



## Enforcing the Iran Nuclear Deal More Effectively and Holistically; A Response to Recent Analysis by IISS

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*The Trump administration is right to take a more enforcement based approach to the Iran nuclear deal. A far better approach is to aggressively enforce the deal, challenging Iran on each violation regardless of its size, and insist that Iran can no longer exploit loopholes and ambiguities in the deal. It is perhaps on this issue of enforcement where we have our most fundamental disagreement with a recent International Institute for Strategic Studies (IISS) report.*

A major strategy of proponents of the Iran deal, or Joint Comprehensive Plan of Action (JCPOA), has been to try to avoid any discussions of Iranian violations of the deal, trying to call them issues, implementation hiccups, or other terms meant to downplay their significance. As we have documented elsewhere in Congressional [testimony](#) or in [reports](#), based on discussions with a wide range of officials in the P5+1 and International Atomic Energy Agency (IAEA), Iran has committed many violations, pushed against the compliance envelope, sought to exploit loopholes and ambiguities in the deal, and tried to take steps to reduce its breakout timeline for making nuclear weapons. We do not believe any one of Iran's violations so far has risen to the level of a material breach of the agreement, a key U.S. legislative criteria that can trigger the expedited re-imposition of sanctions under the Iran Nuclear Agreement Review Act of 2015. However, unless Iran is stopped, this incremental cheating collectively has been moving toward a material breach. This is where the Trump administration has played a key role. It decided early and correctly that Iran's behavior had to be confronted.

We do not know if the Trump administration will keep the Iran deal or seek to fix it, or perhaps both, but the administration has already changed the dynamic of enforcement. One key change is that the new administration will no longer look at Iran's violations one-by-one, often treating them as insignificant, even excusing or creating work-arounds to them. The Trump administration is starting to look at confronting and stopping each violation. This approach is more consistent with U.S. interests, regardless of the fate of the deal.

The Trump administration does not value the deal nearly as much as the Obama administration, which viewed it as perhaps the administration's most important foreign policy legacy. The new administration sees fundamental problems in the deal's enforcement and particularly in the

relatively short duration of the deal's key nuclear limitations. It is also far more willing to confront Iran's nefarious behavior across a wide range of fronts, including the nuclear one. The EU3 have agreed to a tougher approach on the JCPOA, based on discussions with EU3 officials, out of concern that the Trump administration is willing to leave the nuclear deal. For some, they were also genuinely worried that the Obama administration was just too lax and accommodating toward Iranian nuclear-related behavior.

Thus, the times have changed, but many Obama administration deal supporters apparently hope that the terms of the debate have not shifted. This brings us to a recent [analysis](#) by IISS. While broadly supportive of much of our analysis, this report attempted to refute some of the points made in our [own analysis](#) of the IAEA's latest report on the implementation of the Iran nuclear deal.

The basic weakness of the IISS report is a consistent bias to downplay individual violations; in fact, like many of the Obama era deal supporters, the report cannot bring itself to use the term. Instead of taking a more holistic view of a series of compliance controversies, pushing against limits, and Iranian violations, the report seeks to treat each issue separately. These issues taken together represent persistent efforts by Iran to violate and push against the deal provisions and should be seriously addressed. Together, these issues could assist an Iranian breakout should it renege on the provisions of the deal or aid a surge in its nuclear capabilities if the deal fails. It is thus unwise to dismiss each one and ignore their collective impact on weakening the Iran deal, including reducing breakout times. A far better approach is to aggressively enforce the deal, challenging Iran on each violation regardless of its size, and insist that Iran can no longer exploit loopholes and ambiguities in the deal. It is perhaps on this issue of enforcement where we have our most fundamental disagreement with the IISS report.

On more specific points, we appreciate that the IISS report agrees with us that the IAEA has not stated Iran is complying with the JCPOA and that determining compliance is not the task of the IAEA in any case.

However, the IISS report repeats a common error that the administration certified Iran in compliance with the JCPOA in a recent 90-day review under the Iran Nuclear Agreement Review Act. That particular certification, which was contained in a letter to Congress, focused on stating that Iran was not in material breach of the agreement and was fully implementing it. The certification was not a determination that Iran had not violated the deal, only that no violation had occurred during the previous three months rising to the level of a material breach. This distinction matters. If the certification was not positive, sanctions could be re-imposed in an expedited manner. This section of the act was a compromise between Republican and Democratic Senators, ensuring that only the most serious violations would lead to sanctions coming back. The specific objection to the original language was that a minor violation should not trigger sanctions, only the most significant ones. So, the certification letter itself does not concern itself with the issue of compliance more generally. However, the State Department press release accompanying the certification letter used the term compliance and this usage has caused the confusion. We believe, based on discussions with senior administration

officials, that this press release was a misstatement of the intent of the letter and the certification.

Instances where we feel the IISS report seeks to downplay compliance controversies, to the detriment of taking a holistic view of Iran's compliance and actions overall, include:

- Characterizing Iran's overages of the heavy water condition in the JCPOA as having "little current proliferation concern" because of the current inoperability of the Arak reactor;
- Suggesting that issues relating to Iran's centrifuge R&D efforts are overstated, such as controversy over how many IR-6 centrifuges it can operate and its production of more bellows and rotors than needed for currently operating centrifuges. Omitted is any discussion of Iran's misuse of allowed limited quality assurance activities to conduct additional mechanical testing or other banned activities;
- Downplaying Iran's enrichment of quantities of depleted uranium to produce uranium hexafluoride (UF<sub>6</sub>), as part of a broader effort to greatly increase its stock of natural uranium; and
- Claiming that not counting Iran's inventory of enriched uranium in low-level waste is acceptable because such waste is arduous to recover and would be detected by the IAEA.

Another difference between our approach and that advocated by IISS concerns the issue of IAEA access to Iranian military sites and verification of section T, Annex 1, of the JCPOA, which bans certain key nuclear weapons development activities and requires monitoring of non-banned activities. The crux of the issue is that we have concluded that the IAEA cannot verify this important section of the JCPOA without visiting sites, some of which will likely be military ones. Unless further information is provided by the IAEA to address concerns, we consider this to be a major, unverified provision of the deal. The IISS report takes issue with the notion that the IAEA should visit Iranian military sites as a means of verifying [Annex I, Section T, of the JCPOA](#). The report instead states the IAEA "should reserve its site visit requests to specific instances when it has actionable information and for which it would have the strong support of the Board of Governors." The report does acknowledge that the IAEA will need to visit some military sites to reach a broader conclusion about the peacefulness of Iran's nuclear activities. Yet, it omits that the JCPOA empowers the IAEA to undertake ongoing verification of activities relating to weaponization in Iran – yet it has not done so. This point is worth expanding on.

Section T states:

*82. Iran will not engage in the following activities which could contribute to the development of a nuclear explosive device:*

*82.1. Designing, developing, acquiring, or using computer models to simulate nuclear explosive devices. 82.2. Designing, developing, fabricating, acquiring, or using multi-point explosive detonation systems suitable for a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.3. Designing, developing, fabricating, acquiring, or using explosive diagnostic systems (streak cameras, framing cameras and flash x-ray cameras) suitable for the development of a nuclear explosive device, unless approved by the Joint Commission for non-nuclear purposes and subject to monitoring.*

*82.4. Designing, developing, fabricating, acquiring, or using explosively driven neutron sources or specialized materials for explosively driven neutron sources.*

Among these provisions are activities that Iran regularly carries out for other applications, for example, the use of explosive diagnostic systems and the conducting of high explosive tests, some of which are likely to involve equipment or activities suitable for a nuclear explosive device. Subsection 82.3 explicitly states that certain such activities must be approved by the Joint Commission. It is therefore the IAEA's responsibility to verify that Iran is carrying out any such activities according to the approval of the Joint Commission and to visit the sites to ensure Iran is in compliance with section T. Iran may argue that it does not have any streak cameras, framing cameras, or flash x-ray cameras suitable for the development of a nuclear explosive device but past Iranian procurements contradict this assertion. Moreover, such a broad claim would need to be verified in any case.

The IAEA is empowered to question Iran about these types of equipment and activities for non-nuclear means under UN Security Council resolution 2231, and then seek to determine whether its statements are true and accurate. The IAEA is certainly empowered to request visits to military sites where these activities are occurring.

The Section T verification being requested is no different in nature than that being applied by the IAEA at Iran's uranium enrichment facilities to ensure that Iran is not misusing these facilities to enrich uranium for nuclear weapons or other banned purposes. No one would argue for the criteria advocated by IISS, namely only to request to go to the enrichment plants when the IAEA has actionable information and the strong support of the Board of Governors. Such a verification arrangement would of course be rejected because of the need for routine access and surveillance. The IISS criteria should also be rejected with Section T's fundamental and important ban on the development of nuclear weapons. The IAEA needs to implement a verification approach that routinely verifies that Iran is abiding by its Section T obligations.

We appreciate additional considerations to our analysis and a healthy debate about Iran's compliance with the deal, but urge other groups and analysts to take a more enforcement-based approach. After all, the onus is on Iran to show that it is complying with the deal after more than a decade of a regional nuclear crisis of its own creation and consistent subversion of IAEA safeguards.