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Arab Center for Research & Policy Studies

SITUATION ASSESSEMENT

Will Trump Revoke the Joint Comprehensive Plan of Action?

Policy Analysis Unit | October 2017

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Series: Situation Assessment

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Introduction

The White House confirmed on Friday, 13 October that President Trump does not intend to certify Iranian compliance with the Joint Comprehensive Plan of Action, commonly known as the “Iranian nuclear deal”. The deal, which was concluded in 2015, placed restrictions on Iran’s capability to enrich fissile materials in exchange for easing the economic sanctions on Tehran. The US president has consequently placed the onus on the Congress to amend the terms of the agreement, thereby absolving the Executive of responsibility for the continuous, cyclical rubber-stamping of the deal. The president has threatened to unilaterally withdraw from the agreement if US lawmakers cannot present a deal which both prevents Tehran from acquiring nuclear weapons capabilities and curtails its ballistic missile program, in addition to ending Iranian support for what the White House describes as “terrorism”. While regional actors like Saudi Arabia and the United Arab Emirates were supportive of Trump’s posture towards the JCPOA, it met opposition from the other members of the Security Council and Western European countries.

A Challenge to Iran

Trump justified his decision not to certify the JCPOA by providing a long list of allegations against Iran. These accusations included its behaviour as a “state sponsor of terrorism” on the world stage and its deployment of missile systems that threatened to destabilize the United States and its Gulf allies, as well as maritime routes in the Gulf itself and the Red Sea. Trump further accused Iran of working with North Korea to develop and trade in missile technology. According to the US president, the JCPOA as it now stands has failed because it does not account for these issues—the deal only concerns the enrichment of uranium. In contrast, infractions along the lines detailed by the president provide the justification to tighten economic sanctions against Tehran. The JCPOA simply had no provisions for anything other than restricting Iran’s capability to produce a nuclear weapon¹. Notably, it was Tehran’s insistence that ensured that the JCPOA was limited exclusively to uranium (and plutonium) enrichment and nuclear proliferation.

¹ Read the Obama presidency archives on the JCPOA, available online at: <https://obamawhitehouse.archives.gov/issues/foreign-policy/iran-deal>

Trump has now expressed the view that the deal, which provides for stringent oversight of Iran's centrifuges, fissile material enrichment and even visits to military sites, is not sufficient. Specifically, Trump has faulted the deal for not preventing the Iranian development of ballistic missiles and testing them. The JCPOA, he attests, does not go far enough in restricting the enrichment of fissile materials (uranium and plutonium). The US president also suggests that any restrictions on the enrichment of fissile grade uranium and plutonium should not be time bound- the present structure prevents the construction of new enrichment facilities for 15 years and provides for continued inspections covering the entire process from mining through enrichment to the creation of weapons-grade uranium for a full 25 years².

Trump has depicted the JCPOA, signed by his predecessor in the White House, as a lifeline for the Iranian regime, which he contends would otherwise have crumbled under the weight of both regional strains and international sanctions. Trump also faults the deal for releasing a total of US\$ 100 billion in Iranian assets held in foreign bank accounts that had been frozen since the fall of the Shah. Trump argues that these funds can now be used to fund terrorism and that the sum effect of the deal will be to merely delay the acquisition of nuclear weapons technology— not prevent it entirely³.

Trump: a New Iran Strategy

Senior officials in the Trump Administration—specifically, Secretary of State Rex Tillerson, Secretary of Defense James Mattis and National Security Adviser H.R. McMaster—have prevented the president from declaring a complete withdrawal from the Iran nuclear deal. Nonetheless, he has already threatened to pull out of the deal unless Tehran agrees to a new set of conditions. The compromise within the White House was for the president to merely declare his rejection of the deal as it stood, without completely calling for the United States to formally leave the treaty. The agreed strategy for now is to simply try to extract further concessions from Iran, which, in the likely case of an Iranian rebuttal, would allow Trump to

² "Joint Comprehensive Plan of Action," Vienna, July 14, 2015, available online: <https://www.state.gov/documents/organization/245317.pdf>

³ See here: <https://www.whitehouse.gov/the-press-office/2017/10/13/remarks-president-trump-iran-strategy>

blame Iran for forcing Washington out of the deal⁴. Tillerson described this approach as trying to “fix” the deal with Iran, acknowledging that, if the US could not succeed, it may abandon the treaty⁵.

Unilaterally scrapping the deal, if not impossible, poses diplomatic challenges in the present circumstances. The International Atomic Energy Agency, as well as many US allies in Western Europe and even the Chairman of the US Joint Chiefs of Staff, attest to Iranian compliance with the 2015 agreement, and are opposed to attempts by the US to change the terms of the JCPOA⁶. Secretary of Defense Mattis further claimed that remaining bound to the JCPOA served American interests, particularly given the pressing need to deal with North Korea at the same time⁷.

Trump’s approach can be categorized in three strategic steps:

- 1) Sanctions to be placed on the Iranian Revolutionary Guard: the president has already authorized the US Treasury to impose sanctions on the IRG and affiliate companies. This stops short of labelling the IRG as a terrorist organization, possibly a concession to its engagement in a battle alongside US forces across the Iraqi border.
- 2) A new set of comprehensive sanctions on Iran outside of the remit of the nuclear agreement. These new sanctions would also target Tehran’s ballistic missile program. Trump has also called for an end to Iranian support of what he describes as terrorism, and for US allies across the Middle East to join him.
- 3) A refusal to certify the JCPOA as part of a regular, quarterly approval process mandated to the president in legislation (the “Iran Nuclear Agreement Review Act”) passed by the US Congress in 2015. According to Trump, this is to account for the rise of what he describes as Iranian belligerence in the wake of lifting economic sanctions in 2015.

⁴ Stephen Collinson, Kevin Liptak and Dan Merica, “Trump says Iran violating nuclear agreement, threatens to pull out of deal,” *CNN*, October 13, 2017, available online: <http://edition.cnn.com/2017/10/13/politics/iran-deal-decertify/index.html>

⁵ Ibid

⁶ Paul McLeary, “Trump’s Top General Says Iran Honoring Nuke Deal,” *Foreign Policy*, September 26, 2017, available online: <http://foreignpolicy.com/2017/09/26/trumps-top-general-says-iran-honoring-nuke-deal/>

⁷ Mark Landler and David E. Sanger, “Trump Disavows Nuclear Deal and Denounces Iranian Leadership,” *The New York Times*, October 13, 2017, available online: <https://www.nytimes.com/2017/10/13/us/politics/trump-iran-nuclear-deal.html>

Why Return to Sanctions?

With no appetite for a unilateral withdrawal from the JCPOA, Trump has instead chosen to place the burden of restricting Iran further on Congress. This would take the form of new conditions placed by Congress for the continuation of the JCPOA. By making these new conditions stringent enough, the president will effectively create conditions conducive to the return to the sanctions regime on Iran. There are three “triggers” which the president imagines precipitate a return of the sanctions regime on Iran, according to the White House:

- 1) Tehran continuing to develop and test ballistic missiles.
- 2) Iranian refusal to extend the timeframes during which its enrichment of uranium, beyond the limits set by the original terms of the deal.
- 3) The capability by Iran of being able to produce a nuclear warhead in less than a year, as determined and assessed by US intelligence services.

The fulfillment of any of the above three criteria would lead, claims the US president, to Washington’s unilateral withdrawal from the JCPOA.

Trump’s apparent eagerness to dump the matter on Congress appears to be an uncertain wager, given that his Republican party controls the Senate by only a slim majority (52 to 48). With the Democrats expected to be in unison in opposing this latest attempt by Trump to undo the Obama legacy, coupled with even congressional Republican reluctance to undo the nuclear deal, it is unlikely that US legislators will enable Trump⁸.

In spite of these challenges, two Republican congressmen—Senators Bob Corker (the Chairman of the Foreign Relations Committee) and Tom Cotton—are working with the Trump White House to draft new legislation that would formalize the triggers to ending the JCPOA along the lines described above. The ultimate scenario will play out in one of three likely ways:

- 1) In the situation that the United States pulls out of the deal with Iran, Washington would have found itself in violation of the terms of the JCPOA, leading to the likely collapse of the entire framework. In fact, congressional approval is not even necessary for such a situation to play out, with Trump having the Executive authority to lead the country out of the deal without the need for legislators’ approval.

⁸ Uri Friedman, “Trump isn’t Certifying the Iran Deal—What Happens Next?,” *The Atlantic*, October 12, 2017, available online: <https://www.theatlantic.com/international/archive/2017/10/iran-deal-trump-next/542379/>

- 2) A second potential outcome would be for the US Congress to attempt to “improve” or “enhance” the deal. This would be most consistent with Trump’s behavior and his aims, as well as the stated position of his Secretary of State. Such a maneuver by the United States would likely be met by an Iranian refusal to bend, thereby threatens to unravel the entire agreement.
- 3) A third possibility is congressional stalemate. This looks more likely given the present composition of the two Houses of Congress. In such an outcome, Trump will have the ability to both grandstand and lay the blame on Congress for failing to live up to its bellicosity on Iran.

In the present circumstances, all options are on the table for the future of the US-Iran relationship. The only certainty is that the short-lived era of openness between Washington and Tehran has come to an end, and that greater tensions and pressures between the two sides are expected.