

President Joe Biden, his Administration, and our allies in the P5+1 are confronting a very different set of challenges and circumstances than what existed five years ago. It is likely that no foreign policy decisions will be as vexing as the ones they now face regarding Iran and the nuclear deal known as the Joint Comprehensive Plan of Action (JCPOA). We would like to offer a thoughtful way forward, one that can create a broad consensus regarding how the United States confronts Iran. To do so is in America's and our allies' interests. Here in the United States, the election was very close. The country is clearly divided. And the JCPOA was not popular; it could not be turned into a full-blown treaty because it would not have passed Congress. Simply reversing the previous Administration's Iran policy without trying to achieve an enduring policy consensus very much risks a "ping pong" phenomenon in US policy that will make any new agreement un-durable, with damaging repercussions that will almost surely lead to a nuclear arms race in the world's most incendiary region.

Here's the conundrum for policy-makers: On the one hand, the President said he would return to the JCPOA if Iran returned to compliance. On the other hand, the President and our allies will have to be clear-eyed about the regime in Tehran:

- * Nobody doubts that truly free elections would return a more moderate Iranian government. Nonetheless, we have to deal with the world the way it is, not the one we wished it were. The Iranian government is deeply unpopular. It is a brutal abuser of human rights within Iran, massacring its opposition, kidnapping and executing its detractors, and imprisoning civil society activists.

- * Iran still leads the world in state-sponsored terrorism. It still launders money, regularly plots assassinations abroad, props up other international outlaws with illicit trade, and fuels devastating proxy wars in the Middle East that endanger our allies' security while protecting dictators that deploy barrel bombs and chemical weapons against civilians.

- * Iran is a committed foe of the United States with the blood of American servicemen and women on its hands. Iran clearly has provided sanctuary to our most avowed enemies, including Al Qaeda. It continues to hold American hostages. It directs proxies that serve as hit-men targeting US military and diplomatic personnel.

- * The Iranian regime has threatened repeatedly to encircle and annihilate Israel's 9.3 million people, including 6.8 million Jews, a threat that must be taken seriously as it advances a program specifically intended to develop a nuclear weapons capability, and boasts of having precision-guided munitions that are targeted on Tel Aviv.

- * Iran could end with one telephone call the devastating war that its proxies started in Yemen, but chooses not to do so, instead raining Iranian made missiles and drones – through proxies as well as directly from their own territory -- on our friends in the region.

- * Iran's is, finally, a state that still and, most momentously, commits nuclear extortion as it escalates and expands its nuclear program.

But some things about Iran have changed. The Iranian people and those under the control of its proxies and partners have demonstrated their intense thirst for an end to oppression. Iran has also been hurt by an increasing wave of US economic sanctions, imposed over the course of decades via bipartisan cooperation in Washington. The sanctions have resulted in important leverage for the United States and the P4+1 in any future negotiations with Iran.

We therefore call first and foremost for common sense. There have been calls for President Biden to lift US sanctions and reenter the Iran nuclear deal (JCPOA) without preconditions. We respectfully urge him instead to develop a bipartisan strategy on Iran with Congress in conjunction with US allies and partners in Europe and the Middle East that reflects the regional realities of 2021, not 2015 when the original deal was agreed to.

While some of us are skeptical that Tehran's current regime will ever behave responsibly, we hope the President will apply the following common-sense standards to his Iran strategy:

No re-entry into the JCPOA along previous parameters. We must accept the fact that automatic re-entry by the United States into the JCPOA would mean reentering an agreement that has already begun to expire. Indeed, the majority of the UN Security Council believes that the UN arms embargo on Iran lapsed in October 2020 under the terms of the JCPOA. It would also mean agreeing to the expiration of the UN restrictions on ballistic missile-related transfers and activities, which under UN Security Council Resolution (UNSCR) 2231—which endorses the JCPOA—are set to expire in 2023. And in October 2025, UNSCR 2231 expires, along with any international legal basis for sanctioning Iran over its nuclear program. We are concerned that the expiration of these restrictions could lead to Iran's development of more precise medium-range ballistic missiles and even to the development of an intercontinental ballistic missile that could reach the United States. Re-entry into the JCPOA without addressing the sun-setting of these restrictions would undermine international peace and security.

Sanctions relief should not be provided in exchange for mere negotiations. To receive sanctions relief, Iran must earn it by verifiably ceasing its malign behavior, including ending the war in Yemen, its attempts to establish a permanent military presence in Syria, and its regular assault on US troops in the region either directly or through proxies. As it would be completely nonsensical for the Administration to directly or indirectly release funds that simply fuel and fund Iran's destabilizing activities, any such unilateral concession would ensure broad-based opposition to the Administration's policies.

We must return to the principle of zero enrichment or reprocessing or risk a nuclear arms race in the Middle East. The JCPOA represented a departure from the previous international demand of zero uranium enrichment or plutonium reprocessing. These conditions are recognized in the United States as "the gold standard" for the international licensing of US nuclear technology for peaceful purposes. It is currently applied to US partners in the region and should be applied to Iran as well. Currently, Iran's ability to quickly ramp up its enrichment of uranium after the US withdrawal from the accord has demonstrated the danger of that concession and the ability of the regime to continue to extort the international community. There remains no compelling basis for Iran to enrich uranium other than for nuclear extortion or weapons development. Negotiators in 2021 should reinstate the demand for zero enrichment or risk what will certainly be an understandable decision by our allies in the region, already the victims of attacks by Iran, to achieve parity. This move will surely prompt others like Turkey and Egypt to demand the same, inevitably creating a cauldron of nuclear tension in the region.

Insist on Full Inspections and Verification. The Obama Administration promised that "[u]nder this deal, you will have anywhere, anytime 24/7 access as it relates to the nuclear facilities that Iran has," (US Deputy National Security Advisor Ben Rhodes, CNN, April 6, 2015). Instead, the JCPOA has allowed Iran to delay inspections for 24 days before the IAEA can visit a suspected site. Given the regime's decades-long history of delaying inspections while sanitizing sites, any new agreement must mandate true "anywhere, anytime" access, require Iran to permanently adopt the Additional Protocol, and expressly recognize that Iran's failure to adhere to verification and compliance procedures shall be subject for expedited consideration by the UN Security Council, without any predicate requirements for consultation.

Resolve Possible Military Dimensions (PMD) and Undeclared Nuclear Activity. During the Obama Administration, US officials promised that the PMD file would be resolved in order to establish a baseline of knowledge of Iran’s previous nuclear activity, knowledge, and capability. Instead, Iran and the International Atomic Energy Agency (IAEA) agreed to an ambiguously worded “Roadmap for Clarification of Past and Present Outstanding Issues” to resolve PMD concerns in order to implement the JCPOA. Israel’s 2018 uncovering of Iran’s nuclear archive underscored the premature closure of the PMD file. To date, Iran also continues to stonewall the IAEA inquiry into Turqzabad, an undeclared site where uranium traces were found and which might have served as a warehouse for nuclear equipment and materiel. These and other such matters must be fully resolved before any new agreement with Iran can be reached. Also, when the IAEA seeks to visit a site, Iran cannot be allowed to claim it was part of a previous program or simply deny access to it.

Iran’s unacceptable non-nuclear behavior must be addressed in parallel to the new agreement if it is to have a chance to succeed. We now know that, by providing nuclear-related sanctions relief up front, Iran was able to double down on its malign non-nuclear behavior in ways that were contrary to American interests and regional security. Iran’s missile program; its support for terrorist proxies and partners to wage war on its neighbors and smuggle drugs; its cyberwarfare; and its aggressive conventional military activity throughout the Middle East, were left unaddressed under the JCPOA framework. Whereas its authors asserted that the nuclear deal was meant to be an autonomous first step leading to a more expanded series of understandings, America’s “outstretched hand” was met with contempt. Far from being conciliatory or even contained, Iran engaged in various foreign adventures. Before the ink was dry on the JCPOA, Qassem Soleimani went to Moscow to secure Russia’s agreement to support Iran’s Syrian adventure and to prop up the savage regime of Bashar Al Assad. The war in Yemen, triggered by Iran’s proxies’ taking the capital, Sanaa, was made worse by the windfall Iran received from sanctions relief after the JCPOA. Iran has engaged in multiple missile tests clearly threatening its neighbors and American allies.

The critical flaw of “decoupling” allowed the regime to further its hegemonic ambitions, hostage diplomacy, and the brutal repression of the Iranian people. It also limited the international community’s willingness to hold the regime accountable for these abuses out of desperation to preserve the JCPOA. Some European leaders, like French President Emmanuel Macron, have consistently recognized the need to deal with the full scope of Tehran’s unacceptable behavior. America and our other allies must do the same.

Iran policy should once again be conducted in a bipartisan manner. It will be important for President Biden to reestablish a bipartisan consensus on Iran policy. Presidents of both parties have agreed that Iran must not be allowed to obtain a nuclear weapon. Until the JCPOA, US actions to constrain Iran’s nuclear program and its efforts to destabilize the region routinely received bipartisan support. That bipartisanship broke down during the debate over the JCPOA in 2015, but it can and must be restored now. The experience of the JCPOA has shown the risk of relying on agreements that lack the support of both Democrats and Republicans. We urge President Biden to seek bipartisan congressional support as a prerequisite for any agreement with Iran. We further urge that any significant new agreement with Iran be deemed a treaty, and submitted to the US Senate for ratification.

Iran policy must be conducted in consultation with US regional allies and partners most threatened by Iran’s malign behavior. America’s allies and partners in the Middle East, who are most threatened by Iran’s behavior, felt betrayed by the JCPOA. These countries are still under routine attack by Iran and its proxies. No one can ignore their security concerns if collective security is to remain a foundation of the international community. Moreover, the Middle East is home to thousands of Americans and commercial interests involving billions of dollars of American assets.

Release the Hostages. No deal should be consummated with Iran unless and until every American and foreign hostage it has imprisoned is released. Additionally, Iran must cooperate with the investigation into the probable death of Robert Levinson in Iranian custody.

President Biden can be a bridge-builder. He has a historic opportunity to restore bipartisanship in US foreign policy and to build a coalition with international allies and partners that could result in meaningful and durable changes in Iran's international and domestic posture. This can, in turn, lead to genuine peace in the region. The JCPOA of 2015 is too broken when applied to 2021 to be fixed. Yet there remain alternatives beyond this agreement that advance America's security and the security of our allies and partners, and now is the time to pursue them together. We look forward to working with him, his Administration, and our allies to achieve these ends.

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