5+1 countries agreed to extend the Joint Plan of Action (JPA) on curbing Iran's nuclear program for a second time. As talks continue in Geneva, BPC has compiled an overview of everything you need to know to get up to speed on the JPA, the criteria that should be used to evaluate a possible deal, the sanctions currently in place against Iran and the role of Congress going forward.

Need help with talking points, hearing questions or draft legislation? Contact Laura Hall (lhall@bipartisanadvocacy.org) to talk to one of BPC's foreign policy experts.

Iran's Nuclear Program: What Is at Stake?

The Bipartisan Policy Center's Iran Initiative—led by former Senator Charles Robb (D-VA) and General Charles Wald (USAF, ret.)—has long argued that “a nuclear weapons-capable Islamic Republic of Iran is strategically untenable” and is the most urgent national security threat facing our country today.

What is the threat from a nuclear weapons-capable Iran?

A nuclear-ready or nuclear-armed Islamic Republic ruled by the clerical regime could threaten the Persian Gulf region and its vast energy resources, spark nuclear proliferation throughout the Middle East, inject additional volatility into global energy markets, embolden extremists and destabilize states such as Saudi Arabia and others in the region, provide nuclear technology to other radical regimes and terrorists, and seek to make good on its threats to eradicate Israel.

The threat posed by the Islamic Republic is not only direct Iranian action but also aggression committed by proxy. Iran remains the world's most active state sponsor of terrorism, proving its reach from Buenos Aires to Baghdad.

Achieving nuclear capability would make the Islamic Republic not only a regional threat but also an international one. A nuclear Islamic Republic would, in effect, end the Non-Proliferation Treaty security regime. Many, if not most, regional states might feel compelled to develop their own indigenous nuclear capability or accept coverage from another state's nuclear umbrella. Iran's continued nuclear development also endangers global non-proliferation by exposing weaknesses in the Non-Proliferation Treaty and the inability or unwillingness of the international community to enforce the Non-Proliferation Treaty or United Nations resolutions on non-proliferation.

Could a nuclear Iran be contained, like the Soviet Union was during the Cold War?

We do not believe that analogies to Cold War deterrence are persuasive, and its proponents appear to us to have underestimated the difficulties of applying it to Iran. First, nuclear deterrence was less effective than commonly assumed; the United States and Soviet Union nearly stumbled into nuclear conflict on several occasions. Secondly, the Islamic Republic's extremist ideology cannot be discounted. While most Iranians care little for the theological exegesis of their rulers, the nuclear program remains within the grasp not of the president, a transient figure in Iran's power structure, but rather with the Islamic Revolutionary Guards Corps and the Office of the Supreme Leader, proponents of extreme ideologies.

Doesn't Iran have a right to a nuclear program?

Part of the Iranian strategy in developing its nuclear program has been to argue that it has an “inalienable right,” under the Nuclear Non-Proliferation Treaty (NPT), to nuclear technology for peaceful purposes and is thus legally permitted to develop a nuclear fuel cycle.

While the NPT does assure its signatories the right to nuclear technology for peaceful purposes, it does not necessarily ensure them a right to a complete nuclear fuel cycle. Outside sources, for example, might provide Iran with nuclear fuel to guarantee that there is no diversion to a weapons program. Tehran, however, has rejected such a possibility on several occasions and continues to insist it must have access to all aspects of the nuclear fuel cycle. This insistence on obtaining a full nuclear full cycle rather than just nuclear energy remains a source of international concern.

Furthermore, no right can be claimed under the NPT to a technology—such as enrichment—that undermines nonproliferation by placing a state mere days or hours from having weapons-grade nuclear material.

Background on the Joint Plan of Action (JPA)

What is the JPA?

On November 24, 2013, Iran and six world powers agreed to an interim deal, known as the JPA. The White House described the goal of the agreement as to “prevent Iran from using the cover of negotiations to continue advancing its nuclear program as we seek to negotiate a long-term, comprehensive solution that addresses all of the international community's concerns.”

Under the JPA, Iran agreed to halt certain portions of its nuclear program and grant inspectors from the International Atomic Energy Agency (IAEA) increased access to its nuclear sites. In return, Iran received access to \$4.2 billion in frozen funds and limited sanctions relief.

The JPA went into effect on January 20, 2014 for an initial six-month negotiating window. Iran and the P5+1 were unable to reach a final deal by the July 20 deadline and agreed to extend negotiations for an additional four months, imposing a new deadline of November 24, 2014.

Still unable to reach a final agreement, however, Iran and the P5+1 extended the JPA a second time, setting a new set of deadlines: a high-level political agreement by March 1, 2015, and a final agreement with all technical details by July 1, 2015.

Who is involved?

The JPA was negotiated between Iran and the P5+1, a group of nations consisting of the five permanent members of the United Nations Security Council (the United States, Russia, China, United Kingdom and France) plus Germany.

What is included in the JPA?

Under the JPA, Iran has agreed to:

- Halt production of its near 20 percent enriched uranium and disconnect the centrifuge cascades used to produce it;
- Begin diluting half of its near 20 percent enriched uranium stockpile and convert the rest to an oxide form not suitable for further enrichment without reconversion;
- Allow access to IAEA inspectors to verify that Iran is:
 - Not enriching uranium in roughly half of installed centrifuges at Natanz and three-quarters of installed centrifuges at Fordow, including all next-generation centrifuges;
 - Limiting its centrifuge production to only those needed to replace damaged centrifuges;
 - Halting activities at Arak, including production and additional testing of fuel for the Arak reactor, installing reactor components or transferring fuel or heavy water to the reactor site;
 - Not constructing additional enrichment facilities or a facility capable of reprocessing.
- Grant IAEA enhanced access to:
 - Daily access to Natanz and Fordow;
 - Managed access to: centrifuge production facilities, uranium mines and mills and the Arak heavy water reactor.

In return, the P5+1 committed to:

- Facilitate Iran's access to \$4.2 billion in Iranian funds that had been frozen in overseas accounts, to be released at set intervals throughout the six months, linked to Iran's progress in diluting its stockpile of near 20 percent enriched uranium;
- Provide limited sanctions relief for Iran's petrochemical exports, automotive manufacturing sector, civil aviation sector and the import and export of gold and other precious metals;
- Iran's total financial benefit under the JPA (sanctions relief coupled with the released \$4.2 billion of frozen funds), according to the White House, would amount to approximately \$7 billion during the six month duration of the deal. However, the Foundation for the Defense of Democracies warned that sanctions relief from the JPA could be much higher, reaching as much as \$20 billion or more.

The JPA also outlined elements of a comprehensive solution, which should:

- Have a specified long-term duration;
- Reflect the rights and obligations of parties to the NPT and IAEA Safeguards Agreements;
- Comprehensively lift UN Security Council, multilateral and national nuclear-related sanctions, including steps on access in the areas of trade, technology, finance and energy, on an agreed-upon schedule;
- Include an enrichment program with mutually agreed upon parameters consistent with practical needs, with agreed limits on scope and level of enrichment activities, capacity, location and stockpiles, for an agreed upon period;
- Resolve concerns related to the reactor at Arak, with no reprocessing or construction of a facility capable of reprocessing;
- Fully implement agreed upon transparency measures and enhanced monitoring, including ratifying and implementing the Additional Protocol;
- Include international civil nuclear cooperation on acquiring modern light water power and research reactors and associated equipments, supply of modern nuclear fuel and agreed R&D practices, among others.

Evaluating a Possible Deal

“No deal is better than a bad deal,” is a refrain that has been repeated by members of Congress from both sides of the aisle; high-ranking Obama administration officials, including Secretary of State John Kerry and chief nuclear negotiator Wendy Sherman; and numerous experts. How will we know if a deal is good enough to prevent a nuclear weapons-capable Iran?

What issues will a “good” deal have to address?

Across multiple administrations from both political parties, the primary objective of U.S. policy toward Iran has been to prevent Iran from acquiring nuclear weapons. To meet that objective, a diplomatic agreement with Iran will have to address a range of issues, which can be grouped into three broad categories: (1) Iran’s ability to produce a nuclear weapon; (2) mechanisms for verifying Iran’s compliance with the deal and (3) incentives for agreeing and sticking to the deal.

Iran’s Nuclear Capabilities

- Fissile Material
 - Number of Centrifuges Operating
 - Type of Centrifuges Operating
 - Number of Centrifuges Installed
 - Type of Centrifuges Installed
 - Centrifuge R&D
 - Enrichment Facilities
 - Enrichment Level
 - Enriched Uranium Stockpiles
 - Plutonium Production/Arak Heavy Water Reactor
- Nuclear Weapon Design
- Ballistic Missile Development

Verification

- Inspections
- Deal Duration

Incentives

- Signals of Resolve
- Sanctions Relief

How do we know if this is a “good” deal or a “bad” deal?

Beyond the technical specifications of a final agreement, BPC has identified several main takeaways for evaluating a nuclear deal with Iran:

Constraining Iran’s intentions

Whatever the content of any potential comprehensive deal, no matter how restrictive it might be, Iran will maintain the knowledge and technical abilities it has acquired over the many years it has operated its nuclear program. It will always be able to apply these to pursuing a covert nuclear program or to restarting its facilities once a comprehensive deal lapses, should it decide to do so. Diplomacy alone, therefore, cannot truly prevent a nuclear Iran, but it can constrain its intentions.

A negotiated solution will have to put in place conditions that deter Iran from making use of the capabilities it will still retain.

Breakout time and inspections

An Iran deal should include enough mechanisms to allow the United States and others to detect any attempts made by Iran to achieve breakout with sufficient time to act to prevent Iran from producing sufficient fissile material to fabricate a weapon. One way to affect this equation is to seek to increase the amount of time Iran would require to breakout.

However, while breakout timing is a useful proxy for the obstacles a deal might create for an Iranian sprint to the bomb, it should not be used on its own to judge a deal's merits. Without a robust inspections regime, it will be impossible to tell whether Iran is actually complying with the restrictions imposed on its nuclear program.

Preserving incentives

Iran has made clear that it expects relief from the sanctions that have slowed its economy in return for its concessions. To get the most and quickest economic benefit, it will push to have as many sanctions lifted as soon as possible. The faster these measures are removed, however, the less incentive Iran will have to comply with the deal in the future—having already gotten what it wanted most and knowing that it took a decade to build up the previous sanctions regime. A comprehensive deal will, thus, have to strike a balance between giving Iran enough reasons to sign on to a deal now and to stick with it in the long term. To that end, a phased approach to sanctions relief will be crucial.

Continued resolve

Another key aspect of constraining Iran's nuclear ambitions will be the continued vigilance and resolve signaled by the United States upon completion of a comprehensive deal. For any deal to work, the P5+1 will need to take steps to show the resolve to monitor and enforce the terms of the agreement for years on end.

Should Iran believe that verification of its compliance is dwindling or the will to punish any transgressions is waning, it will have little incentive to continue observing the terms of its deal.

The Role of Congress

For a good deal—one that both adequately reins in Iran's nuclear program and ensures Iranian compliance for the long term—the White House and Congress must be on the same page. Any Iranian nuclear concessions will be motivated by Tehran's need to alleviate the economic pain imposed by international sanctions. Ultimately, only Congress can grant that relief.

What U.S. sanctions are currently in place against Iran?

The comprehensive sanctions regime built by the United States over the course of decades is complicated and multi-layered. Sanctions have been put in place in response to Iranian transgressions in a number of areas—its nuclear program, human rights abuses, support for terrorism and money laundering—and targeting a number of sectors—including its energy, shipping, shipbuilding, automotive, aviation, mining and financial sectors.

Across all these areas, sanctions against Iran take the form of Executive Orders and legislation, some allowing for temporary waivers or suspensions by the White House and some requiring Congressional action for any alteration.

Who has the authority to offer relief for each sanction and what mechanisms are there for sanctions relief?

Sanctions relief can be broken down into three broad categories: executive orders that can be unilaterally rescinded by the president, sanctions with the built-in authority for the president, secretary of state or secretary of the treasury to issue time-limited waivers or suspensions, and legislation that can only be altered or revoked by congressional action.

Unilateral executive action

With the exception of executive orders that have been codified into legislation or are tied to existing sanctions legislation, the president can unilaterally offer sanctions relief by issuing new executive orders amending or repealing previous ones.

Waivers

Existing sanctions legislation has a comprehensive system of waivers allowing the president, or the secretary of state and secretary of the treasury, to temporarily waive or suspend sanctions under the broad mandate of serving U.S. interests, with only the requirement that they report to Congress explaining their decision.

Congressional Action

Beyond the president's waiver authority, all sanctions passed into legislation require Congressional action to fundamentally alter or fully revoke.

Iran Sanctions Relief			
Appendix A: Sanctions Easing by Jurisdiction			
Sanction	Power to Revoke	Waiver/Exemption Authority	Targets
Export Administration Act (1984)	Congress	Secretary of State and Secretary of the Treasury and – if they cannot agree – the President	Terrorism
Foreign Assistance Act (1985)	Congress	Secretary of State	Foreign Assistance
Antiterrorism and Effective Death Penalty Act (1996)	Congress	President	Foreign Assistance; Terrorism
Iran Sanctions Act (1996)	Congress	President	Energy
Foreign Operations, Export Financing and Related Program Appropriations Act (1997)	Congress	President	Foreign Assistance; WMDs and Conventional Weapons; Financial Sector
Executive Order 13224 (2001)	President	Secretary of State and Secretary of the Treasury	Terrorism
USA Patriot Act Section 311 (2001)	Congress	Secretary of the Treasury	Money Laundering
Executive Order 13382 (2005)	President	Secretary of the Treasury	WMDs
Iran Freedom Support Act (2006)	Congress	President	WMDs and Conventional Weapons
Arms Export Control Act (2008)	Congress	President	Terrorism; Weapons

Executive Order 13553 (2010)	President	Secretary of the Treasury	Human Rights
Comprehensive Iran Sanctions, Accountability and Divestment Act (2010)	Congress	President	Energy; Human Rights; Financial Sector; WMDs and Conventional Weapons; Trade
Iran Nonproliferation Act of 2000 (Renamed the Iran North Korea Syria Nonproliferation Act (2011))	Congress	President	WMDs
Executive Order 13572 (2011)	President	Secretary of the Treasury	Human Rights
FY2012 National Defense Authorization Act (2011)	Congress	President	Money Laundering; Financial Sector
Iran Threat Reduction and Syria Human Rights Act of 2012	Congress	President	Energy; Human Rights; WMDs; Financial Sector; Trade
Executive Order 13599 (2012)	President	-	Financial Sector
Executive Order 13608 (2012)	President	-	Sanctions Evasion
Executive Order 13622 (2012)	President	-	Energy
FY2013 National Defense Authorization Act (2013)	Congress	President	Energy; Financial Sector; Trade

What is the role for the legislative branch in these negotiations?

The goal of preventing a nuclear Iran has always been a bipartisan one. If a final agreement is reached, maintaining that bipartisanship, especially in the form of cooperation between the White House and Capitol Hill, will be crucial to its success. However, U.S. negotiators are reportedly considering how to structure a potential deal with Iran such that lawmakers need not approve it. Trying to bypass the legislative branch on an international issue of this magnitude is likely to be counterproductive.

While the president has the authority to offer sanctions relief in the form of time-limited waivers, sanctions repeal – Iran’s ultimate motivation in negotiations – will require Congressional action. If an agreement is to have a chance of holding, lawmakers will have a real and necessary role to play, whether or not it is technically required. If they are denied it, the possibility of a lasting, peaceful solution to Iran’s nuclear ambition dwindles rapidly. Although any agreement with Iran will not be a treaty, and therefore will not require Senate ratification, it should none-the-less involve Congress.

Want more information?

Want more than just a crash course? Visit our website for all of BPC’s work on Iran:

<http://bipartisanpolicy.org/blog/tag/iran/>.