

The Iran Deal Is on Thin Ice, and Rightly So

by [James Jeffrey \(/experts/james-jeffrey\)](/experts/james-jeffrey)

Sep 8, 2017

Also available in

[العربية \(/ar/policy-analysis/alatfaq-alayrany-ly-jlyd-rqqq-wyjdr-bh-ykwn-kdhlk\)](/ar/policy-analysis/alatfaq-alayrany-ly-jlyd-rqqq-wyjdr-bh-ykwn-kdhlk)

ABOUT THE AUTHORS



[James Jeffrey \(/experts/james-jeffrey\)](/experts/james-jeffrey)

Ambassador is a former U.S. special representative for Syria engagement and former U.S. ambassador to Turkey and Iraq; from 2013-2018 he was the Philip Solondz Distinguished Fellow at The Washington Institute. He currently chairs the Wilson Center's Middle East Program.



Articles & Testimony

In responding to Tehran's dangerous regional behavior, Washington can pursue measures short of a full-scale JCPOA annulment.

The future of the Iran deal is again under question. President Donald Trump garnered much attention in July by stating he no longer wanted to certify that Iran is in compliance with the agreement, which is required by law to occur every 90 days and thus due again next month. European leaders reacted by affirming their support for the deal, known as the Joint Comprehensive Plan of Action (JCPOA), and the Iranian government responded by claiming that it was in compliance -- but would take measures to accelerate its nuclear program if Washington were to stop its compliance. Meanwhile, the International Atomic Energy Agency (IAEA) certified Iran's compliance again in June, weakening the president's case.

It's clear that those within Trump's orbit are already thinking hard about the best way to remake U.S. policy toward Iran. Former Ambassador to the UN John Bolton recently [published](http://www.nationalreview.com/article/450890/iran-nuclear-deal-exit-strategy-john-bolton-memo-trump) [a detailed "game plan" for pulling out of the agreement and adopting a course of political pressure on Iran amounting almost to regime change.](http://www.nationalreview.com/article/450890/iran-nuclear-deal-exit-strategy-john-bolton-memo-trump) And this week, U.S. Ambassador to the UN Nikki Haley [laid out the case](https://www.aei.org/publication/nikki-haley-address-on-iran-and-the-jcpoa/) [for Iran's non-compliance in a speech at the American Enterprise Institute \(AEI\), without endorsing a specific action by the administration.](https://www.aei.org/publication/nikki-haley-address-on-iran-and-the-jcpoa/)

The Trump administration, Haley noted, sees the agreement as flawed because it is time-limited, front-loaded in Iran's favor, and does not end enrichment. Thus, it does not totally exclude Iran's path to the accumulation of sufficient fissile material for a nuclear device. Moreover, it does not effectively address prior nuclear weaponization efforts, which were left to [an opaque side deal](http://www.belfercenter.org/publication/elements-iran-nuclear-deal) [between the IAEA and Iran, which now blocks inspections of military facilities.](http://www.belfercenter.org/publication/elements-iran-nuclear-deal)

But a primary problem with the agreement, in Haley's view, is that it does nothing to curb Iran's aggressive regional expansionism. This behavior, which profoundly worries every friendly Middle East leader, kicked into high gear just weeks after the JCPOA was signed in 2015. International agreements, particularly concerning weapons of mass destruction, are obviously important in themselves, but their strategic context should not be ignored. For example, while there has been little genuine angst over the Israeli nuclear weapons program, regional and global concern about Iranian nukes has been profound due to its destabilizing regional policies.

The Obama administration's behavior stoked Iran's aggressive regional approach. U.S. officials in the previous administration were slippery on the issue of "linkage" between the agreement and Iran's disruptive regional agenda. At times, such as a speech Vice President Joseph Biden made at the Washington Institute for Near East Policy in April 2015, officials argued that the agreement was simply concerned with nuclear restraints, and Iran's regional behavior would be dealt with in other ways. But it never was -- not in Syria, Yemen, or elsewhere. Rather, the administration's implicit position appeared best reflected in President Barack Obama's 2015 interview with the *Atlantic*, wherein he argued that the long game engendered by the agreement would help return Iran to respectability and calm the region, while also signaling that he was not overly troubled by Iran's depravations. He opined that Saudi Arabia had to find a way to "share the neighborhood" with Iran, and that backing U.S. allies in the region too strongly against Iran would only fan the flames of conflict.

But Iran's behavior is now too dangerous to ignore. Tehran has facilitated Bashar al-Assad's scorched-earth policy, encouraged Russia to intervene in Syria, and abetted the rise of the Islamic State by allowing Assad and its clients in Iraq to oppress Sunni Arabs to the point of embracing the jihadist organization. While the JCPOA itself did not enable Iran's regional policies or finance its expeditionary campaigns -- which were well-funded before 2015 -- the agreement encouraged Iran's behavior. Certainly its huge arms purchases from Russia would not have been possible under the oil export and foreign deposit sanctions, and the agreement gave Iran a "seal of approval" facilitating its aggressiveness.

Leveraging the Iran deal to pressure Tehran, or even negotiating a more restrictive agreement, may look at first blush like mission impossible. Despite the nibbling at the edges described above, there is as yet no serious Iranian JCPOA violation. Under these conditions, as Richard Nephew and Ilan Goldenberg [argue \(http://foreignpolicy.com/2017/09/01/the-iran-deal-is-keeping-the-middle-east-from-going-nuclear-why-does-trump-want-to-blow-it-up/\)](http://foreignpolicy.com/2017/09/01/the-iran-deal-is-keeping-the-middle-east-from-going-nuclear-why-does-trump-want-to-blow-it-up/) in *Foreign Policy*, there is little likelihood that the United States could convince the agreement's other signatories and third parties to again implement U.S. sanctions on Iranian oil exports, which brought Iran to the negotiating table last time.

While this fact seemingly argues for leaving the agreement alone, there are other considerations that the administration must take into account. This includes a looming crisis in the Middle East: The Iranian-Assad-Russian campaign for dominance in Syria and the American-led Coalition campaign to destroy the Islamic State are both coming to a close. This leaves the United States and its partners with the choice of pulling out of enclaves in Syria and northern Iraq, which were established to fight the Islamic State but useful to counter the Iranian alliance, or, if not, face possible direct military confrontation with Iran and its surrogates in both countries, as they see these enclaves as obstacles to Iranian domination of the Levant. Under such circumstances, no aspect of Iranian relations, including the JCPOA, can be immune from a re-think.

The United States can take measures here short of a full-scale JCPOA annulment -- which, given the difficulties imposing international sanctions, would likely be a diplomatic disaster. European allies, for example, recently joined the United States in challenging an Iranian missile test "in defiance of" UN Security Council Resolution 2231, which endorsed the JCPOA. The issue of blocked IAEA access to Iranian military facilities should also be reviewed.

Iran's expectation of commercial benefits from the JCPOA is also its Achilles' heel. The administration could

discourage global firms from doing business with Iran by leaving open its final position on the deal, and thus placing at risk their business with America. This is a technical violation of the JCPOA's terms, but of the most unrealistic condition -- the commitment to support Iranian economic development. While such actions would disappoint Iran, they are unlikely to drive Tehran from an otherwise beneficial agreement.

Furthermore, as Haley signaled in her AEI remarks, the law passed by the U.S. Congress requiring the president to certify that Iran is abiding by the Iran deal defines "compliance" more broadly than the JCPOA terms do. In contrast to the Iran deal, the president is required to certify that sanctions relief is in the vital national security interests of the U.S. The president thus could hold Iran in "non-compliance" under that act without necessarily stopping -- or allowing Congress to stop -- American compliance with the terms of the JCPOA. Under JCPOA Paragraph 36, the United States could also reinstitute token or partial sanctions in response to Iranian actions without pulling out of the agreement.

To many in the international community -- especially Europe, but less so in the countries closer to Iran -- such steps are anathema. But few if any countries really consider preserving the JCPOA their overriding interest in the Middle East: Even in Europe, what really impacts populations are threats from the Islamic State and unchecked refugee flows, which are largely a result of Iran's policies in Syria. Moreover, a possible collapse of the U.S.-led Middle East security system by an unchecked Iran endangers them more than it does the United States.

No matter what Trump or another president does, the Iran deal is poised to run up against an uncomfortable political reality. Under the JCPOA, Congress must formally terminate sanctions -- which until now have only been waived by the executive branch -- by January 2024. It defies credulity to think that anything like today's Congress, given anything like Iran's current behavior, would take such a step by 2024. But not doing so would violate a key JCPOA provision and block Iranian formal adherence to the Non-Proliferation Treaty's Additional Protocol. Under these conditions, it may be feasible to pressure those in the international community favorable to the JCPOA to rethink overall relations with Iran as the "price" for salvaging the agreement's nuclear restraints. But given the extraordinary threat that Iran poses with its expansionism in Lebanon, Syria, Iraq, Yemen, and elsewhere, as well as the ongoing administration review of Iran policy, the status of the JCPOA cannot be sacrosanct.

James F. Jeffrey, the Philip Solondz Distinguished Fellow at The Washington Institute, is former U.S. ambassador to Turkey, Iraq, and Albania. ❖

Foreign Policy

RECOMMENDED



BRIEF ANALYSIS

[Iran Takes Next Steps on Rocket Technology](#)

Feb 11, 2022

◆
Farzin Nadimi
(/policy-analysis/iran-takes-next-steps-rocket-technology)

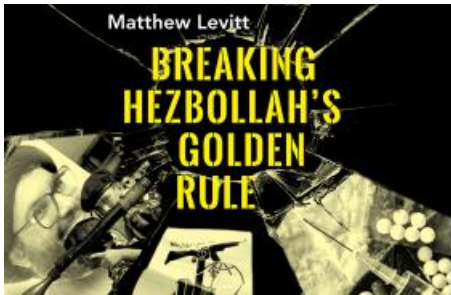


BRIEF ANALYSIS

[Saudi Arabia Adjusts Its History, Diminishing the Role of Wahhabism](#)

Feb 11, 2022

◆
Simon Henderson
(/policy-analysis/saudi-arabia-adjusts-its-history-diminishing-role-wahhabism)



ARTICLES & TESTIMONY

[Podcast: Breaking Hezbollah's Golden Rule](#)

Feb 9, 2022

◆
Matthew Levitt
(/policy-analysis/podcast-breaking-hezbollahs-golden-rule)

TOPICS

[Proliferation \(/policy-analysis/proliferation\)](#)

[U.S. Policy \(/policy-analysis/us-policy\)](#)

REGIONS & COUNTRIES

[Iran \(/policy-analysis/iran\)](#)