

Making the Iran Nuclear Deal Work

by [Patrick Clawson \(/experts/patrick-clawson\)](/experts/patrick-clawson)

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ABOUT THE AUTHORS



[Patrick Clawson \(/experts/patrick-clawson\)](/experts/patrick-clawson)

Patrick Clawson is Morningstar senior fellow and director of research at the Washington Institute for Near East Policy.



Brief Analysis

Now that an Iran nuclear deal has been signed, the next challenge is implementation. This step will entail at least two major challenges: interpreting the agreement and progressing toward what the deal calls "the final step of a comprehensive solution."

Press reports suggest that in recent months, the United States, in the person of Deputy Secretary of State William Burns, has had extensive secret bilateral discussions with senior Iranian officials. Hopefully, such high-level talks have actually occurred and will continue. They provide the perfect venue for discussing steps each side might take now that an accord has been signed, including the interpretation of provisions left intentionally vague in the document released to the public.

AMBIGUOUS PROVISIONS

In the nuclear accords signed in 2003 and 2004, Iran interpreted the terms expansively, claiming that the deals permitted activities thought to be clearly banned by the other parties. Ultimately, Iran backed out of the deals, contending that the West was not following through on its obligations as Tehran understood them. The reality, of course, may have been that Iran was simply using such reasoning as an excuse to back out of agreements it had come to dislike. This experience illustrates some of the challenges of implementing any such accord, wherein the possibility always exists of differing interpretations.

Despite Tehran's many obligations under the Joint Action Plan (JAP), these obligations are not linked to time lines. Tehran, for example, would be within its rights to wait five months before following through on the requirement to dilute half its stock of 20-percent-enriched uranium to 5-percent-enriched uranium -- assuming the regime allows International Atomic Energy Agency (IAEA) inspectors access to centrifuge-manufacturing facilities, agrees with the IAEA on safeguards for the Arak reactor, or gives IAEA inspectors daily access to the Fordow and Natanz plants.

This is one area in which continued back-channel talks could be particularly useful -- that is, to raise any concerns

and clarify reasons for the inevitable delays that will occur on some fronts. In such talks, Washington should note vigorously that its own actions in the JAP's implementation will be linked to Iranian compliance. For instance, the JAP text establishes no time line for suspension of U.S. sanctions on Iran's petrochemical exports, gold trade, and auto industry imports. These sanctions should not be lifted based on good faith that Iran will ultimately fulfill its side of the deal. Better negotiating practice calls for an agreed understanding on each side's pace of implementation.

A number of other provisions in the JAP are ambiguous. In particular, the text 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." That language seems clear enough, but it leaves key questions unaddressed. Perhaps the most important of these is U.S. enforcement of its existing sanctions. Such enforcement has required frequent designation of additional entities and individuals within and associated with the Islamic Republic, often because Iran turns to new subterfuges to avoid the U.S. sanctions. If Washington continues to designate additional sanctions-busters, Tehran may complain that the United States is renegeing on its side of the deal by enacting new sanctions. But if Washington turns a blind eye to Iran's new schemes to evade restrictions, then the existing sanctions will be eroded and the Islamic Republic will have less incentive to continue negotiations or even to observe the Geneva accord.

Just as the JAP is silent on new measures to enforce existing sanctions, it also says nothing about threats of eventual additional sanctions if talks fail; the text only bans "imposing new" sanctions. In the sanctions legislation being considered in the U.S. Senate, by comparison, new sanctions would be imposed if no full accord is reached within 180 days after the signing of the Geneva deal. Proponents of the Senate bill argue that this provision is a spur to reaching a comprehensive solution, rather than a lever to impose new sanctions that contravenes the JAP. That said, Tehran will surely scream if the Senate bill is approved. For its part, the Geneva text does carve out space for new sanctions on Iran for nonnuclear causes, such as human rights violations, support for terrorism, or drug trafficking - all of which have been cited to justify some of the sanctions on Iran. In practice, Tehran is likely to complain about any such sanctions. The Geneva deal is more likely to be implemented if the Obama administration clarifies to Tehran the limited nature of U.S. commitments under the accord. If Iran, correspondingly, wants quiet reassurance of U.S. steps beyond those delineated, then Tehran must demonstrate concretely its own willingness to take further steps.

PROGRESS FROM GENEVA TO A COMPREHENSIVE SOLUTION

U. S. officials have stressed that the Geneva accord is only a first step. The JAP adopts the same language used in a November 6 background briefing by a "senior administration official" about "a first step and then a comprehensive solution." That administration official, referring to the accords then under discussion, argued, "It's not an interim deal, sort of like, well, you may never get to the rest of it. It is a first step that ought to lead you towards what you are trying to resolve in a comprehensive agreement."

But the timetable set for reaching a comprehensive solution is looser than the often-cited six months. The JAP text states, "The first step would be time-bound, with a duration of 6 months, and renewable by mutual consent, during which all parties will work to maintain a constructive atmosphere for negotiations in good faith." This language only commits Tehran to negotiate in good faith during those six months. Indeed, the section titled "Elements of the Final Step of a Comprehensive Solution" outlines "the final steps of a comprehensive solution, which the parties aim to conclude negotiating and commence implementing no more than one year after the adoption of this document" -- implying that negotiations may last a year rather than six months.

In practice, it is difficult to see circumstances under which the P5+1, as the nations negotiating with Iran are known,

would refuse to renew the Geneva deal. Indeed, it would be near impossible for the P5+1 to explain why a deal that was good enough for six months is not good enough for six years -- or permanently. Yet Iran's commitments on two key fronts only last six months: "Iran announces that it will not enrich uranium over 5% for the duration of the 6 months," and "Iran has decided to convert to oxide [a form less easily enriched further] UF6 [uranium] newly enriched up to 5% during the 6 month period." Nothing in the JAP text dictates whether these commitments will be extended if the agreement is extended.

The main mechanism in the Geneva deal pushing Iran toward a comprehensive solution is the partialness of the sanctions relief, with an important element (the release of some funds held in banks outside Iran) being time limited. So the pressure on Iran will depend primarily on how vigorously the existing sanctions are enforced. Yet, as noted above, Tehran is likely to object to enforcement actions by identifying them as new sanctions. This is another issue on which a side understanding, out of the public eye, is needed.

BETTER TO RECOGNIZE REALITY THAN TO PRETEND

Were the Geneva accord to fall apart as did the 2003, 2004, and 2009 nuclear deals with Iran, a grave crisis would ensue. The failure of the agreement could strengthen Iranian suspicions of the West, suspicions that Supreme Leader Ali Khamenei continues to voice in his guarded approval of the nuclear talks. Were Iran to ultimately thwart the restrictions it has now accepted, such a move would feed concerns in the West and in the region -- especially the Gulf monarchies and Israel -- that Iran was preparing to "break out," or take the last steps before a dash to nuclear weapons capability. The scenario the world community had sought to avoid through a deal would thus have unfolded, and the options would be accepting an Iranian bomb or bombing Iran.

Therefore, the temptation for Washington will be to insist that all is well: to emphasize uncertainties about intelligence on transgressions, to characterize any problems as minor and readily fixable. Add to this the professional instinct of diplomats that they have the tools to resolve differences. The irony is that a relatively permissive attitude like this could put at risk the peaceful resolution of the nuclear impasse, because concealed shortcomings will be perceived by critics as cover-ups and proof that the deal is not working. Much better would be to disarm critics by readily, openly, and regularly acknowledging that the nuclear accord is a work in progress, that not everything will go according to plan, and that unexpected issues will arise requiring further agreement. Facing reality is tough, but pretending is rarely a sustainable alternative.

Patrick Clawson is director of research at The Washington Institute. ❖

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