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# Iran: Efforts to Achieve a Nuclear Accord

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## Summary

On November 24, 2013, Iran and the six powers that have negotiated with Iran about its nuclear program since 2006 (the United States, the United Kingdom, France, Russia, China, and Germany—collectively known as the “P5+1”) reached an interim agreement (“Joint Plan of Action,” JPA) requiring Iran to freeze many aspects of its nuclear program in exchange for temporary relief from some international sanctions. The period of the JPA, which began implementation on January 20, 2014, was to be six months, during which time Iran and the P5+1 would attempt to reach a comprehensive deal on the long-term status of Iran’s nuclear program. The JPA has been seen as slowing Iran’s build-up of nuclear material and improving the international community’s ability to identify Iranian efforts to develop nuclear weapons. Iran has complied with its JPA obligations, according to the IAEA. Under the JPA, the P5+1 countries have refrained from imposing new sanctions and permitted Iran to repatriate to Iran about \$700 million per month in oil sales proceeds. Iran’s oil exports are capped at about 1.3 million barrels per day (including oil by-products)—a 50% drop from 2011 levels of about 2.5 million barrels per day. The JPA also permits Iran to sell petrochemicals and trade in gold and other precious metals, and to conduct transactions with foreign firms involved in Iran’s auto sector.

Throughout 2014 and thus far in 2015, the international community has focused on negotiations on a comprehensive nuclear accord (“Joint Comprehensive Plan of Action, JCPA). The P5+1-Iran negotiations began in February 2014 and have made steady but slow progress, causing several extensions of the JPA. On April 2, 2015, the P5+1 and Iran announced that they had reached an overarching framework for a comprehensive agreement, with the intent of finalizing a detailed agreement by the expiration of the current JPA period on June 30, 2015. The main outstanding issues center on the size and scope of Iran’s uranium enrichment program; the duration of the comprehensive accord; and the extent of the lifting of nuclear-related sanctions.

The Administration and the other P5+1 governments assert that the framework agreement, if finalized, represents the most effective of several alternatives to ensure that Iran cannot obtain a nuclear weapons capability. However, some U.S. allies in the Middle East, as well as some in Congress, express concerns that the emerging accord does not ensure that Iran could not utilize its nuclear infrastructure to develop a nuclear weapon in a short period of time after the agreement expires. Some countries in the region, including Israel and the Persian Gulf monarchies, also express concern that an accord would give Iran additional resources to extend its influence in the region. These U.S. allies also are said to fear that a finalized deal will produce a broader U.S.-Iran rapprochement that could cause the United States to retreat from the Middle East or otherwise decline to act against the objectionable aspects of Iran’s foreign policy. Some groups express concern that the deal will not address Iranian human rights abuses or its holding of several Iranian-American nationals on various charges.

On the other hand, a nuclear agreement could produce greater U.S.-Iran cooperation against the threat to the region posed by the Islamic State organization’s seizure of territory in Iraq and Syria. U.S. officials acknowledge that Iran and the United States have held bilateral talks on the Islamic State and other regional issues at the margins of the negotiations on a comprehensive nuclear accord. A finalized accord could also cause Iran to try to cooperate in achieving political solutions to regional conflicts such as those in Syria and in Yemen. An accord could also pave the way for several proposed regional energy projects to proceed.

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## Introduction

Multilateral negotiations regarding Iran's nuclear program date back to 2003 after a pilot-scale clandestine gas centrifuge enrichment facility was revealed at Natanz. In October of that year, Iran concluded an agreement with France, Germany, and the United Kingdom that contained provisions designed to alleviate international concerns regarding Iran's uranium enrichment and heavy-water reactor programs. Iran temporarily suspended all enrichment and reprocessing operations and signed an IAEA Additional Protocol to its International Atomic Energy Agency (IAEA) safeguards agreement, but also asserted its right to develop nuclear technology. Between 2003 and 2006, questions arose about undeclared nuclear activities in Iran. In January 2006, Iran broke international seals and restarted work on its commercial-scale enrichment plant. In June 2006, the P5+1 presented a proposal to Tehran that offered a variety of incentives in return for several Iranian confidence-building steps concerning those programs. Since then, the two sides held multiple rounds of talks.

Following the June 2013 election of Iranian President Hassan Rouhani, many observers expressed optimism that the negotiations could produce an agreement. After Rouhani took office in August 2013, Iran and the P5+1 met twice (once in October and once in November) prior to the talks that agreed on November 24, 2013, to the "Joint Plan of Action" (JPA, sometimes referred to in international documents as JPoA). The JPA set out an approach toward reaching a long-term comprehensive solution to international concerns regarding Iran's nuclear program. The two sides began implementing the JPA on January 20, 2014.

As part of the diplomatic efforts cited above, the U.N. Security Council adopted several resolutions, the most recent and sweeping of which (Resolution 1929) was adopted in June 2010. These resolutions require Iran to cooperate fully with an ongoing IAEA investigation of its nuclear activities, suspend its uranium enrichment program, suspend its construction of a heavy-water reactor and related projects, and ratify the Additional Protocol to its IAEA safeguards agreement. Resolution 1929 also requires Tehran to refrain from "any activity related to ballistic missiles capable of delivering nuclear weapons" and to comply with a modified provision (called code 3.1) of Iran's subsidiary arrangement to its IAEA safeguards agreement.<sup>1</sup> Several of these resolutions imposed economic and other sanctions on Iran.

In addition to concluding the JPA, Iran signed a joint statement with the IAEA on November 11, 2013, describing a "Framework for Cooperation."<sup>2</sup> According to the statement, Iran and the IAEA agreed to "strengthen their cooperation and dialogue aimed at ensuring the exclusively peaceful nature of Iran's nuclear programme through the resolution of all outstanding issues that have not already been resolved by the IAEA." The IAEA has long sought to resolve some outstanding questions regarding Tehran's nuclear program, some of which concern possible Iranian research on nuclear weapons development.

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<sup>1</sup> Iran is a party to the nuclear Nonproliferation Treaty (NPT) and has concluded a comprehensive safeguards agreement with the IAEA. Such agreements are designed to enable the IAEA to detect the diversion of nuclear material from peaceful purposes to nuclear weapons uses, as well as to detect undeclared nuclear activities and material. For more information, see CRS Report R40094, *Iran's Nuclear Program: Tehran's Compliance with International Obligations*, by Paul K. Kerr.

<sup>2</sup> Available at <http://www.iaea.org/press/?p=4018>.

## Background on Nuclear Program<sup>3</sup>

Iran has nuclear programs that could potentially provide Tehran with the capability to produce both weapons-grade highly enriched uranium (HEU) and plutonium—the two types of fissile material used in nuclear weapons. (In addition to the production of weapons-grade nuclear material, a nuclear weapons program requires other key elements such as warhead design and reliable delivery systems [see the **Appendix**].) Statements from the U.S. intelligence community indicate that Iran has the technological and industrial capacity to produce nuclear weapons at some point, but the U.S. government assesses that Tehran has not mastered all of the necessary technologies for building a nuclear weapon.

A November 2007 National Intelligence Estimate<sup>4</sup> assessed that Iran “halted its nuclear weapons program” in 2003.<sup>5</sup> The 2007 estimate, and subsequent statements by the intelligence community, also assessed that Tehran is keeping open the “option” to develop nuclear weapons.<sup>6</sup> Under Secretary of State for Political Affairs Wendy Sherman explained during an October 3, 2013, Senate Foreign Relations Committee hearing that Iran would need as much as one year to produce a nuclear weapon if the government made the decision to do so.<sup>7</sup> Tehran would need two to three months of this period to produce enough weapons-grade HEU for a nuclear weapon.<sup>8</sup> However, Director of National Intelligence James Clapper stated during a February 26, 2015, Senate Armed Services Committee hearing that Iran has apparently not made a decision to produce nuclear weapons.<sup>9</sup>

U.S. officials argue that the IAEA and/or U.S. intelligence would likely detect an Iranian attempt to use its safeguarded facilities for producing weapons-grade HEU.<sup>10</sup> The intelligence community assesses that Iran is more likely to produce weapons-grade HEU covertly, Director Clapper stated in a March 2015 interview.<sup>11</sup> But U.S. officials also expressed confidence in the ability of U.S. intelligence to detect Iranian covert nuclear facilities.<sup>12</sup> President Obama has said that its goal for

<sup>3</sup> For more information, see CRS Report RL34544, *Iran’s Nuclear Program: Status*, by Paul K. Kerr.

<sup>4</sup> “Iran: Nuclear Intentions and Capabilities,” National Intelligence Estimate, November 2007.

<sup>5</sup> The estimate defined “nuclear weapons program” as “nuclear weapon design and weaponization work and covert uranium conversion-related and uranium enrichment related work.”

<sup>6</sup> See, for example, Director of National Intelligence James Clapper’s February 26, 2015, testimony before the Senate Armed Services Committee (Statement for the Record, *Worldwide Threat Assessment of the U.S. Intelligence Community*, February 26, 2015).

<sup>7</sup> “Reversing Iran’s Nuclear Program,” Senate Foreign Relations Committee, October 3, 2013.

<sup>8</sup> The White House. “Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran’s Nuclear Program.” April 2, 2015.

<sup>9</sup> *Worldwide Threat Assessment of the U.S. Intelligence Community*, February 26, 2015. Clapper explained during an April 18, 2013, Senate Armed Services Committee hearing that such a decision “would be made singly” by Iranian Supreme Leader Ayatollah Ali Khamene’i.

<sup>10</sup> “Hearing on Security Threats to the United States,” Senate Select Committee on Intelligence, March 12, 2013. Then-IAEA Deputy Director General for Safeguards Herman Nackaerts stated in July 2013 that the IAEA “would know within a week,” if Iran were to use its safeguarded facilities to produce weapons-grade HEU. (Barbara Slavin, “Tight IAEA Inspection Regime Hampers Iran’s Nuclear Breakout,” *Al-Monitor*, July 22, 2013).

<sup>11</sup> PBS “Charlie Rose” Interview with James Clapper, Director of National Security, March 3, 2015.

<sup>12</sup> “Senior Administration Official Holds A Background Briefing Previewing Iran P5+1 Talks,” November 6, 2013; Colin H. Kahl, “Not Time to Attack Iran: Why War Should Be a Last Resort,” *Foreign Affairs*, January 17, 2012. However, Director of National Intelligence Clapper stated in a February 2015 hearing that, although the United States has “a reasonably capable intelligence capability,” IAEA safeguards would be an “important aspect of any sort of (continued...)”

a comprehensive agreement is to increase the time needed for Iran to produce enough fissile material for one nuclear weapon to between six months and one year, as well as to improve the international community's ability to detect such a scenario.<sup>13</sup>

Tehran could also use covert facilities to produce fissile material for a weapon, partly because the IAEA would likely detect an Iranian attempt to use its safeguarded facilities for this purpose. U.S. officials have expressed confidence in the United States' ability to detect Iranian covert nuclear facilities.<sup>14</sup> The U.S. intelligence community assesses that Iran is more likely to produce weapons-grade HEU covertly, Director Clapper stated in a March 2015 interview.<sup>15</sup>

President Obama has said that the goal for a comprehensive agreement is to increase the time needed for Iran to produce enough fissile material for one nuclear weapon to between six months and one year, as well as to improve the international community's ability to detect such a scenario.<sup>16</sup>

## IAEA Safeguards

The IAEA's ability to inspect and monitor nuclear facilities, as well as to obtain information, in a particular country pursuant to that government's comprehensive safeguards agreement is limited to facilities and activities that have been declared by the government. Additional Protocols to IAEA comprehensive safeguards agreements increase the agency's ability to investigate undeclared nuclear facilities and activities by increasing the IAEA's authority to inspect certain nuclear-related facilities and demand information from member states. Iran signed such a protocol in December 2003 and agreed to implement the agreement pending ratification. However, following the 2005 breakdown of the limited agreements with the European countries to suspend uranium enrichment, Tehran stopped adhering to its Additional Protocol in 2006.<sup>17</sup> Subsidiary arrangements to IAEA safeguards agreements describe the "technical and administrative procedures for specifying how the provisions laid down in a safeguards agreement are to be applied."<sup>18</sup> Code 3.1 of Iran's subsidiary arrangement to its IAEA safeguards agreement requires Tehran to provide design information for new nuclear facilities "as soon as the decision to construct, or to authorize construction, of such a facility has been taken, whichever is earlier."

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(...continued)

agreement we might reach with the Iranians" (*Worldwide Threat Assessment of the U.S. Intelligence Community*, February 26, 2015).

<sup>13</sup> "Exclusive: Full Text of Reuters Interview with Obama," *Reuters*, March 2, 2015. Also see Deputy Secretary of State Antony Blinken's testimony before the House Committee on Foreign Affairs March 19, 2015.

<sup>14</sup> "Senior Administration Official Holds A Background Briefing Previewing Iran P5+1 Talks," November 6, 2013; Colin H. Kahl, "Not Time to Attack Iran: Why War Should Be a Last Resort," *Foreign Affairs*, January 17, 2012.

<sup>15</sup> PBS "Charlie Rose" Interview with James Clapper, Director of National Security, March 3, 2015.

<sup>16</sup> "Exclusive: Full Text of Reuters Interview with Obama," *Reuters*, March 2, 2015. Also see Deputy Secretary of State Antony Blinken's testimony before the House Committee on Foreign Affairs March 19, 2015.

<sup>17</sup> Iran announced that it would stop implementing the protocol two days after the IAEA Board of governors adopted a resolution in February 2006 which referred Iran's noncompliance with its IAEA safeguards agreement to the U.N. Security Council.

<sup>18</sup> *2001 IAEA Safeguards Glossary*. Available at <http://www-pub.iaea.org/books/IAEABooks/6570/IAEA-Safeguards-Glossary-2001-Edition>.

## **Iranian Nuclear Facilities<sup>19</sup>**

This section contains a brief description of the Iranian nuclear facilities most relevant to the JPA and a comprehensive nuclear accord. According to a November 14, 2013, IAEA report, Iran had generally stopped expanding its enrichment and heavy water reactor programs during the negotiations leading up to the JPA.<sup>20</sup> Iran has not built any new nuclear facilities or expanded the existing ones since beginning implementation of the JPA in January 2014. It is worth noting that Iran operates a Russian-built nuclear power reactor. Russia will provide fuel for this reactor until 2021. Negotiations focus on the enrichment program and the heavy water reactor due to their potential for nuclear weapons material production. Iran says it is building enrichment facilities for a future expanded nuclear reactor fleet.

### **Enrichment Facilities<sup>21</sup>**

Iran has three gas centrifuge enrichment facilities (Natanz Fuel Enrichment Plant; Natanz Pilot Fuel Enrichment Plant; and Fordow Fuel Enrichment Plant). Gas centrifuges enrich uranium by spinning uranium hexafluoride gas at high speeds to increase the concentration of the uranium-235 isotope. Such centrifuges can produce low-enriched uranium (LEU), which can be used for fuel in nuclear power reactors or research reactors, and weapons-grade highly enriched uranium (HEU). LEU used in nuclear power reactors typically contains less than 5% uranium-235; research reactor fuel can be made using 20% uranium-235; HEU used in nuclear weapons typically contains about 90% uranium-235. Tehran argues that it is enriching uranium for use as fuel in nuclear power reactors and nuclear research reactors.

#### ***Natanz Commercial-Scale Fuel Enrichment Plant***

In this facility, Iran is using first-generation centrifuges, called IR-1 centrifuges, to produce LEU containing up to 5% uranium-235. As of November 2013, Iran had installed about 15,400 of these centrifuges, approximately 8,800 of which are enriching uranium. Iran had also installed about 1,000 centrifuges with a greater enrichment efficiency, called IR-2m centrifuges, in the facility. The IR-2m centrifuges are not enriching uranium.

#### ***Natanz Pilot Fuel Enrichment Plant***

Iran had been using IR-1 centrifuges in this facility to produce LEU containing approximately 20% uranium-235 until halting this work pursuant to the JPA. Tehran's production of LEU enriched to the 20% level has caused concern because such production requires approximately 90% of the effort necessary to produce weapons-grade HEU, which, as noted, contains approximately 90% uranium-235.<sup>22</sup> Iran is testing other centrifuge models in this facility under

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<sup>19</sup> Unless otherwise noted, this section is based on CRS Report RL34544, *Iran's Nuclear Program: Status*, and reports from IAEA Director-General Yukiya Amano to the IAEA Board of Governors: GOV/2013/27 (May 2013), GOV/2013/40 (August 2013), GOV/2013/56 (November 2013), and GOV/2015/34, (May 2015).

<sup>20</sup> *Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolutions in the Islamic Republic of Iran*, GOV/2013/56, November 14, 2013.

<sup>21</sup> Iran also has two uranium mines and two uranium mills.

<sup>22</sup> Former IAEA Deputy Director General Olli Heinonen, "Dealing with a Nuclear Iran: Redlines and Deadlines," Center for Strategic and International Studies, February 6, 2013.

IAEA supervision, but such work is monitored by the IAEA and provisions of the JPA limit this testing (see below).

### ***Fordow Fuel Enrichment Plant***

Iran was using IR-1 centrifuges in this facility to produce LEU containing approximately 20% uranium-235 until the JPA took effect. Iran has installed about 2,700 first-generation centrifuges, approximately 700 of which were enriching uranium.

### ***Enriched Uranium Inventory***

Iran has enough uranium hexafluoride containing up to 5% uranium-235, which, if further enriched, would yield enough weapons-grade HEU for as many as eight nuclear weapons.<sup>23</sup> The total amount of Iranian LEU containing 20% uranium-235 would, if it had been further enriched, have been sufficient for a nuclear weapon. Since the JPA, however, Iran has either converted much of that material for use as fuel in a research reactor located in Tehran (called the Tehran Research Reactor), or prepared it for that purpose.<sup>24</sup> Iran has diluted the rest of that stockpile so that it contains no more than 5% uranium-235. Tehran's uranium conversion facility is not set up to reconvert the reactor fuel to uranium hexafluoride.<sup>25</sup>

### ***Arak Reactor***

Iran is constructing a heavy water-moderated reactor at Arak, which, according to Tehran, is intended to produce radioisotopes for medical use and to replace the Tehran Research Reactor. The JPA limits further development of the facility. Heavy water production requires a separate production plant, which Iran possesses. Prior to the JPA, Tehran notified the IAEA that it had produced enough heavy water to commission the reactor.

The Arak reactor is a proliferation concern because heavy water reactors produce spent fuel containing plutonium better suited for nuclear weapons than plutonium produced by light water-moderated reactors.<sup>26</sup> If completed in its current configuration, the reactor could produce enough plutonium for between one and two nuclear weapons.<sup>27</sup> However, plutonium must be separated from the used fuel—a procedure called “reprocessing.” Iran has always maintained that it would not engage in reprocessing.

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<sup>23</sup> Colin Kahl, Deputy Assistant to the President and National Security Adviser to the Vice President, “Arms Control Association Annual Meeting: Unprecedented Challenges for Nonproliferation and Disarmament,” May 14, 2015.

<sup>24</sup> This process has generated scrap which contains LEU with 20% uranium-235. Iran also retains .6 kilograms of uranium hexafluoride containing 20% uranium-235, which “had been used as reference material for mass spectrometry” (*Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran*, Report of the Director General, International Atomic Energy Agency, GOV/2015/34, May 29, 2015).

<sup>25</sup> *Nuclear Industry in Iran: An Overview on Iran's Activities and Achievements in Nuclear Technology*, Atomic Energy Organization of Iran, 2012, p. 13. Also see GOV/2015/34.

<sup>26</sup> Both the Tehran Research Reactor and the Bushehr reactor are light-water reactors.

<sup>27</sup> Kahl, May 14, 2015.

## JPA Provisions and Implementation

The JPA text describes a two-step process for Iran and the P5+1 to “reach a mutually agreed long-term comprehensive solution that would ensure Iran’s nuclear programme will be exclusively peaceful.” This solution would also “produce the comprehensive lifting of all UN Security Council sanctions, as well as multilateral and national sanctions related to Iran’s nuclear programme.” Reiterating previous Iranian statements, the JPA also states that “Iran reaffirms that under no circumstances will Iran ever seek or develop any nuclear weapons.” The two sides began implementing the JPA on January 20, 2014.

Under the JPA, the P5+1 and Iran established a “Joint Commission” to “monitor the implementation of the near-term measures and address issues that may arise.” The IAEA is “responsible for verification of nuclear-related measures.” In November 2013, Iran and the IAEA concluded a Framework for Cooperation specifying measures to be taken to address outstanding questions and set up monitoring arrangements under the JPA.

### Nuclear Program Provisions Under the JPA<sup>28</sup>

Under the JPA, Iran agreed to refrain from “any further advances of its activities” at the Natanz commercial-scale facility, Fordow facility, and Arak reactor. Tehran is also to provide the IAEA with additional information about its nuclear program, as well as access to some nuclear-related facilities to which Iran’s IAEA safeguards agreement does not require access. These latter steps were designed to ensure Iran’s compliance with the JPA and improve the IAEA’s ability to detect Iranian efforts to produce weapons-grade HEU using its declared nuclear facilities, or to use or develop covert facilities for that purpose. The IAEA has consistently confirmed that Iran has complied with the terms of the JPA.

P5+1 government officials expressed confidence that the IAEA would be able to detect any Iranian noncompliance with the JPA.<sup>29</sup> The JPA’s nuclear provisions added “probably several months” to the time needed for Iran to produce material for a nuclear weapon, then-deputy National Security Adviser Antony Blinken stated November 25, 2013.<sup>30</sup>

### Centrifuge Limits

Under the JPA, Iran is to refrain from feeding uranium hexafluoride into its installed centrifuges that were not previously enriching uranium, and to replace existing centrifuges only with “centrifuges of the same type” and produce centrifuges for the sole purpose of replacing damaged centrifuges. Tehran is to refrain from installing additional centrifuges at the Natanz commercial facility and has pledged not to construct additional enrichment facilities. At its pilot plant, Iran is not allowed to accumulate enriched uranium. Iran may use its previously operating centrifuges in

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<sup>28</sup> Unless otherwise noted, this section is based on the agreement text (available at [http://eeas.europa.eu/statements/docs/2013/131124\\_03\\_en.pdf](http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf)), “Background Briefing by Senior Administration Officials on First Step Agreement on Iran’s Nuclear Program,” November 24, 2013, and GOV/2013/56.

<sup>29</sup> CNN, November 25, 2013.

<sup>30</sup> “Deal Leaves Iran’s Nuclear Facilities Intact,” *National Public Radio*, November 25, 2013.

the Natanz commercial facility and the Fordow facility to produce enriched uranium containing as much as 5% uranium-235.

### **Level of Enrichment Limits**

Under the JPA, Iran may only enrich uranium up to 5% uranium-235. Tehran is also to dilute half of its stockpile of uranium hexafluoride containing 20% uranium-235 to no more than 5% uranium-235. The rest of the uranium hexafluoride containing 20% uranium-235 is to be converted to uranium oxide for use as fuel for the Tehran Research Reactor.<sup>31</sup> Iran is also to refrain from building a line in its uranium conversion facility for reconverting the uranium oxide back to uranium hexafluoride.

### **LEU Stockpile Limits**

The JPA also require Iran to, in effect, freeze the amount of stocks of enriched uranium hexafluoride containing up to 5% uranium-235 by converting it to uranium oxide.<sup>32</sup> The uranium dioxide is to be set aside for R&D on fuel for Iran's Bushehr nuclear power reactor.

### **Centrifuge R&D**

According to the JPA, Iran will continue its "current enrichment R&D Practices" under IAEA safeguards, "which are not designed for accumulation of the enriched uranium." This provision prohibits Tehran from producing enriched uranium hexafluoride containing more than 5% uranium-235 as part of an R&D program.

### **Additional Monitoring**

The JPA provides for additional IAEA monitoring of the enrichment facilities by allowing IAEA inspectors to access video records from those facilities on a daily basis. Previously, inspectors reportedly accessed such records (the video is not streamed in real time to the agency), but not on a daily basis.<sup>33</sup>

### **Arak Reactor**

Under the JPA, Iran is to refrain from commissioning the reactor, transferring fuel or heavy water to the reactor site, testing and producing additional reactor fuel, and installing remaining reactor components. The agreement allows Tehran to continue some construction at the reactor site and also produce reactor components off-site that are not covered by the agreement. Iran has also

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<sup>31</sup> This material is unsuitable for further enrichment. Uranium hexafluoride is the form of uranium used as feedstock for centrifuge enrichment.

<sup>32</sup> Iran began operating a conversion plant for this purpose in July 2014.

<sup>33</sup> Then-deputy National Security Adviser Blinken stated in a November 25, 2013, television interview that such access would enable IAEA inspectors to detect Iranian efforts to produce weapons-grade HEU at its declared enrichment facilities "almost instantaneously."<sup>33</sup> However, as noted, U.S. officials have previously expressed confidence in the IAEA's ability to detect such Iranian efforts; the extent to which the November 24, 2013, agreement improves this ability is unclear.

agreed to refrain from reprocessing spent nuclear material and building a reprocessing facility.<sup>34</sup> Iran has agreed to submit updated design information about the reactor to the IAEA and agree upon a suitable safeguards approach for the reactor.

## Additional Information

According to the JPA, Iran is to provide the IAEA with other information about its nuclear programs, such as plans for future nuclear facilities. Tehran is required to provide some of this information by code 3.1 of Iran's subsidiary arrangement to its IAEA safeguards agreement. Iran also provides IAEA inspectors with "managed access" to its centrifuge assembly workshops, centrifuge rotor production workshops, centrifuge storage facilities, and uranium mines and mills.<sup>35</sup> Access to these facilities will help the IAEA to enhance its understanding of the enrichment program's scope and thereby improve the agency's ability to detect an undeclared Iranian enrichment facility.

## Right to Enrichment

The JPA acknowledges that Iran's right to the peaceful use of nuclear energy under the NPT will be part of a comprehensive solution, but shies away from stating that enrichment is part of this right. It stipulates that an enrichment program in Iran would have defined limits and transparency measures.<sup>36</sup> The Obama Administration has not acknowledged that Iran or any other country has the right to enrich uranium because the United States argues that the NPT does not contain an explicit right to enrichment. A senior Administration official explained on November 24, 2013, that, although the comprehensive solution does envision a possible Iranian enrichment program, "the United States has not recognized a right to enrich for the Iranian government, nor do we intend to. The document does not say anything about recognizing a right to enrich uranium."<sup>37</sup>

The United States also expressed concern that acknowledging such a right for Iran could weaken the P5+1's ability to persuade Tehran to accept limits on its enrichment program because Iranian negotiators could claim that an "acknowledged inalienable right cannot be abridged."<sup>38</sup> In addition, an acknowledgement could set a precedent that could compromise other U.S. efforts to limit the number of enrichment facilities in the world.<sup>39</sup> Echoing the U.S. argument, then British

<sup>34</sup> There is no public official evidence that Iran has a reprocessing facility.

<sup>35</sup> According to the IAEA, "managed access" to nuclear-related facilities is "arranged in such a way as 'to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information.' Such arrangements shall not preclude the Agency from conducting activities necessary to provide credible assurance of the absence of undeclared nuclear material and activities at the location in question." (*2001 IAEA Safeguards Glossary*. Available at <http://www-pub.iaea.org/books/IAEABooks/6570/IAEA-Safeguards-Glossary-2001-Edition>.)

<sup>36</sup> Tehran has long argued that it has the right to enrich uranium pursuant to the NPT, Article IV of which states, in part, that nothing in the treaty "shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity" with the NPT's nonproliferation provisions. For example, Iran demanded in a 2012 proposal to the P5+1 that those countries recognize and announce "Iran's nuclear rights, particularly its enrichment activities, based on NPT Article IV." Available at [http://www.armscontrol.org/factsheets/Iran\\_Nuclear\\_Proposals](http://www.armscontrol.org/factsheets/Iran_Nuclear_Proposals).

<sup>37</sup> "Background Briefing By Senior Administration Officials On First Step Agreement On Iran's Nuclear Program," November 24, 2013.

<sup>38</sup> Interview with former Administration official, December 4, 2013.

<sup>39</sup> Interviews with two former Administration officials, December 4, 2013, and December 5, 2013.

Foreign Secretary Hague testified on November 25, 2013, that the JPA does not contain “a recognition of the right to enrich, which we do not believe exists under the nonproliferation treaty.” French Minister of Foreign Affairs Laurent Fabius made a similar claim in a radio interview the same day.<sup>40</sup>

Other governments, including those of Germany and Japan, argue that the NPT includes a right to enrichment. Under Secretary Sherman acknowledged during a October 3, 2013, Senate Foreign Relations Committee hearing. Indeed, Russian Minister of Foreign Affairs Sergey Lavrov indicated in a November 26, 2013, statement that the agreement acknowledges “the right of Iran” to enrich uranium for peaceful purposes.<sup>41</sup>

## Sanctions Easing Under the JPA

The JPA provides for what the Administration terms “limited, temporary, targeted, and reversible” sanctions relief for Iran.<sup>42</sup> Almost all U.S. sanctions laws provide the President with waiver authority, as well as the power to determine sanctions violations. Sanctions imposed only by executive order can be eased by a superseding order.<sup>43</sup> Its provisions include the following:

- Iran is able to repatriate \$700 million per month in hard currency from oil sales, and to access an additional \$65 million per month of its hard currency holdings abroad for tuition for Iranian students abroad. Iran is estimated to have the vast majority (80%) of its \$130 billion-\$150 billion in foreign exchange holdings inaccessible,<sup>44</sup> in part because of U.S. and EU sanctions provisions that prevent Iran from repatriating hard currency to Iran’s Central Bank. According to a determination of waiver provided to Congress on June 17, 2015, the funds are being transferred to Iran’s Central Bank via banks in Oman, Switzerland, and South Africa.<sup>45</sup>
- Iran’s oil exports are to remain at their December 2013 level of about 1.1 million barrels per day (mbd). However, Iran’s sales of oil products such as condensates are not specifically prohibited by the JPA, making Iran’s practical level of sales during the JPA about 1.3 mbd. This is a nearly 50% drop from 2011 levels of about 2.5 million barrels per day. To implement this oil export cap, Iran’s five major oil customers all have received waivers, as provided for under Section 1245 of P.L. 112-81, exempting them from the requirement of that law that they “significantly” reduce oil purchases from Iran during each six-month period. The

<sup>40</sup> Interview given by M. Laurent Fabius to Europe 1, November 25, 2013.

<sup>41</sup> Comment from Russian Foreign Minister Sergey Lavrov, Russian Ministry of Foreign Affairs, November 26, 2013.

<sup>42</sup> White House Office of the Press Secretary. “Fact Sheet: First Step Understandings Regarding the Islamic Republic of Iran’s Nuclear Program.” November 23, 2013.

<sup>43</sup> For information on the use of waivers and other authorities to implement the sanctions relief of the JPA, see CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack, and CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

<sup>44</sup> Author conversations with congressional staff and experts on Iran, September – November 2013.

<sup>45</sup> Assistant Secretary of State for Legislative Affairs Julia Frifeld. Letter to Senator Bob Corker, Chairman Senate Committee on Foreign Relations. June 17, 2015. Enclosure to letter: Department of State. Determination and Certification pursuant to the National Defense Authorization Act of FY2012. Undated.

- European Union countries eased sanctions against shipping insurance that deterred some Iranian oil purchases.<sup>46</sup>
- Iran was permitted to resume sales of petrochemicals and trading in gold and other precious metals, and to resume transactions with foreign firms involved in Iran's auto sector. The amount of revenue Iran generates from these activities varies but Iran apparently has accrued far less than the \$5 billion per year that the Administration estimated Iran would earn.<sup>47</sup>
  - The United States is required to facilitate humanitarian transactions that are already allowed by U.S. law, such as sales of medicine to Iran, but which many banks refuse to finance. The United States also committed to license safety-related repairs and inspections inside Iran for certain Iranian airlines. Such licensing is specifically permitted under U.S. trade regulations written pursuant to Executive Order 12959 (May 6, 1995) and Executive Order 13059 (August 19, 1997), and some U.S. sales to Iranian airlines have been made under this provision.
  - The Joint Commission discussed above is empowered to consider Iranian complaints about foreign firms that Tehran believes have been sanctioned inappropriately for their commercial interactions with Iran.

The JPA did not require an easing of any U.S. sanctions that were imposed in the 1980s and 1990s based on Iran's support for acts of international terrorism. The sanctions relief does not, for example, permit foreign firms to resume investment in Iran's energy sector. Iran's gross domestic product (GDP) shrank about 10% in from early 2012 until early 2014, but, largely because of the JPA sanctions easing, rebounded to slight growth (about 1%) for all of 2014.<sup>48</sup>

## Efforts to Forge a Comprehensive Agreement

The JPA contained provisions that set the stage for a comprehensive nuclear agreement—a “Joint Comprehensive Plan of Action” (JCPA). According to the JPA, Iran and the P5+1 “aim to conclude negotiating and commence implementing” the second step of the comprehensive solution “no more than one year after the adoption of this document” (by November 24, 2014). The comprehensive nuclear agreement so described would include a “mutually defined [Iranian] enrichment programme with practical limits and transparency measures to ensure the peaceful nature of the programme.” Specifically, the two sides are to reach agreement on the “scope and level” of Iran's enrichment activities, the capacity and location of Iranian enrichment facilities, and the size and composition of Tehran's enriched uranium stocks. These limits would continue “for a period to be agreed upon.” Tehran would be obligated to “resolve concerns related to” the Arak reactor, refrain from reprocessing spent nuclear fuel or constructing a facility “capable of reprocessing,” implement “agreed transparency measures and enhanced monitoring,” and ratify and implement its Additional Protocol. The JPA also states that “international civil nuclear cooperation” would be part of a comprehensive solution.<sup>49</sup> And, “[f]ollowing successful

<sup>46</sup> Daniel Fineren. “Iran Nuclear Deal Shipping Insurance Element May Help Oil Sales.” Reuters, November 24, 2013.

<sup>47</sup> “Iran Reaps Less Cash from Eased Sanctions Than Predicted.” Bloomberg Government, November 25, 2014.

<sup>48</sup> Elad Benari. “Zarif: We Only Spoke with the U.S. About the Nuclear Program.” Arutz Sheva, November 27, 2013.

<sup>49</sup> Such cooperation would include “modern light water power and research reactors and associated equipment, and the (continued...)”

implementation of the final step of the comprehensive solution for its full duration, the Iranian nuclear programme will be treated in the same manner as that of any non-nuclear weapon state party to the NPT.” Iran’s IAEA safeguards obligations last for an indefinite duration. Potential nuclear-related exports to Iran would remain subject to the Nuclear Suppliers Group’s export guidelines.<sup>50</sup>

P5+1-Iran negotiations on a comprehensive settlement began in February 2014 and made progress, although insufficient to meet the July 20, 2014, and subsequent November 24, 2014, deadlines for a JCPA. On November 24, 2014, Iran and the P5+1 announced that they were extending the talks—and all provisions of the JPA—with the intent of finalizing a detailed agreement by June 30, 2015. The parties stated they would first attempt to reach an overarching framework and roadmap for the agreement “within four months” (at first widely interpreted as being by March 24, 2015, but subsequently interpreted by the Administration as being the end of March) and would conclude the technical details of a comprehensive agreement by June 30, 2015.

Several rounds of U.S.-Iran and P5+1-Iran talks were held in 2015, primarily in various cities in Switzerland. At the end of February 2015, the United States and Iran agreed to have their top nuclear officials join the talks—the head of Iran’s Atomic Energy organization and U.S. Secretary of Energy Ernest Moniz. After slightly missing the March 31 self-imposed deadline, the parties announced on April 2, 2015, that they had reached a framework agreement for a Joint Comprehensive Plan of Action (JCPA), which is to form the foundation upon which the final text of the JCPA will be written. Important implementation details are still subject to negotiation, and nothing is agreed until everything is agreed.

Having missed the deadline for finalizing a JCPA, the parties announced the talks would be extended until July 7, 2015. The parties are said to strive to meet that deadline in order to meet a congressional requirement for a 30-day review period under the Iran Nuclear Agreement Review Act (P.L. 114-17). Submitting an agreement (and all annexes) to Congress after July 10 would trigger a 60-day review period under that Act, thus likely delaying implementation of U.S. sanctions relief that will be part of any deal.

## Major Provisions of the April 2 Framework Agreement and Efforts to Finalize an Accord

The following sections analyze the framework agreement, including some areas where agreement has been deferred to the negotiations on a completed, finalized accord. The framework agreement places constraints on Iran’s enrichment and heavy-water reactor programs and includes monitoring provisions designed to detect Iranian efforts to produce nuclear weapons using either declared or covert facilities. The nuclear-related provisions of the agreement will extend the amount of time that Iran would need to produce enough weapons-grade HEU for one nuclear weapon to “at least one year, for a duration of at least ten years.”<sup>51</sup>

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(...continued)

supply of modern nuclear fuel as well as agreed” research and development (R&D) practices.

<sup>50</sup> For information about the Nuclear Suppliers Group, see CRS Report RL33865, *Arms Control and Nonproliferation: A Catalog of Treaties and Agreements*, by Amy F. Woolf, Paul K. Kerr, and Mary Beth D. Nikitin.

<sup>51</sup> The White House. “Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran’s Nuclear Program.” April 2, 2015. U.S. Secretary of Energy Ernest Moniz described this timeline as “very, very (continued...)”

Core provisions in the U.N. Security Council resolutions—those that deal with transfers of sensitive technologies and activities—will be reestablished by a new U.N. Security Council resolution that will endorse the JCPA and urge its full implementation. It will also create the procurement channel mentioned above, which will serve as a key transparency measure. Important restrictions on conventional arms and ballistic missiles, as well as provisions that allow for related cargo inspections and asset freezes, will also be incorporated by this new resolution.

## Enrichment Program

Iran has agreed to enrich uranium only at the Natanz commercial-scale facility for 15 years and to refrain during that time from building any new facilities “for the purpose of enriching uranium.” Tehran is to reduce its installed centrifuges at the Natanz commercial-scale facility to 6,104 centrifuges, all of which will be IR-1 centrifuges. No more than 5,060 of these centrifuges are to enrich uranium for 10 years.<sup>52</sup> All excess centrifuges and enrichment infrastructure are to be used only as replacements for operating centrifuges and equipment. Iran has agreed to refrain from producing enriched uranium containing more than 3.67% uranium-235 for at least 15 years and has agreed to reduce its LEU stockpile to 300 kilograms of LEU containing 3.67% uranium-235. Iran has three options for disposing of the remaining portion of its current LEU stockpile: diluting the material so that it contains the same levels of uranium-235 found in natural uranium; selling the LEU to another country; or transferring it to another country for storage.

Iran has agreed to convert its Fordow enrichment facility “so that it is used for peaceful purposes only—into a nuclear, physics, technology, research center.” Iran is to remove “[a]most two-thirds” of the centrifuges and related infrastructure from the facility and is to refrain from enriching uranium and conducting “research and development associated with uranium enrichment” at the facility for 15 years. The remaining centrifuges may be used to produce stable nuclear isotopes for medical and industrial uses.

Regarding centrifuge R&D, Iran is to refrain from producing enriched uranium for “at least” 10 years with its advanced centrifuge models (IR-2, IR-4, IR-5, IR-6, or IR-8 models) and is to remove its IR-2M centrifuges currently installed at the Natanz commercial facility. However, Tehran will “engage in limited research and development with its advanced centrifuges, according to a schedule and parameters which have been agreed to by the P5+1.” The U.S. government has not made those parameters public. Iran is to limit such R&D for a period of 10 years to ensure that the government would need at least one year to produce enough weapons-grade HEU for a nuclear weapon. After 10 years, Iran is to “abide by its enrichment and enrichment R&D plan submitted to the IAEA,” and pursuant to the JCPA.

## Arak Reactor

Iran is to “redesign and rebuild” the Arak reactor (based on a design that is agreed to by the P5+1) so that it will not produce weapons-grade plutonium. Iran is to ship the reactor’s spent fuel “out of the country for the reactor’s lifetime.” The reactor’s original core is to “be destroyed or

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(...continued)

conservative” in an April 2015 interview (Michael Crowley, “Ernest Moniz: Iran Deal Closes Enrichment Loophole,” *Politico*, April 7, 2015).

<sup>52</sup> Non-operational centrifuges in this facility will be partitioned from operating centrifuges..

removed from the country.” Iran is also to refrain indefinitely from reprocessing spent fuel or conducting related R&D on spent fuel. Tehran has also committed to refrain from accumulating heavy water “in excess of the needs of the modified Arak reactor”; Iran will “sell any remaining heavy water on the international market for 15 years” and refrain from building additional heavy water reactors for that amount of time.

## **Inspections/Monitoring and Procurement Channel**

The framework accord describes future monitoring provisions for Iran’s nuclear program. Tehran “has agreed to implement” the Additional Protocol to its safeguards agreement. Iran is also to implement the modified code 3.1 of the subsidiary arrangements to its IAEA safeguards agreement. According to the framework:

- Iran is also to provide the IAEA with additional access to nuclear-related facilities and access to the country’s uranium mines, as well as a continuous surveillance of Iran’s uranium mills.
- Inspectors are to have “continuous surveillance” for 20 years of Iran’s production and storage facilities for certain centrifuge components. Iran’s centrifuge manufacturing base will be frozen and under continuous surveillance.
- All centrifuges and enrichment infrastructure removed from Iran’s centrifuge facilities are to be placed in IAEA-monitored storage.
- IAEA inspectors will have access to a future “dedicated procurement channel for Iran’s nuclear program” that is to be established “to monitor and approve, on a case by case basis, the supply, sale, or transfer to Iran of certain nuclear-related and dual use materials and technology.”

The extent to which IAEA inspectors will have access to Iranian scientists, sites, and documents has reportedly been a subject of negotiations since April 2.

## **Resolving Questions of Past Nuclear Research**

A JCPA will require Iran to address the outstanding issues in the IAEA’s investigation of Tehran’s nuclear program by implementing “an agreed set of measures to address the IAEA’s concerns regarding” the possible military dimensions (PMD) of Iran’s nuclear program. This refers to suspected weapons-relevant work Iran may have conducted in the past, such as research about a nuclear payload for missiles. The framework accord did not address a deadline or specific provisions for judging Iran’s compliance on this issue, and it has not been announced what a JCPA will require of Iran on this issue—particularly with regard to whether some sanctions relief will be linked to resolving it.

U.N. Security Resolutions require Iran to resolve these questions by providing full information to the IAEA, and the agency has held regular talks with Iran to chart a path forward. But a May 2015 IAEA Director General report to the agency’s Board of Governors said that, although the IAEA could verify that there was no diversion of nuclear material from the Iran’s declared nuclear facilities, it could not conclude that no nuclear weapons-related activity was taking place

in the country, due to the lack of access to documentation, material, and personnel.<sup>53</sup> Iran's cooperation and transparency on the issue of past weapons-related activities is expected to be a key requirement for a comprehensive agreement.

IAEA Director General Yukiya Amano told a Washington audience in October 2014 that “[c]larifying issues related to possible military dimension is not an endless process. It could be done within a reasonable time line. But how far and how fast we can go depends very much on Iran's cooperation.”<sup>54</sup> Several months later, he said in March 2015 that, after the IAEA has “established an understanding of the whole picture concerning issues with [Iran's] possible military dimensions,” he “will report on the Agency's assessment” to the IAEA Board of Governors.<sup>55</sup>

The importance of resolving these issues is unclear. Former IAEA Deputy Director General Olli Heinonen argued during a July 2014 Senate hearing that gaining full understanding of Iran's past suspected nuclear weapons program is important for determining that Iran is not reconstituting that program and also for determining the probability that Iran will use a future centrifuge program to produce nuclear weapons.<sup>56</sup>

However, Jofi Joseph, a former Obama Administration official whose portfolio included the Iranian nuclear issue, agreed this past April that:

Some argue that it will be very difficult to identify future covert Iranian nuclear weapons efforts without a detailed understanding of what happened before. I'm not so sure. It is not clear if the individuals involved with the previous [nuclear weapons program] would be the ones tapped again for a future covert program or whether a clear understanding of their previous actions would help identify future efforts.<sup>57</sup>

## Sanctions Relief

A JCPA would entail a far broader relief of sanctions than has been provided under the JPA. According to the White House fact sheet on the April 2, 2015, framework nuclear accord, the following sanctions easing will occur if a deal is finalized:<sup>58</sup>

- U.S. and EU “nuclear-related” sanctions will be suspended after the International Atomic Energy Agency (IAEA) has verified that Iran has taken “key nuclear-related steps” and U.N. sanctions will be lifted after Iran completes additional nuclear-related commitments. The framework accord did not stipulate which nuclear steps are “key” and which are “additional.”

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<sup>53</sup> *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran*, Report of the Director General, International Atomic Energy Agency, GOV/2015/34, May 29, 2015.

<sup>54</sup> “The Brookings Institution Holds A Discussion on IAEA's Role on the Iranian Nuclear Issue,” October 31, 2014.

<sup>55</sup> “DG Amano Introductory Statement to the Board of Governors,” March 2, 2015.

<sup>56</sup> *Iran: Status of the P-5+1, Panel 2*, Senate Committee on Foreign Relations Hearing, July 29, 2014.

<sup>57</sup> “Jofi Joseph on the Iran Deal,” Arms Control Wonk, April 7, 2015. Available at <http://lewis.armscontrolwonk.com/archive/7623/jofi-joseph-on-the-iran-deal>.

<sup>58</sup> The text of the factsheet can be found at <http://www.state.gov/r/pa/prs/ps/2015/04/240170.htm>.

- According to an Iranian fact sheet on the framework accord and a wide range of observers, the U.S. sanctions to be suspended in a finalized deal are mostly those imposed since U.N. Security Council Resolution 1929 was enacted in June 2010. That resolution identified Iran’s energy sector as a potential contributor to Iran’s “proliferation-sensitive nuclear activities.”<sup>59</sup> The sanctions relief in a JCPA reportedly will include (1) energy sanctions, including those that limit Iran’s exportation of oil and sanction foreign sales to Iran of gasoline and energy sector equipment; (2) sanctions on foreign banks that conduct transactions with Iranian banks—the core of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA); (3) sanctions on Iran’s auto sector and trading in the rial; (4) the EU ban on purchases of oil and gas from Iran; and (5) the ban on Iran’s use of the SWIFT electronic payments system that enables Iran to move funds from abroad to its Central Bank or its commercial banks.<sup>60</sup>
- U.S. sanctions on Iran for terrorism, human rights abuses, and ballistic missiles will remain in place. As an example, the U.S. Administration has not pledged to revisit, as a direct consequence of a nuclear accord, Iran’s designation as a state sponsor of terrorism. That designation triggers numerous U.S. sanctions, including a ban on any U.S. foreign aid to Iran and on U.S. exportation to Iran of controlled goods and services, and a prohibition on U.S. support for international lending to Iran. Other U.S. sanctions that are to remain in place, according to Administration officials, will be (1) E.O. 13224 sanctioning terrorism entities; (2) the ban on U.S. trade with and investment in Iran; (3) the Iran-Iraq Arms Nonproliferation Act; (4) the Iran-North Korea-Syria Nonproliferation Act; and (5) the executive orders and the provisions of CISADA and the Iran Threat Reduction and Syria Human Rights Act that pertain to human rights or democratic change in Iran.

### *Matters to be Clarified and Prognosis*

Several issues remain to be clarified in a finalized deal. Among them are (1) the sequencing and pace of sanctions relief; and (2) the potential for an immediate reimposition of sanctions should Iran be found to be not complying with the terms of a JCPA. And, some question whether sanctions could ever be fully reimposed. Congress will have an opportunity to formally review a finalized deal under the Iran Nuclear Review Act (P.L. 114-17).

- *Sequencing and Pace of Sanctions Relief.* First and foremost are the precise requirements Iran must meet in order for sanctions relief to begin. Iran’s Supreme Leader Ali Khamene’i has said, including in a series of “red lines” he articulated in late June 2015, that all agreed sanctions relief must be provided upon signature of an agreement. However, the fact sheet released by Iran refers to sanctions relief upon “implementation” of the agreement—implying that Iran expects to have to complete certain stipulated tasks before further sanctions relief would begin.<sup>61</sup> Observers indicate that it might take Iran about four months to complete

<sup>59</sup> The text of the Resolution is at [https://www.iaea.org/sites/default/files/unsec\\_res1929-2010.pdf](https://www.iaea.org/sites/default/files/unsec_res1929-2010.pdf)

<sup>60</sup> <http://iranmatters.belfercenter.org/blog/translation-iranian-factsheet-nuclear-negotiations>; and author conversations with a wide range of Administration officials, think tank, and other experts, in Washington, D.C. 2015.

<sup>61</sup> <http://iranmatters.belfercenter.org/blog/translation-iranian-factsheet-nuclear-negotiations>

- the first set of required tasks.<sup>62</sup> However, based on Supreme Leader Khamene'i's stated demands, it is likely that Iran will begin agitating for sanctions relief very shortly after the agreement is signed. One formula reportedly under discussion is that an agreement might formally be "signed" on the day that Iran has implemented the first set of requirements to qualify for initial sanctions relief.
- *Automatic Reimposition of Sanctions ("Snap-Back")*. In an effort to accommodate the Iranian demands for immediate sanctions suspensions, press reports indicate that President Obama has directed U.S. negotiators to try to focus on ways to put sanctions back in place ("snap back") if Iran violates the terms of the deal, rather than focus on delaying sanctions relief.<sup>63</sup> According to the April 2 framework agreement, if a dispute over Iran's compliance with the accord cannot be resolved through a to-be-established resolution mechanism, all U.N. sanctions "could" be reimposed. Treasury Secretary Lew said on April 29, 2015, that this provision for a "snap back" of U.N. Security Council sanctions would not be subject to a veto by any permanent member of the U.N. Security Council.<sup>64</sup> Press reports quote unnamed P5+1 officials discussing several snap-back provision proposals, but it is unclear whether consensus has been reached on any specific formulation. The dispute resolution mechanism will be outlined in a finalized deal, but press reports indicate that a dispute resolution mechanism might be set up to include representatives of the P5+1 countries and Iran.<sup>65</sup>
  - A related question is whether the effect of sanctions currently realized could ever be reconstituted if sanctions are lifted as part of a JCPA. The effect of the sanctions depends largely on the degree of international compliance and cooperation. A wide range of countries depend on energy and other trade with Iran and might be reluctant to restore cooperation with U.S. sanctions unless Iran commits clear and egregious violations of its commitments. Countries that do not wish to reimpose their sanctions on Iran could argue that, because U.N. Security Council sanctions are lifted, they are no longer bound to cooperate with U.S. sanctions.
  - *Suspension of Sanctions versus Outright Lifting*. Another question is whether Iran will be satisfied with suspension of sanctions rather than outright lifting. The Administration has said that it would initially use waiver and other authorities to implement sanctions relief.<sup>66</sup> After testing Iran's compliance over a period of "years to come," according to March 2015 testimony by then director of the Department of the Treasury's Office of Foreign Assets Control, Adam Szubin, the Administration would presumably request that Congress repeal or terminate sanctions imposed by statute.<sup>67</sup> However, it is likely that some international firms, such as foreign banks that are inherently cautious, might refuse to resume transactions with Iran as long as U.S. sanctions remain in law—whether or not

<sup>62</sup> Author conversations with experts in Washington D.C. 2015.

<sup>63</sup> Peter Baker. "President Favors Way to Give Iran Political Cover." *New York Times*, April 18, 2015.

<sup>64</sup> Department of the Treasury. Remarks of Secretary Jacob J. Lew at the Washington Institute for Near East Policy 30<sup>th</sup> Anniversary Gala. April 29, 2015.

<sup>65</sup> <http://www.al-monitor.com/pulse/originals/2015/05/iran-us-p51-nuclear-dispute-mechanism.html>

<sup>66</sup> <http://thehill.com/blogs/blog-briefing-room/221528-kerry-congress-consulted-on-iran-but-dont-need-initial-vote>

<sup>67</sup> <http://www.pbs.org/newshour/rundown/president-obama-may-need-congress-defang-sanctions-iran/>.

the United Nations has lifted sanctions. If such reluctance is widespread, Iran could potentially complain that it is not receiving the sanctions relief that was promised. In that scenario, it is possible that Iran might agitate for an outright lifting of sanctions by Congress, including potentially threatening to pull out of the agreement.

## Regional Reaction to the Potential Agreement

A JCPA could have profound implications for the Middle East, and particularly for Israel and for the states of the Gulf Cooperation Council (GCC: Saudi Arabia, Kuwait, Bahrain, UAE, Qatar, and Oman). On the one hand, an Iran nuclear agreement that removes the threat of a nuclear-armed Iran has the potential to lower regional tensions. The JPA led to renewed high-level engagement between Iran and the GCC states, including a visit to Iran by Kuwait's ruler Amir Sabah al-Ahmad Al Sabah and a visit by President Rouhani to Oman. Oman also has sessions of the P5+1-Iran talks on a JCPA.

Despite some increased GCC engagement with Iran, GCC officials—as well as those of Israel and other U.S. allies—have also expressed concern that an accord could lead to closer U.S.-Iranian relations. Some GCC leaders have publicly associated the U.S.-Iran nuclear talks with U.S. reticence to act to try to oust the government of Syrian President Bashar Al Assad, with the U.S. pullout of all troops from Iraq in 2011, and with U.S. assertions that it will not deploy ground combat troops to battle the Islamic State organization in Iraq or Syria. Although Saudi Arabia's King Salman and other Gulf leaders generally praised the April 2 framework agreement, these leaders also noted that the agreement would do nothing to slow Iran's "expansion" in the region. The GCC leaders assert that Iran is pursuing a sectarian Iranian agenda aimed at empowering Shiite Muslims in the region at the expense of Sunnis.

In an apparent attempt to assuage GCC concerns about U.S. resolve and the tentative accord with Iran, in announcing the framework accord, President Obama met with GCC leaders at Camp David during May 13-14, 2015. The meeting resulted in statements of additional U.S. support for the security of the GCC states, and the leaders and deputy leaders who attended the meetings reportedly were satisfied with the results. For additional information on the U.S.-GCC summit and its results, see CRS Report RL32048, *Iran, Gulf Security, and U.S. Policy*, by Kenneth Katzman.

Still, the potential for a nuclear accord and improved U.S. relations with Iran have prompted a GCC examination of alternative security arrangements. In particular, Saudi Arabia has proposed greater political unity among the GCC states. Failing to achieve consensus on that idea, the GCC countries announced plans—formalized at the December 2014 GCC summit in Qatar—for greater military command integration and defense coordination. And, Saudi Arabia appears increasingly willing to build its own Arab coalitions to undertake military action in the region in situations in which the United States might be hesitant to become involved. That new sense of military assertiveness has been in evidence in the Saudi-led airstrikes against the rebel Houthi movement in neighboring Yemen.

Because a JCPA would leave Iran with a nuclear infrastructure, some experts speculate that Saudi Arabia and other GCC or regional states might seek to develop nuclear programs. Some GCC officials have also expressed concerns about a "double standard" in which Iran will, under a finalized accord, be allowed to continue enriching uranium, whereas the United States insists that

civilian nuclear programs in the Gulf, such as that in UAE, not include indigenous production of nuclear fuel.<sup>68</sup>

Some of the regional governments generally friendly to Tehran, such as those of Iraq and Syria, welcomed the framework accord because sanctions relief will provide Tehran with additional resources to help those governments battle Sunni-led rebellions. One threat is common to Iraq, to Syria, to Iran, and to the Gulf states: the threat posed by the Islamic State organization that has captured substantial territory in both Iraq and Syria.

## Israel

Israel's leaders routinely assert that their country is uniquely threatened by the possibility that Iran might eventually obtain nuclear weapons, despite limitations and safeguards in any comprehensive accord. Israeli Prime Minister Binyamin Netanyahu, including in a speech to a joint session of Congress on March 3, 2015, has repeatedly warned of the alleged perils of a deal that would in any way ease the international sanctions regime against Iran and would accept Iran's retention of enriched uranium or of infrastructure potentially usable for the generation of fissile material. The provisions of the framework accord did not ease Netanyahu's stated concerns, and on that basis he publicly opposed the April 2 announcement. Netanyahu—who received another term as Prime Minister based on results of March 17 elections—appears to believe that his criticisms could cause P5+1 negotiators to stiffen their terms for a final deal, although stipulations by some Israeli leaders for potentially acceptable final provisions almost certainly would not be agreed to by Iran.<sup>69</sup> He might also be attempting to cultivate support from key audiences such as Congress and broader U.S. public opinion—particularly in connection with potential legislative initiatives relating to the imposition and/or lifting of sanctions or congressional approval or disapproval of a final accord. However, as for a potential Israeli military strike on Iranian nuclear facilities, many—if not most—observers deem it unlikely if a final deal is reached and Iran is deemed complying.<sup>70</sup>

## Congressional Views and Involvement

The JPA contains a P5+1 commitment to “[n]ot impose new nuclear-related sanctions ... if Iran abides by its commitments under this deal, to the extent permissible within their political systems.”<sup>71</sup> This pledge has had direct implications for congressional action while the JPA is in effect.

Congressional reaction to the April 2, 2015, framework accord and to reported contents of a potential final agreement has been mixed. Some Members have asserted criticisms similar to those discussed above, whereas other Members have repeated many of the advantages discussed above, as advanced by the Administration. Some in Congress sought a congressional vote on any

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<sup>68</sup> Author conversations with Gulf diplomats. 2011-2015.

<sup>69</sup> Isabel Kershner and David Sanger. “Skeptical of Iran Nuclear Deal, Israel Calls for Changes.” *New York Times*, April 7, 2015.

<sup>70</sup> See, e.g., Amos Harel, “With Iran deal sealed, don’t expect Israel to send out the air force,” *Ha’aretz*, November 25, 2013.

<sup>71</sup> White House Office of the Press Secretary. “Fact Sheet: First Step Understandings Regarding the Islamic Republic of Iran’s Nuclear Program.” November 23, 2013.

comprehensive agreement reached. Legislation providing for congressional review was enacted as the Iran Nuclear Agreement Review Act of 2015 (P.L. 114-17). For provisions of that law, please see CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

The Administration has threatened to veto any legislation to impose additional sanctions on Iran while the negotiations are ongoing. The Administration has taken that position even for legislation that provides for sanctions to go into effect only if no comprehensive agreement is reached, such as S. 1881 in the 113<sup>th</sup> Congress and the Nuclear Weapon Free Iran Act of 2015 (S. 269 and S. 792). S. 792 was marked up by the Senate Banking Committee on January 28, 2015. A separate bill in the 114<sup>th</sup> Congress, S.Res. 40, would express the sense of Congress that new sanctions be imposed on Iran if no agreement is reached by the June 30, 2015, deadline. The Administration argues that new sanctions would cause Iran to leave the negotiations and could cause some countries to end their cooperation with international sanctions.<sup>72</sup>

The Administration has said that, at least initially to implement a nuclear deal, it would use the waiver and other authority to suspend application of sanctions on Iran.<sup>73</sup> U.S. officials assert that, after Iran's compliance is tested over an unspecified period of time, the Administration would ask Congress to repeal or terminate those sanctions that cannot be lifted through Administration action alone.<sup>74</sup> The requirements for lifting sanctions are discussed in CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack.

## Congressional Oversight of an Agreement with Iran<sup>75</sup>

Although Congress may potentially exercise oversight of any agreement reached with Iran, the nature of legislative involvement may depend upon whether the agreement is intended to operate as controlling domestic law and supersede existing statutory requirements.<sup>76</sup> On March 11, 2015, Secretary of State John Kerry indicated that a nuclear agreement with Iran might not be legally binding in nature.<sup>77</sup> If Congress disagrees with any commitments made by the executive branch to Iran that do not modify U.S. law, it would likely need to pass legislation (potentially with sufficient support to override a presidential veto) to limit U.S. adherence to the agreement. However, if the Obama Administration (or a future administration) seeks to conclude a legally binding agreement with Iran intended to have the force of domestic law, such as an agreement intended to modify existing sanctions laws applicable to Iran, congressional action would likely be required.

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<sup>72</sup> Ibid.

<sup>73</sup> <http://thehill.com/blogs/blog-briefing-room/221528-kerry-congress-consulted-on-iran-but-dont-need-initial-vote>.

<sup>74</sup> David Sanger, "Obama Sees an Iran Deal Skirting Congress, for Now," *New York Times*, October 20, 2014.

<sup>75</sup> This section was contributed by Michael John Garcia, Legislative Attorney.

<sup>76</sup> The U.S. sanctions regime against Iran is primarily a creature of statute. In some cases, federal statutes directly require the imposition of sanctions against Iranian entities, but may provide the Executive with authority to waive certain sanction requirements in specified circumstances. In other instances, Congress has delegated broad authority to the Executive to impose sanctions against foreign entities in order to protect U.S. interests, and the Executive has exercised this statutorily delegated authority to impose sanctions against Iranian entities. For further discussion, see CRS Report R43311, *Iran: U.S. Economic Sanctions and the Authority to Lift Restrictions*, by Dianne E. Rennack.

<sup>77</sup> See Felicia Schwartz, "Iran Nuclear Deal, If Reached, Wouldn't Be 'Legally Binding,' Kerry Says," *Wall Street Journal*, March 11, 2015.

## Congressional Oversight of Arrangements That Do Not Modify U.S. Law

The Obama Administration did not seek legislative approval of the JPA, and the Administration has opined that legislative action would not be constitutionally required to enter any future arrangement with Iran that did not impose legal obligations upon the United States.<sup>78</sup> The JPA is not crafted as a legally binding agreement, but instead as a political commitment among the participants.<sup>79</sup> The agreement does not modify the participants' existing domestic legal authorities or obligations. Moreover, by its terms, commitments made by JPA participants are understood to be voluntary.<sup>80</sup> Nonetheless, adherence to these commitments may carry significant moral and political weight with the United States, Iran, and other JPA participants. Pursuant to the JPA, the Obama Administration has pledged to exercise its existing statutory authority to waive the application of certain sanctions against Iran, provided that the Iranian government freezes aspects of its nuclear program and allows inspections. The JPA does not purport to confer U.S. agencies with authority to waive sanctions against Iran that cannot be waived under current statute.

The Executive's authority to enter political arrangements like the JPA, without first obtaining the approval of Congress, has been the subject of long-standing dispute between the political branches.<sup>81</sup> Nonetheless, the executive branch has long claimed the authority to make such commitments on behalf of the United States without congressional authorization, asserting that the Executive is not subject to the same constitutional constraints in making political commitments to foreign countries as is the case when entering legally binding international agreements.<sup>82</sup>

If Congress seeks to modify U.S. adherence to an agreement with Iran that did not seek to modify U.S. law, it would likely need to pass legislation to that effect. For example, Congress could potentially pass legislation to bar the Executive from waiving applicable sanctions against Iran unless the Executive certified to Congress that Iran had complied with the terms of the agreement. Congress might also, if it deemed such action appropriate, enact legislation that statutorily barred certain sanctions against Iran from being lifted, notwithstanding the terms of any agreement reached with Iran. Conversely, Congress could pass legislation to facilitate the implementation of the JPA or future agreements (whether legal or political in nature) negotiated by the Executive with respect to Iran's nuclear program.

<sup>78</sup> White House, Letter from Denis McDonough, Asst. to President and Chief of Staff, to Senator Bob Corker, March 14, 2015, available at <http://images.politico.com/global/2015/03/15/mcdonoughletter.html> (noting several examples when the Executive has entered political commitments concerning nuclear issues without congressional authorization).

<sup>79</sup> For further background on nonlegal agreements, see CRS Report RL32528, *International Law and Agreements: Their Effect upon U.S. Law*, by Michael John Garcia.

<sup>80</sup> See Joint Plan of Action, Nov. 24, 2013, at pp. 1-2 (describing the "voluntary measures" agreed upon by the JPA participants), available at [http://eas.europa.eu/statements/docs/2013/131124\\_03\\_en.pdf](http://eas.europa.eu/statements/docs/2013/131124_03_en.pdf). For discussion of common features distinguishing the wording and format of legal and nonlegal international agreements, see State Department Office of the Legal Adviser, *Guidance on Non-Binding Documents*, at <http://www.state.gov/s/l/treaty/guidance/>.

<sup>81</sup> See S.REPT. 91-129 (1969) (Senate Committee on Foreign Relations report in favor of the National Commitments Resolution, S.Res. 85, criticizing the undertaking of "national commitments" by the Executive, either through international agreements or unilateral pledges to other countries, without congressional involvement).

<sup>82</sup> See generally Robert E. Dalton, Asst. Legal Adviser for Treaty Affairs, *International Documents of a Non-Legally Binding Character*, State Department, Memorandum, March 18, 1994, available at <http://www.state.gov/documents/organization/65728.pdf> (discussing U.S. and international practice with respect to nonlegal, political agreements); Duncan B. Hollis and Joshua J. Newcomer, "Political" Commitments and the Constitution, 49 VA. J. INT'L L. 507 (2009) (discussing U.S. political commitments made to foreign States and the constitutional implications of the practice).

## Congressional Oversight Concerning a Legal Agreement with Iran

A comprehensive agreement reached with Iran could contemplate a modification of U.S. sanctions laws. Any agreement that seeks to supersede existing U.S. law would likely require legislative action to be given effect. Indeed, in a letter to Senator Bob Corker on March 14, 2015, the White House indicated that

We agree that Congress will have a role to play—and will have to take a vote—on any comprehensive deal that the United States and our international partners reach with Iran. As we have repeatedly said, only Congress can terminate the existing Iran statutory sanctions.<sup>83</sup>

There are a number of possible methods by which a legally binding agreement may be entered by the United States. As a matter of historical practice, some types of international agreements have traditionally been entered as *treaties*, while others are typically done as *executive agreements*, which may take different forms. There is not an extensive body of legally binding international agreements concluded by the United States in which it has pledged to modify its sanctions laws in exchange for another party to the agreement freezing its nuclear program.<sup>84</sup>

A comprehensive, legally binding agreement with Iran could potentially take the form of a *treaty*, ratified by the President after obtaining the approval of a two-thirds majority of the Senate, or a *congressional-executive agreement*, which is a particular type of executive agreement that is authorized by legislation passed by both houses of Congress and enacted into law. If a legal agreement with Iran were entered as a treaty, it would need to be approved by a two-thirds majority of the Senate and thereafter ratified by the President before it would have the force of law. Moreover, the Senate could potentially condition its consent on certain reservations, understandings, and declarations concerning the treaty's meaning and application. Such conditions may potentially limit and/or clarify U.S. obligations under the agreement.<sup>85</sup> For example, the Senate could condition its approval of a treaty with Iran upon the agreement being deemed “non-self-executing” under U.S. law. Such a condition would mean that the ratified treaty would be understood not to have immediate domestic legal effect, and Congress would need to pass legislation to implement the treaty's requirements.<sup>86</sup>

<sup>83</sup> White House Letter to Senator Corker, *supra* footnote 78.

<sup>84</sup> Indeed, perhaps the most relevant precedent for U.S.-Iran negotiations is the 1994 Agreed Framework with North Korea, a multilateral arrangement under which North Korea agreed to freeze its plutonium-based nuclear program, in exchange for the provision of light water reactors and other energy alternatives. The text of the agreement may be viewed at <http://www.armscontrol.org/documents/af>. The State Department characterized it as a nonlegal arrangement which did not pose legal commitments upon its participants. Contemporary State Department correspondence to Congress concerning the nonlegal nature of the arrangement is on file with the authors of this report.

<sup>85</sup> Certain conditions to Senate approval of treaty ratification, such as a reservation purporting to limit acceptance of a particular treaty provision, would require the consent of the other parties to the treaty. The Senate may also propose to amend the text of the treaty itself. The other parties to the agreement would have to consent to these changes in order for them to take effect. If such proposed conditions or alterations are not accepted by the other parties to the treaty, then the ratification process cannot be completed and the treaty will not enter into force for the United States. For further discussion of the Senate role in the treaty-making process, see TREATIES AND OTHER INTERNATIONAL AGREEMENTS: THE ROLE OF THE UNITED STATES SENATE, A STUDY PREPARED FOR THE SENATE COMM. ON FOREIGN RELATIONS 6-14 (Comm. Print 2001).

<sup>86</sup> See, e.g., *Medellin v. Texas*, 552 U.S. 491, at 505 (2008) (“In sum, while treaties may comprise international commitments ... they are not domestic law unless Congress has either enacted implementing statutes or the treaty itself conveys an intention that it be ‘self-executing’ and is ratified on these terms.”) (internal citations and quotations omitted).

A legal compact with Iran concerning that country's nuclear program would not necessarily have to take the form of a treaty. The United States has frequently undertaken international legal obligations by means of congressional-executive agreements,<sup>87</sup> and the constitutionality of this practice appears well established. Congressional-executive agreements have been made for a wide variety of topics, such as lessening trade restrictions between parties or allowing the transfer of nuclear materials.<sup>88</sup> Typically, a congressional-executive agreement both authorizes a particular agreement (or type of agreement) and also provides any necessary implementing authorities to executive agencies.

It should be noted that executive agreements may sometimes be entered into by the United States that do not take the form of a congressional-executive agreement, but these other categories of agreements do not seem applicable here. For example, the United States does not appear to be a party to any treaty that would give the Executive the authority to enter an agreement with Iran that has the effect of superseding the requirements of existing federal sanctions laws. Additionally, while the Executive is recognized as being able to enter legally binding agreements concerning matters falling under his independent constitutional authority (a category referred to as *sole executive agreements*), the weight of judicial and scholarly opinion recognizes that the President may not, by way of an executive agreement based solely upon his constitutional authority, supersede or modify a federal statute.<sup>89</sup> Accordingly, it appears that Congress would need to authorize and implement any executive agreement intended to modify or supersede existing U.S. statutes regarding Iran.<sup>90</sup>

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<sup>87</sup> While there is some scholarly debate as to whether a congressional-executive agreement may always serve as an alternative to a treaty, it does not appear that a congressional-executive agreement that had the primary legal effect of modifying an existing federal statutory regime concerning commerce with Iran would raise significant constitutional questions.

<sup>88</sup> Some policymakers have identified the process by which Congress has approved bilateral agreements authorizing the transfer of nuclear materials to a foreign country (commonly referred to as "123 agreements") as a potentially relevant precedent for congressional involvement in approving any agreement concerning Iran's nuclear program. See, e.g., Senate Committee on Foreign Relations, *Hearing on Iranian Nuclear Negotiations: Status of Talks and the Role of Congress*, Jan. 15, 2015 (opening statement of Chairman Bob Corker, suggesting that 123 agreements may serve as a useful model for patterning legislation approving or disapproving of a final agreement concerning Iran's nuclear program). The relevance of this precedent can be subject to debate, in the sense that 123 agreements typically concern the transfer of nuclear materials between parties for peaceful energy-related purposes, while an agreement with Iran could potentially turn on that country halting its nuclear program in exchange for a reduction or elimination in U.S. trade sanctions.

<sup>89</sup> See, e.g., *United States v. Guy W. Capps, Inc.*, 204 F.2d 655 (4<sup>th</sup> Cir. 1953) (finding that executive agreement contravening provisions of import statute was unenforceable), affirmed on other grounds, 348 U.S. 296 (1955); RESTATEMENT (THIRD) OF FOREIGN RELATIONS §115 reporters' n.5 (1987). In limited circumstances, an exception to this rule might exist on matters where Congress has historically acquiesced to the President. See *Dames & Moore v. Regan*, 453 U.S. 654 (1981) (upholding sole executive agreement concerning the handling of Iranian assets in the United States, despite the existence of a potentially conflicting statute, given Congress's historical acquiescence to sole executive agreements concerning claims settlement). See *Medellin*, 552 U.S. at 531-532 (suggesting that *Dames & Moore* analysis regarding significance of congressional acquiescence might be relevant only to a "narrow set of circumstances," where presidential action is supported by a "particularly longstanding practice" of congressional acquiescence). However, there has not been a consistent or longstanding practice of legislative acquiescence to the Executive entering legal agreements with foreign nations pursuant to his independent constitutional authority which override existing U.S. laws barring or limiting trade with a particular country.

<sup>90</sup> Indeed, even if an arrangement obligated the President to waive a particular sanction that he is already permitted to waive under current U.S. laws, such an arrangement would arguably require congressional approval if it was understood to obligate the United States not to modify its sanctions laws in the future in a manner that would limit applicable waiver authority. On the other hand, an arrangement under which the President pledged to waive application of sanctions against Iran, only *to the extent that such waiver was authorized by U.S. laws in effect at the time the waiver was issued*, arguably would not require congressional approval. On March 9, 2015, forty-seven Senators signed an open (continued...)

There might be some question (and possibly debate) over whether a legally binding nuclear agreement with Iran should take the form of a treaty or a congressional-executive agreement. Some observers and policymakers have argued that such an agreement should take the form of a treaty due to the perceived significance of the obligations taken by the parties.<sup>91</sup> Others have suggested that such an agreement could be authorized by an act of Congress, similar to the process used to approve agreements (commonly referred to as “123 agreements”)<sup>92</sup> concerning the sharing of nuclear material with other countries for energy purposes.<sup>93</sup> More broadly, the Senate may prefer that significant international commitments be entered as treaties, and fear that reliance on executive agreements will lead to an erosion of the treaty power. The House may want an international compact to take the form of a congressional-executive agreement, so that it may play a greater role in its consideration.

State Department regulations prescribing the process for coordination and approval of international agreements (commonly known as the “Circular 175 procedure”)<sup>94</sup> include criteria for determining whether an international agreement should take the form of a treaty or an executive agreement. Congressional preference is one of several factors considered when determining the form that an international agreement should take.<sup>95</sup>

## Implications for U.S.-Iran Relations<sup>96</sup>

There is debate over whether a JCPA would alter the broader U.S.-Iran relationship. Iran and the United States have been mostly at odds since the February 1979 Islamic revolution, and came into

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(...continued)

letter to Iranian leaders indicating the Senators’ position that any agreement with Iran would need to take the form of a treaty or congressional-executive agreement to be considered binding upon the United States. The letter further observed that adherence to an arrangement entered as a sole executive agreement could be modified at any time by either a legislative enactment or through “the stroke of a pen” of a future President. See Senator Tom Cotton et al., Open Letter to the Leaders of the Islamic Republic of Iran, March 9, 2015, *available at* <http://www.cotton.senate.gov/sites/default/files/150309%20Cotton%20Open%20Letter%20to%20Iranian%20Leaders.pdf>.

<sup>91</sup> See David B. Rivkin Jr. and Lee A. Casey, “How Congress Can Use Its Leverage on Iran,” *Wall Street Journal*, January 20, 2015. It should be noted that arms control and reduction agreements entered by the United States have historically been entered as treaties. However, an agreement in which the United States commits to reduce sanctions in exchange for another country freezing its nuclear program is arguably not analogous to the kind of compacts typically considered arms control agreements.

<sup>92</sup> For further discussion of 123 agreements, including the statutory framework authorizing their adoption, see CRS Report R41910, *Nuclear Energy Cooperation with Foreign Countries: Issues for Congress*, by Paul K. Kerr, Mary Beth D. Nikitin, and Mark Holt.

<sup>93</sup> See, e.g., Senate Committee on Foreign Relations, *Hearing on Iranian Nuclear Negotiations: Status of Talks and the Role of Congress*, January 15, 2015 (opening statement of Chairman Bob Corker, suggesting that 123 agreements may serve as a useful model for patterning legislation approving or disapproving of a final agreement concerning Iran’s nuclear program). The relevance of this precedent can be subject to debate, in the sense that 123 agreements typically concern the transfer of nuclear materials between parties for peaceful energy-related purposes, while an agreement with Iran could potentially turn on that country halting its nuclear program in exchange for a reduction or elimination in U.S. trade sanctions.

<sup>94</sup> Circular 175 initially referred to a 1955 Department of State Circular that established a process for the coordination and approval of international agreements. These procedures, as modified, are now found in 22 C.F.R. Part 181 and 11 Foreign Affairs Manual (F.A.M.) chapter 720.

<sup>95</sup> 11 F.A.M. §723.3 (2006).

<sup>96</sup> For detail on U.S.-Iran relations, see CRS Report RL32048, *Iran, Gulf Security, and U.S. Policy*, by Kenneth Katzman.

limited naval conflict during the 1980-1988 Iran-Iraq war, when U.S. forces defended the GCC states from attack by Iran. In 1984, the United States placed Iran on its list of “state sponsors of terrorism” and has accused Iran of numerous acts of terrorism against the United States and its interests. Iran is holding four dual U.S.-Iran nationals in Iran on charges that U.S. officials say have no merit, but this issue will not be formally part of a JCPA.

Iran’s Supreme Leader Ayatollah Ali Khamene’i, who reportedly perceives that a nuclear deal could increase U.S. cultural, political, social, and economic influence in Iran, has asserted that a comprehensive nuclear agreement will not be accompanied by a breakthrough in U.S.-Iran relations. The United States has publicly asserted that the nuclear negotiations center only on that issue, and do not seek to resolve all the issues in U.S.-Iran relations. However, in interviews after the April 2 framework deal was announced, President Obama stated that he hopes that a finalized deal “ushers in a new era in U.S.-Iran relations.”<sup>97</sup> A September 27, 2013, phone call President Obama placed to Rouhani represented the first direct contact between presidents of the two countries since the 1979 Islamic revolution, and President Obama has acknowledged exchanging letters with Supreme Leader Khamene’i.

A nuclear deal could build on the growing, tacit cooperation between the United States and Iran on several regional issues. U.S. diplomats negotiated with Iranian officials to form the post-Taliban government in Afghanistan in late 2001, and Iran and the United States have tacitly cooperated in the formation of virtually all post-Saddam governments in Iraq. U.S. officials acknowledge that bilateral meetings on the comprehensive accord have discussed the threat posed by the Islamic State organization, the situation in Bahrain, and the fate of three American nationals confirmed or believed held by Iran. On Iraq, the United States and Iran are indirectly cooperating to support the Shiite-dominated government of Prime Minister Haydar Al Abbadi against Islamic State forces. On Syria, Iran continues to support the government of President Al Assad, although some U.S. diplomats are said to perceive that Iran might yet be persuaded to help move Assad aside in order to blunt the appeal of the Islamic State. U.S. diplomats who take this position note that Iran helped oust Iraqi Prime Minister Nuri al-Maliki, who was perceived as an obstacle to winning back Iraqi Sunni support to the government side, in August 2014.

A possible hindrance to any post-nuclear agreement U.S.-Iran rapprochement will be remaining U.S. sanctions and issues unrelated to nuclear issues. U.S. officials have stressed that no sanctions that address long-standing U.S. concerns about Iran’s use of terrorism or its human rights abuses will be eased as part of a nuclear deal with Iran. U.S. officials also maintain that a nuclear deal will not cause the United States to cease its public criticism of Iran’s human rights practices and its detention of U.S. citizens.

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<sup>97</sup> Roger Cohen. “U.S. Embassy, Tehran.” *New York Times*, op-ed. April 8, 2015.

## Appendix. Nuclear Weapons Development<sup>98</sup>

An effective nuclear weapons capability has three major elements: producing fissile material in sufficient quantity and quality for a nuclear explosive device; designing and weaponizing a survivable nuclear warhead; and producing an effective means for delivering the weapon, such as a ballistic missile.<sup>99</sup> The U.S. government assesses that, although Iran could eventually produce nuclear weapons, it has not yet decided to do so and has not mastered all of the necessary technologies for building a nuclear weapon. Tehran had a nuclear weapons program but halted it in 2003, according to U.S. government estimates.<sup>100</sup>

Under Secretary of State for Political Affairs Wendy Sherman explained during an October 3, 2013, Senate Foreign Relations Committee hearing that Iran would need as much as one year to produce a nuclear weapon if the government made the decision to do so.<sup>101</sup> This estimate takes into account the amount of time that Iran would need to produce a sufficient amount of weapons-grade highly enriched uranium (HEU), which is widely regarded as the most difficult task in building nuclear weapons, as well as to develop the other components necessary for a nuclear weapon. This estimate does not include the time that Iran would need to be able to render a nuclear weapon deliverable by a ballistic missile. Then-Secretary of Defense Leon Panetta stated in January 2012 that Iran would need “possibly ... one to two years in order to put [a nuclear weapon] on a deliverable vehicle of some sort.”<sup>102</sup>

A senior intelligence official explained during a December 2007 press briefing that the “acquisition of fissile material” was the “governing element in any timelines” regarding Iran’s production of a “nuclear device.”<sup>103</sup> However, the estimate articulated by Sherman assumes that Iran would need two to three months to produce enough weapons-grade HEU for a nuclear weapon.<sup>104</sup> This estimate also apparently assumes that Iran would use its declared nuclear facilities to produce fissile material for a weapon.<sup>105</sup> The other assumptions behind the estimate are not clear.<sup>106</sup>

<sup>98</sup> For more information about Iran’s ballistic missile program, see CRS Report R42849, *Iran’s Ballistic Missile and Space Launch Programs*, by Steven A. Hildreth.

<sup>99</sup> For a more detailed discussion, see Office of Technology Assessment, *Technologies Underlying Weapons of Mass Destruction* (OTA-BP-ISC-115), December 1993.

<sup>100</sup> A 2007 National Intelligence Estimate defined “nuclear weapons program” as “nuclear weapon design and weaponization work and covert uranium conversion-related and uranium enrichment related work.”

<sup>101</sup> “Reversing Iran’s Nuclear Program,” Hearing of the Senate Foreign Relations Committee, October 3, 2013.

<sup>102</sup> Transcript of remarks by Secretary Panetta from CBS’s 60 Minutes interview, January 29, 2012.

<sup>103</sup> “Unclassified Key Judgments of the National Intelligence Estimate: Iran: Nuclear Intentions and Capabilities,” Background Briefing with Senior Intelligence Officials, December 3, 2007.

<sup>104</sup> The White House. “Parameters for a Joint Comprehensive Plan of Action Regarding the Islamic Republic of Iran’s Nuclear Program.” April 2, 2015.

<sup>105</sup> It is worth noting that no country has ever used a centrifuge facility designed and built for low-enriched uranium production to produce weapons-grade HEU. Therefore, Iran may need a trial-and-error period to determine the proper modifications for its own centrifuge facilities, were Tehran to adapt them for such a purpose.

<sup>106</sup> For a detailed discussion of the variables such estimates must take into account, see *Iran’s Nuclear, Chemical, and Biological Capabilities: A Net Assessment*, International Institute for Strategic Studies, 2011, pp. 69-70 and William C. Witt, Christina Walrond, David Albright, and Houston Wood, *Iran’s Evolving Breakout Potential*, Institute for Science and International Security, October 8, 2012.

Tehran would probably use covert enrichment facilities to produce fissile material for nuclear weapons—a tactic that would require a longer period of time, according to testimony from Director of National Intelligence James Clapper during an April 18, 2013, Senate Armed Services Committee hearing. In his testimony to Congress in March 2013, Director Clapper said that “Tehran has the scientific, technical, and industrial capacity to produce nuclear weapons. This makes the central issue its political will to do so. Such a decision will reside with the supreme leader, and at this point we don't know if he'll eventually decide to build nuclear weapons.”<sup>107</sup> As noted in the body of this report, U.S. officials have argued that the International Atomic Energy Agency would likely detect an Iranian attempt to use its safeguarded facilities to produce weapons-grade HEU. They have also expressed confidence in the United States' ability to detect covert Iranian enrichment plants.

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<sup>107</sup> Senate Select Intelligence Committee Hearing on National Security Threats to the United States, March 12, 2013.