



The Joint Comprehensive Plan of Action “Kicks the Can Down the Road”: How to prepare for the day when the can finally lands

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The Joint Comprehensive Plan of Action (JCPOA) may only delay the crisis over Iran’s nuclear program. In that case, a political predicate is needed for not accepting or approving of an unnecessary, uneconomic semi-commercial Iranian enrichment program or any reprocessing program after the major limitations of the JCPOA expire.

The Joint Comprehensive Plan of Action’s fundamental goal is to ensure that Iran’s nuclear program is peaceful even after its major nuclear limitations end. Put in alternative formulations, it seeks to ensure that Iran will not build nuclear weapons, or more directly, that Iran will be prevented from building them during the life of the agreement, which is not a time bound commitment in general terms. Whether it meets this goal is unclear, and even perhaps doubtful in the long term. This uncertainty poses one of the more fundamental challenges to the agreement. To reduce this potential negative aspect of the deal, the United States should view the deal as by no means approving of Iran’s plans for a large uranium enrichment program or its possible plans to create a reprocessing program. It should do so on the basis that they are uneconomic and unnecessary and pose a threat to regional and international security. The JCPOA’s preface conditions Iran’s nuclear program and its growth on “scientific and economic considerations” and assurances that the programs are for “exclusively peaceful purposes, consistent with international non-proliferation norms.” These conditions are unlikely to be met 10-15 years from now. Making this political predicate clear for not accepting or approving of any plutonium reprocessing or large growth in uranium enrichment will lay the basis for the United States to be able to deal with issues that emerge after most of the deal’s restrictions end.

For ten years, this agreement creates the conditions that any serious effort by Iran to build nuclear weapons will be highly time consuming and will be vulnerable to detection, allowing time for a harsh response. The JCPOA will likely do as it claims and this is the most notable strength of the agreement.

After ten years, however, the picture is far from clear. After year 10, and particularly after year 15, as limits on its nuclear program end, Iran could reemerge as a major nuclear threat. Even if the deal succeeds during the first ten years, it is unknowable whether the agreement will continue to accomplish its fundamental goal of preventing Iran from getting nuclear weapons in the long term. Iran might abide by its commitments and value the benefits of international nuclear cooperation, in the process deciding to give up any remaining aspiration to build a weapon after the major nuclear limitations end, but it could also, after these limits sunset, choose to build up a large nuclear weapons capability and ultimately seek nuclear weapons. Because the agreement does not prohibit Iran from building a large uranium enrichment capability and even a reprocessing, or a plutonium separation, capability, the agreement essentially delays the day when Iran reestablishes a nuclear weapons capability and possibly

builds nuclear weapons, i.e. the agreement essentially “kicks the can down the road.” Prudent planning requires careful efforts now to prepare for the day when the can lands.

Iran’s intentions, as expressed during the negotiations, are that it will deploy a large gas centrifuge program after year 13. But there is nothing in the agreement requiring the parties to accept, or endorse, Iran putting together dangerous, unnecessary and uneconomic uranium enrichment and plutonium separation programs. (There is also of course not text forbidding it, thus the requirement for the parties to make this clear).

During the negotiations, according to discussions with negotiators, Iran laid out its plans for expanding its nuclear programs, in particular its gas centrifuge program. Iran’s priority program was its centrifuge program, and it stated its intention to deploy advanced centrifuges, such as the IR-2m, IR-4, IR-6, and/or IR-8 centrifuges, after year 10 of the agreement and in particular greatly ramp up their deployment after year 13.

Formally, in the JCPOA, Iran has agreed to “abide by its voluntary commitments as expressed in its own long term enrichment and enrichment R&D plan to be submitted as part of the initial declaration described in Article 2 of the Additional Protocol.” Although Iran’s nuclear plan and apparently the associated annex to the JCPOA are secret, Iran’s commitments are known to include limits on the ramp-up in enrichment capacity from year 10 through year 13. At year 13, the breakout timeline will be about six months, which will constrain the number of IR-2m, IR-4, IR-6, and IR-8 centrifuges Iran can deploy at the Natanz plant. After year 13, the breakout timelines are expected to reduce, as Iran deploys centrifuges at an expanded rate. After year 15, this rate could increase significantly. This planned ramp-up after year 13 combined with the removal of limitations on enrichment level after year 15 means that Iran’s breakout timelines could shrink to just days.

The breakout timeline for the centrifuge program is expected to transform from one year at year ten to about six months at year 13 and then it could shrink to days after year 15, in particular if Iran resumes production of near 20 percent LEU. At that point, Iran could have in place a nuclear infrastructure that could produce significant quantities of weapon-grade uranium rapidly and turn that material into nuclear weapons in a matter of months. Within a few short years, Iran could emerge with a nuclear arsenal of many nuclear weapons. Clearly, this outcome poses significant security concerns.

Some intrusive verification measures, such as the Additional Protocol, will remain in place after year 15 of the deal, but they are not sufficient to stop Iran from obtaining nuclear weapons. Likely, Iran moving to break out to make nuclear weapons would be detected. However, even with intrusive verification, the production of the first one or two significant quantities of weapon-grade uranium could well be missed by inspectors until after the fact, since breakout could happen so quickly at that point and Iran could take a few simple steps to delay the inspectors from becoming aware of the breakout. Moreover, small, secret enrichment plants using highly advanced centrifuges could escape detection for months. So, even with the planned verification arrangements, Iran could cheat successfully, at least for a while. And that period would be enough to allow Iran to create facts on the ground that would make a response, even a military one, highly risky and thus doubtful. Moreover, Iran could also withdraw from the Nuclear Non-Proliferation Treaty (NPT) and move to obtain nuclear weapons. Stopping Iran could be difficult, as it proved difficult to stop North Korea in the early 2000s from withdrawing from the NPT and building nuclear weapons. For these reasons, relying on verification alone is not adequate or prudent.

It should also be recognized that the JCPOA is not a typical non-proliferation agreement, if such a thing truly exists. Nonetheless, for all the criticisms of the US/North Korean Agreed Framework, if it had been fully implemented, it never would have allowed North Korea to reestablish its large plutonium production and separation capabilities of the early 1990s. It would have in fact permanently ended those dangerous capabilities in exchange for light water power reactors, such as the one at Bushehr, and a commitment not to separate plutonium. The Agreed Framework was structured to permanently end the threat posed by North Korea's breakout capability implicit in its plutonium production and separation programs, not just temporarily delay these programs from reaching full maturity. Thus, the shortcomings, leading potentially to undesirable outcomes, of parts of the JCPOA should be acknowledged and ways sought to remedy them.

Since the agreement is unlikely to ensure that Iran's nuclear program remains peaceful after its first fifteen years, the United States needs to take steps today to increase the chance that it can respond successfully to stop Iran moving to build nuclear weapons after the major nuclear limitations end. This policy may help deter Iran from trying later. One part of that effort is the United States and its P5+1 partners not accepting or approving of Iran's nuclear plans after year 10. The negotiations showed that Iran does not need an enrichment program; Iran accepted an arrangement that would require it to enrich uranium and then blend it down to natural uranium, demonstrating vividly that it does not need to produce enriched uranium. In reality, Iran could demonstrate no practical need for producing enriched uranium. Ten to fifteen years from now, Iran will still have no reason to produce enriched uranium for civil purposes. The deal facilitates Iran establishing contracts with overseas reactor suppliers, who will also be providing enriched uranium. Its nuclear program will be even more integrated into the international civil nuclear system, and it will be able to readily acquire enriched uranium for civil purposes. So, the United States and its allies should make clear that they do not accept or approve that Iran needs an enrichment program, particularly one that could grow many-fold as the limits in the agreement end. It should state that an Iranian semi-commercial enrichment program (or any reprocessing program) will be neither economic nor necessary and unlikely to be consistent with international non-proliferation norms.

Iran may protest such a statement. It may even cite the following provision in the agreement: "Successful implementation of this JCPOA will enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the nuclear Non-Proliferation Treaty (NPT) in line with its obligations therein, and the Iranian nuclear programme will be treated in the same manner as that of any other non-nuclear-weapon state party to the NPT." But the NPT does not give Iran the right to enrich uranium or separate plutonium. At least the former position has been made by U.S. officials, including Secretary of State John Kerry, who said, "There is no inherent right to enrich."¹ Moreover, the United States has frequently insisted that non-nuclear-weapon states refrain from dangerous nuclear programs when they live in regions of tension and pose a proliferation risk. Overall, the JCPOA does not contain unconditional provisions requiring the acceptance or approval of Iran scaling up its gas centrifuge program or instituting a reprocessing program. Neither does the agreement contain any language where the United States has approved of Iran developing enrichment and reprocessing programs. In fact, the United States should oppose giving such an approval, even as it argues for the deal.

¹ Aaron Blake, "Kerry on Iran: 'We do not recognize a right to enrich,'" *Washington Post*, November 24, 2013. <http://www.washingtonpost.com/blogs/post-politics/wp/2013/11/24/kerry-on-iran-we-do-not-recognize-a-right-to-enrich/>

It is not possible to project in any detail how the United States should deal with a resurgent, dangerous Iranian nuclear program in the future. Hopefully, the optimists are correct in predicting that Iran will fundamentally change its behavior in the future and that the motivations for it to build nuclear weapons will diminish. But conflicts with Iran over the nuclear program and many other issues may persist well into the future. In that case, we will be revisiting the issue of Iran's unhindered nuclear program in ten or fifteen years. Whatever the response will be, it will have significantly more chances of success if the United States lays down a clear marker today that it does not view Iran's centrifuge enrichment program or any plutonium separation program as legitimate.

More broadly, it is incumbent on those states, experts, and individuals concerned about Iran's future nuclear direction to find ways to dissuade it from implementing those nuclear plans that will create a great deal of instability and possibly even lead to war given the reduced certainty about its breakout capability as its programs grow. These plans, centered on uranium enrichment and possibly plutonium separation, are unnecessary and uneconomic. With a ten year limit on Iran's sensitive nuclear programs, there is time to convince Iran to change its dangerous plans. But that effort needs to start now. The administration should at least be willing to take part by clearly stating that it does not approve or endorse Iran's sensitive nuclear plans.