



To: Interested Parties

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RE: The Joint Comprehensive Plan of Action and the 2020 Democratic Party presidential primary

As the field of Democratic presidential primary candidates narrows, and the issue of Iran returns to the political forefront, it is important to thoughtfully approach the issue of how exactly to prevent Iran from obtaining a nuclear weapon and return to the Joint Comprehensive Plan of Action (JCPOA) negotiated between the P5+1 – and which President Trump subsequently abandoned.

Supporting the Iran deal is clearly a political winner in the Democratic primary. In our party 68% [support](#) it, which is no surprise given that it was one of the landmark achievements of President Obama's two terms in office. For those who might have forgotten, President Obama remains popular, with a strong approval [rating](#) of 59% overall and 87% among Democrats. Despite some vocal critics and a well-funded anti-JCPOA campaign, [polling](#) of the American Jewish community even during the heat of the Iran deal debate showed that most wanted Congress to [approve](#) the deal.

In a particularly contested presidential primary, especially during high-stakes presidential debates, it's easy to call for the United States to reenter the deal. Anyway, most primary voters care more about other issues, like healthcare, the economy, immigration, and, of course, defeating the current occupant of the White House. Yet it is also important for candidates who address this issue in the debates to account for the significant challenges that calling for reentering the Iran deal would entail, given how President Trump has since positioned the United States.

Security Implications

Preventing Iran from obtaining a nuclear weapon is important for the national security interests of the United States, our strategic interests in the region, and for our ally, the Jewish State of Israel. There is no question that recklessly pulling out of the Iran deal, as President Trump did, was terrible – just as many of those who were originally against the Iran deal now think.

If we were able to go back in time and reverse his irresponsible choice, we would, but that's obviously not possible. Come January 20, 2021, the Iran deal will look much different than it did when it was agreed to by the P5+1 or even when President Trump decided to tear it up. There were always elements of the deal, the sunset provisions, which expired over time. Ultimately the agreement was adopted and implemented knowing that down the road there would have to be further diplomatic negotiations to fully and reliably prevent a nuclear armed Iran indefinitely. And President Trump irresponsibly shortcut that timeline by pulling out altogether.

While candidates may declare that they are for getting back into the Iran deal, the JCPOA as we know it won't exist for us to return to in a few years.

JCPOA as a Possible Midpoint, Not the Ultimate Goal

Since the vast majority of likely primary voters support the JCPOA, there's a strong incentive for some to turn the issue into an ideological purity test, without full regard for the fact that many of the JCPOA's most important restrictions on Iran's nuclear program will actually be sunseting in the coming years, including some during the term of the next president.

The real issue is whether or not a candidate treats a deal like the JCPOA, where some of the most important nuclear restrictions are expiring [soon](#), as the ultimate end point for U.S. statecraft toward Iran, or merely as a possible intermediate point along the way.

Handling a deal like the JCPOA, which by design changes over time, as a satisfactory endpoint for U.S. efforts would be short-sighted and dangerous, ensuring that Iran not only remains aggressive but also becomes a nuclear threshold state not too long thereafter. On the other hand, if a presidential candidate is focused less on ensuring that the U.S. retains enough leverage to motivate Iran to continue negotiating additional restrictions and instead focused more on rejoining the JCPOA, or something similar, it could at least be done in a way that leaves a path open for a more sustainable subsequent outcome. The policy goal should be to achieve longer lasting restrictions on Iran's nuclear program, and, separately, to address Iran's threatening behavior in the region. Doing so certainly cannot be achieved if the next president unilaterally rejoins the JCPOA without regard to its terms.

In short, it may be less about whether or not a candidate uses the rhetoric of "rejoining the deal" so long as they are thinking proactively about a subsequent endgame. Using either rhetorical posture, one can get to the same position of some immediate sanctions relief in exchange for some Iranian concessions while making sure to retain enough leverage to subsequently reach a stronger deal with longer-term commitments. This is what the United States should have sought to achieve in the years President Trump has been in office, building on the window of opportunity created by the JCPOA in the first place.

Diplomatic Efforts

Seriously addressing Iran's threatening behaviors should include a commitment to renewed diplomacy with Iran and refocus the debate on how a Democratic administration can ensure that it pursues diplomacy with Iran responsibly to ensure they don't get a nuclear weapon. It certainly wouldn't involve trusting Tehran's goodwill, but rather realistically pursuing a strategy that retains enough leverage along the way to compel the Iranian regime to negotiate a more far-reaching, longer-lasting deal.

Hastily rejoining the deal could instead mean giving Iran renewed relief from sanctions upfront without Iran even having to comply again with the JCPOA's terms going forward. Ensuring Iran complies with the restrictions in JCPOA under a new administration will be key.

Of course, the significant trust gap between America and Iran that President Trump exacerbated must be lessened. As a possible example, the new administration could offer to encode any subsequent agreements with Iran in the form of a treaty or Congressional-Executive agreement to help assure the Iranian public that the next U.S. president would be more constrained from tearing it up on a whim. This kind of overture might even go so far as being willing to suspend all current, unilateral nuclear-related sanctions against Iran upfront as a goodwill gesture.

However, it will be important to make clear that Washington will not then permit Tehran to stay in violation of the deal’s nuclear restrictions without swift and serious multilateral penalties, most notably the “snap-back” of United Nations nuclear sanctions on Iran under Security Council Resolution 2231. One or more of the EU3 will be needed to commit to invoking this provision 60 days after the U.S. were to unilaterally rejoin the JCPOA, should Iran still remain in breach of the agreement. Even if the answer is no, the U.S. likely would retain the right to invoke this [provision](#) itself.

Responsibly pursuing diplomacy toward Iran also requires retaining enough leverage, in the form of both sticks and carrots, to ensure that Iran must continue negotiating even after adopting any agreement that has a largely limited time frame or scope, such as the JCPOA. This would be the only way the next U.S. president could ensure that rejoining a deal like the JCPOA is a midpoint, not the ending point, of viable negotiations with Tehran.

Sanctions

No doubt, rejoining the JCPOA or convincing Iran to adopt something with restrictions like it at this point would require considerable American concessions. For example, to rejoin the JCPOA, the United States would likely have to lift all nuclear-related sanctions against Iran, including allowing entities in third countries to purchase Iranian oil without fear of American punishment.

The U.S. would also have to remove all current secondary sanctions against Iran’s central bank – meaning U.S. sanctions against third-country actors that do business with the Central Bank of Iran – since that was a key commitment that the United States made to Iran under the JCPOA. The central bank brokers the lion’s share of Iran’s oil sales, and sanctions against it are one of the key tools used to drive down Iran’s sales of oil and access to hard currency. This relief would dramatically boost Tehran’s economic positions, supercharging Iran’s profits from restarted oil sales and facilitating its management of foreign reserves, for example.

However, technocrats at the U.S. Treasury Department have identified [numerous instances](#) in which the Central Bank of Iran evidently [facilitated](#) the [sponsorship of terrorism](#) at the expense of various American [allies](#) since the start of the JCPOA. As such, if necessary, the U.S. could still impose sanctions on the central bank based on a second premise – its sponsorship of international terrorism – in a way that likely wouldn’t technically violate the terms of the JCPOA. If this was done before the lifting of all nuclear-related sanctions, America could at least rejoin the JCPOA in a manner that still retained enormous leverage over Iran’s government, its revenues, and its economy.

The U.S. government would face pushback from its European partners for sanctioning the Central Bank of Iran yet again, this time using counterterrorism authorities that would similarly authorize secondary sanctions on any third-country financial institution that then does business with the CBI. However, the U.S. government could mitigate this pushback from Europe by working with our European allies to authorize a certain role for the Instrument in Support of Trade Exchanges (INSTEX), a special purpose vehicle created by the European Union to [facilitate trade](#) in humanitarian goods with Iran. In a coordinated effort, the U.S. could work to shift Iranian oil sales from the central bank channel to the more transparent EU-managed channel. This shift would require significant preparatory and logistical work. This all, of course, would be a matter to be hashed out in multilateral diplomatic negotiations and all in the service of a better endpoint.

An alternative option to raise pressure on oil revenues short of re-imposing sanctions against the central bank could entail restoring the “bilateral trade” requirement to the use of Iranian oil sale proceeds, which was originally contained in Section 504 of the Iran Threat Reduction and Syria Human Rights Act of 2012. Under this approach, Iran could sell oil to third countries through the central bank, but its use of those proceeds would be restricted to facilitating the importation of goods from the purchasing country via bilateral trade. This mechanism would allow for restored oil sales while still creating a moderate amount of economic pressure, since Iran’s foreign currency reserves would be less than fully convertible, leading to the build-up of surpluses at banks in major importing countries.

Even without invoking the very powerful tool of new sanctions on oil sales or the central bank there are also other effective and legal steps that the next president could take to responsibly retain or build U.S. leverage against Iran, even while dropping all nuclear-related unilateral sanctions in the manner that would be required in order to rejoin the JCPOA.

For example, the U.S. Treasury Department would be justified if it followed through on its 2011 finding that Iran is a jurisdiction of primary money laundering concern pursuant to Section 311 of the USA PATRIOT Act, a step that would be of major symbolic importance. That finding began a rulemaking process to impose “special measures” against Iran. One could reasonably infer from a similar rulemaking for North Korea that finalized special measures for Iran would both prohibit the maintenance of correspondent accounts (accounts that foreign banks use to make international payments) for Iranian financial institutions in the United States which is already prohibited by sanctions. It would likely also require U.S. banks to conduct special due diligence to ensure that Iran cannot access U.S. correspondent accounts. Treasury has yet to take the standard next step of issuing a final rule that would make these precautions [mandatory](#), even though the money laundering and terror financing risks posed by Iran’s economy are still up there with North Korea as the [absolute worst](#) in the world, per the Financial Action Task Force.

European Allies

Encouraging European governments to go along with these sorts of approaches would also require genuine offers of carrots, including in ways to benefit their economies along the economy of Iran.

For example, as discussed above, the United States could explicitly agree to let INSTEX, the EU’s special purpose vehicle for humanitarian trade with Iran, expand to facilitate Iranian oil sales. Ultimately, reaching a longer-term, more far-reaching deal with Iran would require putting even bilateral forms of sanctions relief on the table, including granting Iran the ability to process dollar transactions through the U.S. economy (restoring the “U-turn” exemption that was revoked in 2008) and even proposing to lift portions of America’s primary trade and investment embargo on Iran.

However, some of these enticements should be kept off the table until negotiations on something longer-term and broader in scope than what the JCPOA will be in 2021.

Bottom Line

While simply rejoining the JCPOA might be a worthwhile and resonant talking point, such an appeal does not accurately capture the state of events that an incoming administration will meet upon entering office in 2021. Instead, a new president will have to build on the scaffolding of the JCPOA, while exercising enough leverage to ensure Iran accepts a more expansive deal that would extend and expand

restrictions on the Islamic Republic's nuclear program while providing greater sanctions relief than set forth in the 2015 accord. Iranian recalcitrance, such as the pursuit of nuclear activities not permitted in the JCPOA, would have to draw a vigorous and punishing response from the United States in the form of a ramped-up sanctions regime. Washington should also pursue a halt to Iran's other nefarious activities in the wider Middle East as part of a separate, but simultaneous process. And in so doing, the U.S. can avail itself of diplomatic and economic tools that allow it to address Iranian behavior in these areas, irrespective of the Islamic Republic's nuclear activities.

Suggested Talking Points

- By recklessly ripping up the Iran deal, President Trump has undermined the limits placed on Iran by the JCPOA. Even some initial opponents of the Iran deal agree that President Trump's Iran policy has been irresponsible. The disastrous actions of this president have made the world profoundly more dangerous.
- His approach will likely lead to either war or Iran back at the threshold of a nuclear weapon much sooner than they could have done under the deal. In either case, the United State is isolated without international support. And it's hard to take seriously his recent rhetoric around talking with Iran.
- As President Obama understood, we must prevent Iran from getting a nuclear weapon. Sanctions and, as a last resort, a military option are tools you need, but diplomacy is by far the best way to get that done.
- When I am president, we will seek to reenter a diplomatic agreement with Iran, while simultaneously engaging in multilateral negotiations to extend some of the most important elements of the Iran deal that will be expiring around 2021 or in the few years after. That's because key restrictions in the Iran deal of 2021 won't still be active elements of the agreement as negotiated a half decade earlier.
- This will require a carrot and stick approach, where we provide sanctions relief while retaining leverage and seeking verifiable limits on the Iranian nuclear program. We know Iran is untrustworthy and has malign aspirations toward the United States, Israel, and other allies and partners. But, as President Obama said in 2015, the deal "doesn't require trust; it verifies and requires Iran to forsake a nuclear weapon." As president, I will insist that Iran comply with limitations that will prevent it from achieving a nuclear weapon.
- We will also not let up on pressuring Iran to end its support of terrorist organizations, its interventions in the affairs of its neighbors, its threats against Israel, and its human rights abuses against the Iranian people.
- Of course, we also have to repair the deep damage President Trump has done internationally and work with our allies as best we can to rebuild our nation's reputation on the world stage as a steady leader and reliable partner.
- It is only with our allies that we can take on the big challenges like preventing a nuclear armed Iran.