

FAQ: Why the U.S. Must Return to the JCPOA

If the last four years have been a case for anything, it is how *not* to conduct U.S. policy towards Iran. Since the Trump administration withdrew from the Joint Comprehensive Plan of Action (JCPOA), or the Iran nuclear deal:

- The U.S. and Iran moved to the [brink of war twice](#);
- Iran’s nuclear breakout, or the time it could take Iran to produce sufficient fissile material for a single nuclear weapon, fell from over 12 months with the deal to approximately 3 months today;
- The U.S. is more isolated on the international stage on Iran issues than it has ever been before; and
- The Iranian people remain caught between crippling sanctions and government repression, with no end in sight.

Below, we answer why President-elect Biden’s proposal to return to compliance with the JCPOA if Iran is willing to do the same is the only sound option for the U.S.:

Question: What is Biden’s position on the JCPOA?

Answer: Biden has committed to return the U.S. into compliance with the JCPOA if Iran is willing to do the same, then build on that opening to strengthen the deal and address regional concerns.

- Biden [wrote](#) in September that “I will offer Tehran a credible path back to diplomacy. If Iran returns to strict compliance with the nuclear deal, the United States would rejoin the agreement as a starting point for follow-on negotiations. With our allies, we will work to strengthen and extend the nuclear deal’s provisions, while also addressing other issues of concern.”
- In [Foreign Affairs](#) in March, Biden stated that “Tehran must return to strict compliance with the deal. If it does so, I would rejoin the agreement and use our renewed commitment to diplomacy to work with our allies to strengthen and extend it, while more effectively pushing back against Iran’s other destabilizing activities.”

Question: Does the President have the authority to return to the JCPOA?

Answer: Yes. There is no legal statute, regulation, or congressional law that would prevent Biden from bringing the U.S. back into compliance with the JCPOA. Nevertheless, the Trump administration plans to impose a [“flood” of new sanctions](#) during the lame-duck to tie President-elect Biden’s hand.

- Despite hawks’ attempts to create one, there is no legal “sanctions wall” that would prevent Trump’s successor from returning the United States to compliance with the

JCPOA.

- Sanctions-lifting could be accomplished by the same mix of statutory waivers, Executive order revocations, and U.S. sanctions list removals as performed by President Obama when implementing the initial U.S. commitments under the nuclear accord.
- One option for a Biden administration to jumpstart the process would be to [revoke National Security Policy Memorandum 11](#), which formally ended U.S. participation in the JCPOA on May 8, 2018, on day one of his administration.
- If new sanctions are intended to [frustrate](#) a JCPOA return, they should be viewed as nuclear sanctions that should be removed once the U.S. comes back into compliance with the deal.
- A Congressional review period under the [Iran Nuclear Agreement Review Act \(INARA\) of 2015](#) could be triggered if there is a new nuclear agreement with Iran or the JCPOA is significantly altered.
- If so, the President's ability to waive sanctions would be restricted for a 30 to 60 day review period, and Congress could vote on resolutions of disapproval to bar return. The JCPOA has already been subjected to Congressional review in 2015, when proponents succeeded in protecting the accord.

Question: Is returning to the nuclear deal strategically sound?

Answer: Yes. It is the best option to reverse what has been four years of failed Iran policy, regain U.S. credibility on the international stage, and reimpose limits on Iran's nuclear program, all while revitalizing the prospects for diplomacy on other outstanding issues. If the JCPOA fails, Biden risks being locked into Trump's approach.

- If the Biden administration misses the opportunity to return to the JCPOA, it will have to start from scratch with diminished diplomatic credibility and leverage. It will be important to move quickly to ensure that changing political winds in Iran do not eliminate the best chance to restore nuclear safeguards and return to the diplomatic table.
- It took President Obama 6 years to secure the JCPOA, including nearly 3 years of direct negotiations. Discarding the deal would ensure a growing nuclear crisis in the Middle East amid domestic upheaval while eroding political will in Tehran for negotiations.
- In 2013, both President Obama and President Rouhani had a mandate to engage in negotiations and were willing to expend political capital to finish them. Now, with the Iranian public's views on the U.S. having hardened under maximum pressure, Iran's 2021 elections are almost certain to bring to power someone less invested in a forward-leaning diplomatic agenda.



Question: Would the JCPOA still deliver key nonproliferation benefits?

Answer: Yes. All of the key JCPOA restrictions on Iran's nuclear program would still be effective today and for many years ahead if the accord is fully implemented.

- Under the JCPOA, Iran was forbidden from maintaining a stockpile larger than 203 kg of low enriched uranium (LEU) until 2030. Even with further enrichment, that is insufficient material for a single nuclear weapon. Thanks to Trump's withdrawal, Iran has accumulated 2,442.9 kilograms of LEU, or 12 times the JCPOA limit, as of [November 2020](#).
- Iran has also increased its enrichment from 3.67%, as capped under the JCPOA until 2030, to 4.5% enriched uranium. Iran has also restarted enrichment at the deeply-buried facility at Fordow and accelerated research on advanced centrifuges.
- If both the U.S. and Iran were to come back into compliance, Iran's nuclear breakout time would increase from 3 months today to more than 12 months, staving off a nuclear crisis at the onset of a Biden presidency.
- Key enrichment restrictions under the deal last until 2030, while other commitments - such as Iran's commitments never to pursue a nuclear weapon and allow enhanced inspections - would never expire.
- The Biden administration has a chance to lengthen restrictions while complying with the deal, but no chance to lengthen them outside of it.

Question: Will Iran agree to return to compliance if the U.S. does?

Answer: Iran will return to compliance with its obligations under the nuclear deal if the U.S. does the same, according to Iran's official position.

- Iranian President Hassan Rouhani seemed to encourage a U.S. return to the JCPOA after Biden's victory, [saying](#) "Now, an opportunity has come up for the next U.S. administration to compensate for past mistakes and return to the path of complying with international agreements through respect of international norms."
- [The most definitive statement from](#) Iran's Supreme Leader Ayatollah Ali Khamenei forbade negotiations with the U.S. unless the U.S. first returned to the nuclear agreement. Ali Rabiee, Iranian President Rouhani's spokesman, reiterated on Oct. 27th that, "we have announced that if all sides return to compliance, the Islamic Republic of Iran will also return to its previous commitments."
- Strategically, Iran chose to remain in the JCPOA despite the devastating consequences of reimposed sanctions in the hope of fully restoring it. This logic rested on Iran's belief that caving to maximum pressure would be more damaging than resisting it, while shifting

blame to the United States for failing to uphold its obligations.

- Even though Iranian officials have suggested the U.S. compensate Iran for damages incurred under Trump sanctions, it is important to recognize that there is no red line accompanying this position that would stand in the way of a compliance-for-compliance return. This provides space for both Iran and the U.S. to reenter the deal and then start what would likely be a [long, arduous process](#) to address outstanding issues.
- Critically, Iran holds its own Presidential elections on June 18, 2021, which will choose the successor to Rouhani who is subject to term limits. While the window will not close on negotiations afterward, it is likely that the window to rejoin the JCPOA will close prior to the election.

Question: Why not seek a larger deal that includes Iran’s regional activities?

Answer: We should, but only once the JCPOA is reinstated. Trump promised a better deal from outside of the JCPOA and got nowhere, alienating our former negotiating partners and freeing Iran from nuclear constraints. There is likely to be a time-bound window for Biden to save the JCPOA, and he must seize it to avoid being locked into Trump’s failed approach.

- The Trump administration said ‘maximum pressure’ would lead to a better, more comprehensive deal. Instead, no negotiations have transpired and regional tensions have spiked dramatically.
- The U.S. moved to the precipice of war in June 2019, following Iran’s downing of a U.S. drone, and again in January 2020 following the assassination of Iranian general Qassem Soleimani. Iran and its proxies have been blamed for numerous provocations, including attacks on U.S. bases in Iraq, Saudi oil facilities and tankers transiting the Persian Gulf.
- The U.S. currently has pressure but no leverage over Iran. Iran’s leaders believe caving to maximum pressure is a greater threat to its security than sanctions, as it will invite further U.S. bad faith and pressure aimed at toppling the regime.
- If the U.S. attempts to open negotiations into other issues, Iran may choose to play the nuclear cards at its disposal. In the lead up to the previous round of negotiations, Iran had increased its enrichment of uranium to 20%, ramped up nuclear R&D, and conducted missile tests in defiance of UN Security Council Resolutions.
- In addition, without quickly entering the deal, the U.S. risks losing a vital opportunity to restore key safeguards on Iran’s nuclear program before another president wins Iran’s presidential election in June 2021.



Question: Where does the rest of the world stand on a JCPOA return?

Answer: The United Kingdom, France, and Germany all implored the U.S. to stay in the deal, and once we withdrew, consistently reaffirmed their commitment to the deal and fought to preserve it. Israeli Prime Minister Benjamin Netanyahu and Saudi Arabia have [championed](#) the Trump administration’s “maximum pressure” approach, and appear set to try to limit a Biden administration’s options.

- The U.S. withdrawal from the JCPOA, and the subsequent ‘maximum pressure’ campaign imposed on Iran, remains one of the starkest examples of the growing divide between the U.S. and our traditional allies in Europe.
- Returning to the JCPOA, a deal that our allies believe is a model for multilateral diplomacy, would be a stepping stone in recreating the international coalition that created the JCPOA in the first place.
- During the JCPOA negotiations, the Netanyahu government in Israel fought tooth and nail to stop the signing of the deal, even as [Israel’s security establishment](#) saw its benefits. Saudi Arabia, as well, has championed the Trump administration’s maximum pressure campaign.
- With the dust barely settled on the American election, reports indicate that Netanyahu and Saudi Arabia are already [coordinating](#) with the Trump administration to ratchet up sanctions during the transition and seek to tie Biden’s hands at the negotiating table.