

Assessment of Interim Deal with Iran

JINSA's Gemunder Center Iran Task Force

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Executive Summary

Preventing a nuclear-capable Iran remains the most pressing national security challenge facing the United States and its Middle East allies, and a permanent diplomatic settlement that fully addresses international security concerns remains the preferred means to achieve this objective. We judge this outcome to be more remote and harder to achieve now than before the P5+1 countries and Iran signed an interim deal in Geneva, known as the Joint Plan of Action (JPA), which went into effect January 20, 2014.

The JPA is intended as an interim arrangement that pauses parts of Iran’s nuclear program during negotiations for a longer-term settlement. But it also sets out so-called “elements of the final step of a comprehensive solution.” We believe the JPA is deeply flawed because the combination of interim and final concessions it contains undermine the effort to prevent a nuclear Iran.

Our previous report, issued in the run-up to Geneva, spelled out six principles to which any deal must conform to protect U.S. national security interests. To be acceptable, we argued any deal must require Iran to resolve outstanding international concerns, adhere to international legal requirements and roll back its nuclear program. It would also need to put in place a strict inspections regime and clear deadlines for Iran to uphold its commitments. Finally, we made the case that to obtain such a deal the United States would have to negotiate and enforce it from a position of strength, to make it unmistakably plain to Tehran that it has the most to lose from the failure of diplomacy.

The aim of this report is to: show where this agreement falls short of the parameters dictated by our principles; explain the risks generated by these shortcomings; and provide recommendations for pursuing a final agreement to prevent a nuclear Iran.

The JPA fails to meet the standards we had previously laid out, both in the interim and the long term. It allows Iran to retain enough key aspects of its nuclear program to continue progress toward nuclear weapons capability – including its 3.5 percent enriched uranium stockpile, existing enrichment capacity and ability to improve the performance of its extant centrifuges – and even authorizes it to construct an additional nuclear facility. But the JPA does not require Iran to address its unresolved legal obligations. Instead, it implicitly recognizes Iran’s proclaimed right to enrich in practice, undermining the Nuclear Non-Proliferation Treaty (NPT), and envisions a time limit on any Iranian concessions. Worse still, it suggests that after the conditions of a final deal lapse, Iran will “be treated in the same manner as that of any” state, as if it had not pursued nuclear weapons in defiance of international law or sponsored global terrorism for more than three decades. Finally, the JPA weakens U.S. leverage to pursue even this flawed long-term deal, both by beginning to unravel the existing international sanctions regime and by seeking to limit Congress’s power to pass additional measures. Overall, this does not buy time for the P5+1 to negotiate a final deal. Instead, the JPA makes it possible for Iran to progress toward undetectable nuclear weapons capability without even violating the agreement.

These shortcomings complicate prevention of a nuclear Iran, undermine the nonproliferation regime and contribute to regional instability. To stave off these risks, the United States must now do the best it can with what time remains to protect its security interests, as well as those of its allies in the region.

As we made clear in our previous reports, this task force continues to believe the optimal outcome would be an Iran with no enrichment capability whatsoever. Because the JPA precludes this, and contains the flaws outlined above, some task force members believe the deal is unacceptable. These task force members believe the United States must still press for a final agreement permitting Iran to keep only a civilian nuclear power program but no enrichment facilities or capabilities.

Other task force members believe the JPA, while not the best solution, provides an opportunity to test Iran's true intentions definitively with an endgame proposal. By offering Iran much of what it claims to want – civilian nuclear power and enrichment – while also containing the most stringent possible limits to preclude nuclear weapons capability, U.S. negotiators can give Iran the chance to prove whether or not it is serious in its declared peaceful aims. To be acceptable, these task force members believe, a final deal must limit Iran to: no enrichment beyond 5 percent; no 20 percent enriched uranium stockpile, and no more than 1,000 kilograms (kg) of 5 percent; no second-generation centrifuges, and no more than 1,000 installed first-generation centrifuges; deactivation of the Fordow enrichment facility; and no plutonium track.

All task force members agree an acceptable final deal must require Iran to meet all of its international legal obligations, come clean about its past nuclear weapons research and work, and accept a much more intrusive inspections regime.

Given that the JPA grants Iran greater concessions than it extracts, and considering how close Iran is to nuclear weapons capability, it is critical such a final, permanent deal which fulfills our principles be put in place as soon as possible, preferably before the JPA's six-month interim expires. Achieving this will require the United States to use all forms of leverage available to induce Iran to accept it, including intensified sanctions, credible military preparations, tighter cooperation with regional allies and clear support for a potential Israel strike.

The United States should move immediately to impose new sanctions and consider even tougher actions against Iran if no acceptable final agreement is in place 180 days after the JPA's formal implementation on January 20. At that time, the United States should do nothing that would impinge upon Israel's ability to decide what actions it must take at that time, and indeed should support Israel if it takes military action.

Principles for Diplomacy and the Interim Deal

1. Negotiating from a Position of Strength

The JPA will cause U.S. leverage against Iran to diminish while a comprehensive settlement is negotiated and implemented. This is because the deal has begun unlacing the international sanctions regime that initially helped force Iran to the negotiating table. In addition, the deal has been interpreted by both the Rouhani and Obama administrations as obliging the United States not to legislate further sanctions – or even to pass legislation that threatens to implement further sanctions in the event Iran fails to fulfill its obligations.

Once undone, even for what is perceived to be an interim period, sanctions become increasingly difficult to reinstitute. Iran will thus have a strong incentive, and the opportunity, to drag out negotiations to secure greater concessions and buy more time for enrichment as U.S. leverage decreases. This would ease Iran's path to nuclear weapons capability, and thus raise the prospects of further instability in the Middle East.

The United States agreed to sanctions relief by repatriating in tranches several billion dollars of frozen Iranian assets, in exchange for interim limits on Iran's nuclear program. However, the JPA also suspends key elements of the broader sanctions regime during this period, including vital measures against Iran's major export sectors and gold reserves. Prior to the deal, these all severely curtailed Tehran's finances for its general budget, which it uses to fund its nuclear program, maintain domestic stability, support terrorism and prop up regional allies.

These actions will complicate enforcement of remaining sanctions – including key prohibitions against Iran's financial sector – since they allow Iran to reconstitute its ties to the global economy. This process is self-reinforcing, as the growing challenges of enforcement encourage more firms to enter the Iranian market. A similar outcome occurred with North Korea, where the United States and its partners were unable to reinstate financial sanctions after Pyongyang reneged on its nuclear deal. Immediately after the deal's announcement, Iran's hard-hit currency (rial) rebounded and oil prices dropped slightly, while foreign companies began exploring deals with Iran's two most lucrative export sectors (energy and automobiles). The combination of sanctions relief and renewed investor optimism could result in significant gains for Iran's straitened economy, far beyond the overseas assets unfrozen by the Administration.¹

Iranian leaders clearly envision the steady hemorrhaging of U.S. leverage. In the week following Geneva, Rouhani said, "in regards to the nuclear issue, I promise our people that first lock has been opened. We have shook the foundations of the sanctions regime." The next day Foreign Minister Mohammad Zarif echoed: "after cracks appear in the sanctions, everything will return back to normal."²

The P5+1 further undercut itself by agreeing to no new sanctions in the interim, including by the U.N. Security Council. Congress has repeatedly expressed its desire to further tighten economic restrictions on Iran, even as the Iranian and U.S. administrations have been adamant the JPA precludes it from doing so. To underline his seriousness, Zarif took umbrage at the U.S. Treasury's designation of sixteen new companies for violating existing sanctions and walked away from negotiations in Vienna aimed at implementing the JPA. This occurred despite the fact that the JPA, and the provision limiting U.S. sanctions, had not even gone into effect and that the designations occurred under existing sanctions that the JPA would not have suspended anyway.

The JPA thus weakens the very tool that succeeded in bringing Iran to the negotiating table at the precise moment when the United States is about to embark upon its most crucial diplomatic exercise in decades. Negotiators should not be undertaking such a vital task with one arm tied behind their backs.

2. Not Wasting Time

The JPA does not force Iran to give up its nuclear program before it could attain an undetectable nuclear weapons capability.³ With Iran on pace, prior to the deal, to reach this threshold by mid-2014 at the latest, the P5+1 needed to secure a final settlement with a clear short-term timeframe for Iran to uphold its commitments. Instead, the JPA is a longer-term, multi-stage agreement with moveable deadlines and ultimately no permanent limits on Iran's ability to pursue nuclear weapons. By doing nothing to prevent a nuclear Iran, this lax timeline could encourage further regional instability, including a stronger Israeli sense of urgency to launch a preventive military strike.

First, the six-month interim was not implemented immediately when the JPA was agreed. Because the deal did not enter into force until early 2014, the interim period will extend into July 2014.

Second, the JPA's six-month timeframe is "renewable by mutual consent." Presumably this is to conform to the deal's stated ambition – but not requirement – that a comprehensive agreement be concluded and implemented as late as one year after the JPA takes effect. Because the interim deal does not prevent Iran from decreasing its breakout window, a year-long timeframe pushes the window for "ensur[ing] Iran's nuclear program will be exclusively peaceful" well past the pre-deal projection of mid-2014 as the threshold for undetectable nuclear weapons capability.

Finally, even the last step of the comprehensive agreement would not be permanent but instead "have a specified long-term duration to be agreed upon." With the eventual expiration of a final agreement, Iran would be well-positioned to have a normalized, industrial-sized nuclear program unfettered by safeguards for preventing a nuclear breakout.

3. Denying Iran Nuclear Weapons Capability

The JPA does not place strict enough limits on Iran's enrichment program to deny it nuclear weapons capability. It does not begin rolling back Iran's enrichment progress before the mid-2014 deadline. Instead it caps certain enrichment levels, stockpiles, centrifuges and the plutonium track while a comprehensive agreement is worked out. It also allows Iran to build up its nuclear program to temporarily build down its enrichment levels and stockpiles. It does not cover work on weaponization or delivery systems. Iran could thus continue approaching nuclear weapons capability during this time, all the more so if the interim deal is renewed. Afterward, the JPA does not place permanent limits on Iran's enrichment. This would do little to nothing to prevent a nuclear Iran over the long term.

There are multiple variables determining how quickly Iran is able to produce enough fissile material for a nuclear device: the size and enrichment level of its uranium stockpile, the number and type of operating and installed centrifuges, designs of enrichment facilities and possible plutonium production at the Arak heavy-water reactor (IR-40). In the interim the JPA caps Iran's enrichment levels and the number and type of centrifuges it may use, neutralizes parts of its stockpile and pauses its plutonium path. Yet it also allows Iran to keep its facilities, and to continue enriching while potentially doing so more efficiently. This may slow Iran's enrichment progress, but the deal does not prevent it from continuing toward nuclear weapons capability.

Iran currently enriches uranium to 3.5 and 20 percent.⁴ This consumes 80 and 90 percent, respectively, of the time required to reach 90 percent enriched uranium (suitable for a nuclear device). Iran currently has two bombs' worth of 3.5 percent enriched uranium. It has also produced enough 20 percent uranium for a bomb, but because this is widely perceived to be Israel's redline, it has converted batches of this into uranium oxide – a material used for reactor fuel assemblies which can be reconverted for further enrichment with additional effort.

In the last six months, Iran's rapid installation of centrifuges at Natanz and Fordow cut the time required to enrich these stockpiles to weapons-grade uranium. This includes installed but not operational second-generation models (IR-2m) that are estimated to be two to five times as productive as the current IR-1 model. If operationalized, this latent centrifuge infrastructure could halve the time to produce enough fissile material for a nuclear device, to one month.⁵

Thus in the run-up to the deal Iran accelerated its approach to nuclear weapons capability, even as it slowed its stockpile growth. The interim deal sought to address this by capping enrichment levels, stockpiles and centrifuges. Under the JPA, Iran volunteers to halt enrichment beyond 5 percent and to convert – and not reconvert – its entire 20 percent stockpile to less immediately threatening forms, half by conversion to uranium oxide and half by diluting to 3.5 percent.

Iran is not required to halt 3.5 percent enrichment in the interim. In fact, it has already said it will increase production of this substance, as it uses centrifuges previously enriching to 20 percent to produce 3.5 percent. Nevertheless, Iran has agreed to cap this stockpile for at least six months by deciding to convert all new 3.5 percent enriched uranium to uranium oxide. It has also volunteered that all enrichment occur in the existing total number and type of operational centrifuges, with no installation of additional centrifuges, no replacement of first- with second-generation models and no interconnection between cascades at Fordow. Any longer-term limits would be discussed as part of a comprehensive solution.

The interim deal's failure to establish any principle, let alone program, for rolling back Iran's enrichment progress seriously undermines any P5+1 demand for such a reversal under a longer-term deal. Iran's pledge not to interconnect cascades at Fordow could block one breakout path by preventing enrichment beyond 20 percent at this heavily-secured location – one which may be impenetrable by all but the most powerful U.S. bunker busters.

However, the other caps do not block, nor reverse, Iran's other approaches to nuclear weapons capability. Its uranium oxide stockpile of converted 20 percent enriched uranium would be sufficient for a nuclear device, if reconverted and enriched further. The reversion process is chemically identical to that which Iran currently uses for conversion, and could occur in a matter of weeks or possibly days.

Iran would also retain the ability to break out using its 3.5 percent stockpile, which would grow with the addition of the diluted 20 percent stockpile. It would also grow with new uranium enriched to 3.5 percent during the interim, at least until Iran readies a facility to convert it to uranium oxide. Though Iran volunteered to refrain from using more productive centrifuges than the IR-1, the JPA allows it to continue safeguarded research and development (R&D) practices, both on existing centrifuges and on more advanced models. The deal also allows it to replace existing centrifuges with those of the same model. Therefore it could theoretically accelerate its nuclear program by improving the efficiency of current centrifuges. Expert estimates vary,

but suggest that the IR-1 should be able to enrich uranium at least 33, but perhaps as much as 100, percent faster than it currently does. By improving centrifuge performance, as it has done before, Iran could cut its breakout timing below what it was when the deal was agreed.

Iran would also keep its latent enrichment capability. The JPA does not require Iran to uninstall any of its roughly 9,000 dormant centrifuges. If Iran makes its centrifuges more productive, as allowed in the interim, it would have infrastructure in place (including its IR-2 fleet) to enrich its 3.5 percent stockpile to weapons-grade in less than a month. If a final deal is not agreed, or if Iran chooses to violate the interim agreement, it could enrich enough weapons-grade uranium for weapon up to 20 percent faster than prior to the JPA.

Finally, the JPA could slow Iran's plutonium path to nuclear weapons capability in the interim. Iran has volunteered to refrain from the activities necessary to start up IR-40, which includes a halt to construction on the reactor itself. This is an advance for the P5+1 since the previous round of talks in Geneva, when Iran only agreed not to start up the reactor during the six months. (Such a confidence-building measure would have been moot, since construction of the facility was not far enough advanced to start up the reactor during the interim anyway.)

Beyond Iran's enrichment capabilities, it is highly problematic that the JPA does not call on Iran to ship out any of its stockpile for conversion at a neutral site – a regular P5+1 demand in previous rounds of diplomacy – nor shutter any of its facilities, even temporarily. In fact, by agreeing to a new declared facility (the conversion plant for the 3.5 percent enriched stockpile), the interim agreement recognizes that Iran effectively will build up its nuclear program to temporarily build down its stockpile.

Nor is there reason to believe the final deal envisioned by the JPA would impose sufficient restrictions on Iran's nuclear program. The document provides for a "mutually defined enrichment program ... level of enrichment ... and stocks of enriched uranium" as part of a comprehensive solution, thereby leaving open the possibility that Iran could continue its progress toward an undetectable nuclear weapons capability. Even these measures would be temporary, eventually replaced with treatment of Iran "in the same manner of any non-nuclear weapon state party to the NPT." This means the interim deal already envisions granting Iran the same degree of trust as the Netherlands, for example. With such implicit permission to pursue the full scope of nuclear activities, an Iran with a nuclear weapons capability would be all but certain.

4. Imposing Strict International Inspections Regime

The JPA strengthens the inspections regime for verifying Iranian compliance with both an interim and comprehensive deal. It provides more regular interim access by the International Atomic Energy Agency (IAEA), to more quickly detect any Iranian breakout at known facilities. Under a final deal, the IAEA might be able to form a more complete picture of Iran's nuclear program, including possible undeclared facilities and activities. However, even these stricter measures would not give inspectors certainty of the extent and progress of Iran's nuclear program. Such certainty is a prerequisite for preventing Iran from acquiring an undetectable nuclear weapons capability.

There have always been legitimate concerns Iran could try to produce enough fissile material for a nuclear device, or circumvent any agreement by constructing covert nuclear facilities,

even after signing a deal. It built each of its current enrichment facilities covertly, while also constraining IAEA access to Arak and denying it outright to Parchin, where intelligence suggests weaponization research occurred. Inspections are the most critical element to ensure Iran adheres to the caps on its enrichment program. Secretary of State John Kerry echoed this when he said, “we’re not sitting here pretending that Iran is going to suddenly turn over a new leaf. We have to prove it.”⁶

To this end, the JPA improves access to known Iranian facilities for the interim, including daily inspector access and unannounced inspections at Fordow and Natanz (previously, inspections occurred weekly or biweekly, at most). It also grants some IAEA access to sites previously off-limits, which could help determine if Iran’s enrichment capabilities are becoming more productive. A key problem is that the agreement still does not provide full and unrestricted access to Iran’s declared facilities for the interim, nor does it cover any weaponization activities, despite Iran being in material breach of its existing NPT Safeguards Agreement. Furthermore, as with other interim measures, allowing this enhanced access is voluntary on Iran’s part. Finally, the IAEA will be able to take full advantage of expanded and more regular access only if it can devote the necessary additional resources and capabilities to these inspections.⁷

The JPA also provides for a stronger inspections regime under a final deal. Iran would have to ratify and implement the Additional Protocol to its Safeguards Agreement, which it signed in 2003. This represents an advance over what Iran conceded at earlier talks, and would broaden IAEA access to nuclear facilities and give it a more complete picture of Iran’s nuclear program.

First, Iran would have to declare more activities, including manufacturing components for uranium enrichment or plutonium separation, and weaponization technologies. (Until a comprehensive deal is agreed, Iran will still have to declare only nuclear materials and facilities, as it does currently.) This could give inspectors better information about Iran’s enrichment capabilities and any progress on IR-40.

Second, the Additional Protocol would allow inspectors to monitor the expanded list of declared facilities, as well as any suspected undeclared facilities. This latter provision (officially called “complementary access”) could help verify the completeness of Iran’s declarations regarding its nuclear program – i.e. that its activities at declared sites conform to IAEA safeguards *and* that it has no undeclared sites. Until then, the IAEA can verify only the correctness of Iran’s declarations, i.e. its compliance with safeguards at declared sites. This difference has led one nonproliferation analyst to observe that “the Additional Protocol is intended to transform inspectors from accountants into detectives.”⁸

Given Iran’s lengthy history of undeclared activities and blocked access for inspectors, the Additional Protocol would represent a strengthening of the inspections regime for the duration of a long-term agreement. This could raise the costs to Iran of continuing its pursuit of nuclear weapons capability, as well as the probability of it being detected.

However, even the Additional Protocol is far from airtight. Once it accedes, Iran would still be able to claim it is unable to provide access to undeclared sites, and thus that the IAEA would need to substantiate its suspicions before inspectors could visit. Moreover, the Additional Protocol does not grant more intrusive inspections, nor does it provide for surprise inspections

anytime or anywhere. This could limit the IAEA's ability to detect and monitor any additional undeclared Iranian enrichment facilities. A separate difficulty that remains to be addressed is the potential conflict between any additional safeguards and the fact that the JPA does not require Iran to resolve its outstanding violations of existing safeguards (see following section).

5. Resolving International Concerns about Iran's Nuclear Program

The JPA includes small interim steps to address IAEA concerns about Iran's NPT violations. However, it does not require Iran to actually resolve them, despite legal obligations under the U.N. Security Council to do so. This could seriously complicate inspectors' understanding of Iran's progress toward nuclear weapons capability.

The IAEA has repeatedly complained that Iran has not been forthcoming about its nuclear activities, including possible weaponization. These are breaches of the NPT and the Safeguards Agreement Iran has signed. This prompted the IAEA to declare Iran in violation of the NPT, which in turn led to six U.N. Security Council resolutions (UNSCR) calling on it to comply. Five of these resolutions were passed under Chapter VII of the U.N. Charter and are thus legally binding.

The JPA is a minor step in making Iran's activities more transparent. It must provide "specified information" on parts of its enrichment cycle and submit an updated Design Information Questionnaire (DIQ) for IR-40, which could create a more accurate assessment of the reactor, nuclear material and other components.⁹ However, it does not mention other concerns relating to the Safeguards Agreement, let alone require Iran to engage the IAEA on these issues. These would include past weaponization activities and ballistic missile research (along with fissile material, the three necessary components of a nuclear device), as well as Iran's suspected weapons program facilities.

Indeed, the interim deal does not demand Iran abide by UNSCRs, nor does it predicate progress on a final deal on resolving IAEA concerns. The JPA only calls on *all* parties to "address the U.N. Security Council resolutions, with a view toward bringing to a satisfactory conclusion the U.N. Security Council's consideration of this matter," and to "work with the IAEA to facilitate resolution of past and present issues of concern." Similarly, Iran would not have to resolve these concerns in any comprehensive deal, but only agree to something "reflect[ing] the rights and obligations of parties to the NPT and IAEA Safeguards Agreements." This echoes the IAEA decision, instantiated in the November 2013 "Framework for Cooperation" with Iran, to possibly pause efforts to resolve past concerns, and instead focus on gaining greater detail about future nuclear activities.

6. Adhering to International Legal Requirements

The JPA creates a serious challenge for conforming Iran's nuclear program to NPT guidelines. It ignores the requirement that Iran suspend enrichment, and paves the way for recognizing Iran's "right" to enrich (though the JPA itself does not use Iran's phrasing). This threatens the viability of the international nonproliferation regime by encouraging the normalization of an illicit nuclear program.

For years Iran has violated the UNSCRs' requirement that it "suspend all enrichment-related and reprocessing activities." Iran's negotiators consistently counter that the NPT grants it the right to enrich, and that this presumed "right" must be acknowledged before it will accede to any deal. However, nothing in the NPT even implies a right to possess all, especially potential military, elements of nuclear technology. This is evident in recent statements by Secretary Kerry and Under Secretary of State Wendy Sherman that the NPT does not speak to enrichment, and that no country has an inherent right to do so. The JPA poses serious problems on this score, because it does not require Iran to comply with its legal obligations under UNSCRs to suspend enrichment.

Even more damaging is the concession that Iran will be allowed to continue enrichment "with agreed limits...." This goes beyond simply accepting enrichment and states that Iran's measures are voluntary, implying that it could have chosen not to commit to them. This does not equal recognition of any right to enrich, but it reinforces the perception that such decisions are an Iranian prerogative. The JPA also states that any final deal would "involve a mutually defined enrichment program." Given Iran's persistence on the issue, this definition will likely include acknowledgement of its proclaimed "right" to enrich. Along with concessions on the time limitations on any final agreement, this would be a significant step toward normalizing Iran's nuclear program, despite the lack of guarantees in either the interim or long term that Iran would first be required to conform to its NPT obligations.

Risks and Dangers Created by the Deal

The JPA creates significant strategic risks for the United States and its allies. It critically endangers the prospects for a permanent cessation of Iran's nuclear weapons program, while making it more likely Iran can attain nuclear weapons capability. It also raises the risk of undermining the broader international nonproliferation regime, and of further regional destabilization.

1. Complicates Prevention of Nuclear Iran

The JPA makes a permanent cessation of Iran's nuclear weapons program highly unlikely. In fact, rather than buying the P5+1 time to negotiate a final agreement, the interim deal might make it easier for Iran to acquire nuclear weapons capability. This is due to two characteristics of the deal discussed above. First, it does not preclude all avenues of nuclear advancement open to Iran. Second, the concessions it exacts from the United States are much greater, in terms of reversibility, than those made by Iran.

The JPA has been described as "halting," "freezing" and even "rolling back" Iran's nuclear program. These terms are mischaracterizations. It is actually possible for Iran to progress toward undetectable nuclear weapons capability without violating the terms of the agreement. While the deal does require Iran to limit itself to using only its older IR-1 centrifuges, nothing in the text prevents it from tuning the performance of these machines in order to boost their output and decrease its breakout window.

Much like car engines of similar sizes are able to produce different amounts of horsepower depending on how they are tuned, facilities operating the same number of centrifuges can enrich at different rates. The design, build quality and operation of centrifuges can affect the speed at which they are able to enrich uranium; experts agree that Iran's IR-1 centrifuges currently are performing far below their maximum output. Previously Iran has managed to improve centrifuge performance by one third, and most experts believe the IR-1 should be capable of enriching uranium up to twice their current rate.

Thus, if Iran were to use the six-month interim to optimize its existing centrifuges, it could not just make up time lost through limits imposed on other parts of its program, but actually accelerate its ability to sprint to nuclear weapons capability. Before the deal took effect, Iran was capable of producing enough weapons-grade uranium for a nuclear device in roughly five weeks. With the JPA's limitations in place, if Iran increases the output of its IR-1 centrifuges by 33 percent, it will maintain its pre-deal breakout capacity. If it is able to double its centrifuge performance, it will shave a week off the time needed to acquire enough fissile material for a weapon.

At the same time, the JPA significantly weakens the U.S. position. Beyond loosening sanctions, the interim deal requires the United States to give up one of its most valuable assets in pressuring Iran: time. This is because the effectiveness of sanctions increases the longer they are in place and the more stringently they are enforced. Like interest on a bank account, the effect of sanctions compounds over time as total the cost of the economic dislocation they cause accumulates.

By relaxing some sanctions, therefore, the United States resets their clock. They may be re-imposed with relative speed – should Iran violate the interim deal or the six-month period expire – but not with the same level of pressure as before the deal. The concessions made by the United States in the JPA are thus effectively irreversible.

These two dynamics produce a great imbalance in the JPA: Iran can either easily resume its prior nuclear activities, or perhaps even advance its program under the terms of the deal, while the U.S. position is set back. The longer this arrangement lasts, the greater the danger that Iran will be able to attain nuclear weapons capability while supposedly freezing its program. Were the JPA to be extended, the risk would increase exponentially.

Combined with the P5+1's concessions on a final deal – time limits on its provisions, ultimate acceptance of Iranian enrichment – these factors lead us to judge the JPA as complicating, rather than facilitating, the prevention of a nuclear Iran.

2. Undermines the Nonproliferation Regime

The JPA also sets backs the broader objective of upholding the international nonproliferation regime. It fails to demand Iran fulfill its NPT obligations, implicitly accepts Iran's "right" to enrich, agrees to no new UNSC sanctions and removes all existing UNSC sanctions in a comprehensive solution. Prior to the deal, Iran's defiance threatened the nonproliferation regime by undermining the authority of the UNSC and by making clear to other signatories they could also pursue nuclear weapons capability with few repercussions. Iran's gains at Geneva show that an NPT signatory can negotiate recognition and normalization of an illegal nuclear program while still committing violations.

The deal also undermines future nonproliferation cooperation with the United States. Indeed, countries which signed 123 Agreements or similar measures with the United States – including allies like the United Arab Emirates – have committed to verifiably forego nuclear capability while countries like Iran sign agreements which would legitimize their illegal programs and allow them to keep approaching nuclear weapons capability.

This is no abstract legal argument. The nonproliferation regime, embodied in the NPT, has limited the number of states with nuclear capability since the Treaty came into force in 1970. Indeed, none of its 190 members have acquired nuclear weapons since acceding to the Treaty. Were Iran to pass this threshold without withdrawing from the Treaty – a possibility under the JPA's parameters for a final deal – it would be the first signatory ever to do so.¹⁰

3. Contributes to Regional Instability

The limited prospects to prevent a nuclear Iran could promote a rapid deterioration in regional security. An Iran with a nuclear umbrella would feel much safer to pursue its aggressive goals across the Middle East. This threat could prompt a preventive Israeli strike, encourage Saudi Arabia and others to pursue their own nuclear weapons and undermine the long-term U.S. strategic position in the region.

First, a nuclear Iran would be emboldened to pursue its long-standing objective of becoming the predominant regional power, at the direct expense of the United States and its allies. This would most likely translate to increased support for terrorism, redoubled efforts to undermine the internal stability of U.S. Arab allies and potential proliferation of WMD technology and materials (similar to actions taken by North Korea). Many U.S. Arab allies have expressed concern over the JPA's failure to mention, let alone attempt to limit, Iran's non-nuclear threats to the region, including its support for terrorism and subversion.

Second, Israel could feel increasingly pressured to act. So far Iran has sidled along Prime Minister Benjamin Netanyahu's redline for military action. However, Iran's options for other breakout avenues under the JPA, combined with the year-long timeframe for concluding a final deal and the decrease of U.S. leverage, could sharpen Israel's sense of urgency and raises the chances of a unilateral strike as time wears on. This could be particularly acute if the interim agreement is renewed.

Combined with the uncertain value of their own nonproliferation deals with the United States, the JPA could encourage long-standing regional allies to pivot away from the United States, by developing their own deterrents or seeking new partners. Saudi Arabia has already said it will pursue nuclear weapons if Iran gains nuclear weapons capability, and other NPT signatories in the region could begin their own programs. Even if limited to Riyadh, such a proliferation cascade would compound the disruption risks for regional energy output, and pose an added existential threat to Israel.

The JPA negotiation process aggravates these concerns. Largely a product of bilateral back-channel U.S.-Iranian talks, the deal was delivered to U.S. allies as a *fait accompli* – one which failed to ensure some of their own interests. This further undermines the credibility of U.S. security guarantees among its allies.

Mitigating and Managing These Flaws and Risks

The endgame has arrived. Though we strongly disagree with the JPA, the best hope for a diplomatic solution requires the United States and its allies to build leverage, and to use it to insist on measures to maximize the dwindling chances to prevent a nuclear Iran.

1. No Return to Status Quo Ante

Iran is already dangerously close to an undetectable nuclear weapons capability. According to various estimates, before the interim deal it was on pace to reach this threshold by mid-2014.¹¹ The JPA's slowdown – but not halt – on Iran's progress toward breakout capability may just be enough to prevent it crossing that threshold prior to the deal coming up for renewal in July 2014. However, these constraints provide far less assurance that Iran would not attain this capability during a second six-month period, if it is renewed. A return to the status quo ante – Iran resuming the nuclear activities curbed by the JPA and the United States re-imposing sanctions waived by the deal – would also be unacceptable. This would leave Iran in position to quickly reach nuclear weapons capability, while the U.S.-led sanctions regime would require significant time and effort to return to its previous effectiveness. Therefore, it is critical the United States and its allies definitively prevent a nuclear Iran by the time that, or before, the provisions of the interim deal lapse.

This would best be accomplished by a comprehensive deal that is agreed within six months of the JPA's implementation and that fully addresses all international concerns about Iran's nuclear program. If this period lapses without such an agreement in place, the United States should immediately deploy enhanced leverage – including intensified sanctions and visible and credible military preparations – to pressure Iran to return to the negotiating table. At the same time, it should also make clear its determination to use military means to prevent a nuclear Iran, including unequivocal support for Israel's right to self-defense.

2. Impose Most Stringent Possible Limits Under a Comprehensive Agreement

Based on our principles, we agree the optimal solution – and the one that would contribute the most toward peace and stability in the region – would be a settlement only permitting Iran to retain a civilian nuclear power program but no enrichment facilities or capabilities. The biggest shortcoming of the JPA is that it already concedes this point, and explicitly states that a final agreement will allow for an Iranian enrichment program. Some task force members therefore believe this deal is unacceptable, and that the United States must still press for a final agreement which permits Iran to keep only a civilian nuclear power program but no enrichment facilities or capabilities.

Other task force members believe it is worthwhile to pursue a diplomatic initiative that would result in the most stringent possible limits on Iran's enrichment program, even though it would

not be our optimal solution. By presenting Iran with an endgame proposal that includes much of what it claims to want – civilian nuclear power and enrichment – U.S. negotiators would be giving them a chance to prove whether or not they are for real. The best remaining option is for the United States and its international partners to move as quickly as possible from the JPA to a comprehensive agreement with the necessary restrictions to prevent Iran from attaining nuclear weapons capability:

ENRICHMENT LEVEL

Iran must not be permitted to enrich uranium beyond 5 percent. This benchmark would roll back its progress toward nuclear weapons capability, given the greater time and effort required to enrich 5 percent uranium to weapons-grade fissile material. The interim deal sets a precedent by prohibiting enrichment to 20 percent.

STOCKPILE

Iran would need to ship out its 20 percent stockpile. It must also be limited to no more than 1,000 kg of 5 percent enriched uranium. This would prevent it from having a stockpile sufficient, with further enrichment, for even one crude nuclear device.

CENTRIFUGES

Iran must not be permitted more than 1,000 installed IR-1 centrifuges. It must also verifiably and permanently dismantle all infrastructure for building and operating more advanced models, including its entire existing IR-2m fleet. This would eliminate its ability to enrich uranium to bomb-grade material before such action could be detected.

FACILITIES

At minimum, Iran should be required to deactivate the highly-secured Fordow enrichment plant. Under the above restrictions it would have no legitimate use for such a facility.

PLUTONIUM

Iran should be required to permanently halt all activities relating to its heavy-water reactor at Arak, including shutting down the reactor and verifiably ending all fuel production. The facility could potentially be converted to a light-water reactor like that which Iran maintains under IAEA safeguards at Bushehr.

3. Legal Requirements and Outstanding Concerns

Under any final deal, the United States must insist Iran resolve all outstanding international concerns over its past violations. Though the JPA ignores the binding legal requirement that it suspend enrichment – and in fact cedes implicitly the right to continue enriching under a comprehensive deal – Iran must come clean over its past weaponization and enrichment activities. This is crucial for understanding the true extent and progress of Iran’s nuclear weapons program. Moreover, if Iran is not prepared to come clean regarding the fact that it engaged for years in a clandestine effort to develop nuclear weapons capability, on what possible basis would the international community now be able to take seriously its commitment not to seek such capability in the future?

4. *Inspections*

Whether a deal permits limited or no enrichment, our task force believes Iran must submit to an inspections regime adequate to verify its compliance with these restrictions. At minimum, this would mean ratifying and implementing the Additional Protocol to its existing Safeguards Agreement at the very outset of a comprehensive deal. This would require more extensive declarations of enrichment-related activities and more intrusive inspections at all relevant sites, including uranium mines and centrifuge storage sites. It would also allow the IAEA to detect more readily any undeclared sites and any possible diversion of uranium at any point in the enrichment process. Nevertheless, the United States should also insist on an even stricter long-term inspections regime, which would require Iran to agree to additional safeguards, including: real-time video monitoring of its facilities, unannounced inspections at declared and undeclared sites – including military sites suspected of involvement in nuclear activities – and mandatory access to any facilities or documentation requested by the IAEA.

5. *No Expiration Date*

The United States must use all leverage available to insist any endgame agreement be permanent, with no expiration clause. Under the JPA, a timeframe is to be mutually agreed by the P5+1 and Iran, and thus there is no certain limit to how long the deal can remain in effect. This would be in keeping with previous U.S. arms control agreements.

6. *Intensify Sanctions*

Sanctions helped drive Iran to the negotiating table in the first place. Existing measures must continue to be enforced and additional, intensified sanctions must be prepared to make Iran agree and adhere to any final deal.

For the task force members who believe an acceptable deal can still be reached through the JPA, these additional measures must be put into place should Iran ever cheat on its obligations or if the interim deal expires without being replaced by an acceptable comprehensive deal.

The interim deal sacrifices leverage by suspending key sanctions, which have already begun unraveling. This leverage will only decrease as negotiations continue, particularly if the JPA is renewed. Therefore Congress must now pass additional economic sanctions which would enter into force if Iran fails to comply with the JPA – including its six-month deadline for reaching a final deal. The House of Representatives passed such legislation by a wide margin in summer 2013, and more recently a bipartisan group of Senators introduced a bill that would condition the implementation of the House’s sanctions on Iran’s non-compliance with the terms of the JPA and failure to reach an adequate final deal in a timely fashion. We strongly endorse this approach.

Though the White House expressed concern that such measures would violate the JPA and has therefore threatened to veto the bill if it passes, we do not share this judgment. The agreement states: “The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions.” There are at least two reasons the Senate’s measures would not fall afoul of this provision. First, the

sanctions technically are not “imposed” now because they would only go into effect after the term of the deal or if Iran has already violated it. Second, the president may veto the bill if it passes (in all likelihood prompting Congress to override his veto). In this case, the “U.S. Administration” would have “refrained from imposing” new sanctions, “consistent with the respective role of the President.” This would fulfill U.S. obligations under the JPA.

Rather than seeking to thwart one of the few constructive, bipartisan Congressional initiatives, we urge the Administration instead to make the case for why such conditional sanctions do not violate the deal, and that Iran’s threat to desert the negotiating table over these measures casts doubt on its willingness to pursue diplomacy.

7. Boost Credibility of Military Option

The United States must reinforce its leverage while pursuing any deal by making military action more credible. This requires more forceful U.S. declaratory policy, to include: clear support for Israel’s right to defend itself, emphasizing advanced U.S. military capabilities (namely the GBU-57 Massive Ordnance Penetrator bunker buster for neutralizing the deeply-buried Fordow facility) and playing up, not down, the viability of military action in official statements. The United States must also begin military deployments to convey concretely its readiness to execute a preventive strike. It should also undertake all such actions in concert with regional allies. Iran has backed down previously from provocative behavior when faced with the clear logic of force, most recently in early 2012 when the U.S. Navy sent a second carrier strike force to the Persian Gulf after Iran threatened to disrupt the Strait of Hormuz.

8. Cooperate More Closely with Allies

The United States must also leverage Iran by working more directly with its own allies. This will present stronger, more unified opposition to Iran during negotiations for any final agreement. Specifically, the United States must avoid the secretive bilateral talks which have alienated key allies – primarily Israel and France – and damaged Executive-Legislative relations before the deal. By presenting its own allies with a fait accompli, the United States gave Iran leverage and more time.

Even more critically, the United States must support Israel’s right to self-defense. This will require proactively expressing U.S. commitment to support an Israeli strike against Iran and to stand by its ally in such an eventuality. Conversely, policymakers should refrain from any action – whether in further agreements with Iran or unilaterally – that might constrain Israel’s ability to decide what actions it must take.

Endnotes

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9. Iran has provided similar documentation previously for its enrichment facilities at Fordow and Natanz.
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11. Patrick Migliorini, David Albright, Houston Wood, and Christina Walrond, "Iranian Breakout Estimates, Updated September 2013," Institute for Science and International Security, October 24, 2013, 2; Blaise Misztal, "Iranian Centrifuge Advances," Bipartisan Policy Center, November 27, 2013.



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