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# Options to Cease Implementing the Iran Nuclear Agreement

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## Summary

In an October 13, 2017, announcement of a new U.S. strategy on Iran, President Donald Trump asserted that the 2015 multilateral nuclear agreement with Iran, the Joint Comprehensive Plan of Action (JCPOA), does not address the full range of potential threats posed by Iran, or permanently ensure that Iran cannot develop a nuclear weapon. President Trump has also asserted that, by supporting terrorist groups in the Middle East region and furthering its ballistic missile program, “Iran is not living up to the spirit of the deal,” although international nuclear inspectors have consistently indicated in their reports that Iran is complying with the provisions of the JCPOA. The President has subsequently not certified to Congress under the Iran Nuclear Agreement Review Act (INARA, P.L. 114-17) that continued U.S. sanctions relief to Iran under the JCPOA is “appropriate and proportionate” to the measures taken by Iran to terminate its illicit nuclear program. The withholding of that certification does not automatically reimpose any U.S. sanctions on Iran but gives Congress the opportunity to use expedited procedures to do so. Congress has not acted, to date, to reimpose on Iran those sanctions suspended under the JCPOA.

In a January 12, 2018, statement, the President more explicitly threatened to reimpose U.S. sanctions on Iran, and thereby essentially withdraw the United States from the agreement, unless Congress and U.S. allies acted to address the full range of U.S. concerns on Iran and increase the extent and duration of the JCPOA’s restrictions on Iran’s nuclear program. The other powers that negotiated the accord with Iran—Russia, China, France, Britain, and Germany—assert that the JCPOA is succeeding in its core objectives and that its implementation should not be jeopardized. Several European countries have sought to address President Trump’s demands in negotiations with U.S. officials. In late April 2018 visits to Washington, DC, the President of France and the Chancellor of Germany told President Trump they want to work with the United States to formulate joint action that would address his concerns, but they urged that he keep the United States in the accord as a foundation on which to build additional restrictions on Iran. However, there is little certainty about what President Trump might accept in order to keep the United States in the agreement. A major decision for the Trump Administration comes on May 12, 2018, which is the date of expiration of the current waiver of one of the key Iran sanctions laws that are waived to implement the JCPOA.

This report analyzes some of the options the Administration and Congress might use to end or alter U.S. implementation of the JCPOA. These options, which might involve use of procedures in the JCPOA itself or INARA, are not necessarily mutually exclusive. Potential implications of these options are analyzed as well. For details on the JCPOA and related issues, see CRS Report R43333, *Iran Nuclear Agreement*, by Kenneth Katzman and Paul K. Kerr; and CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

## **Contents**

Overview of the Issue.....	1
Presidential Decision to Cease Implementing the JCPOA—Considerations and Developments.....	1
European Responses.....	3
Congressional Responses.....	4
Iranian Reaction.....	4
Use of JCPOA Provisions.....	5
Use of INARA Provisions.....	6
Material Breach Report.....	6
Compliance Certification Decisions.....	7
Sanctions Waiver Decisions.....	7
Possible Implications of U.S. Withdrawal.....	9

## **Contacts**

Author Contact Information.....	10
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## Overview of the Issue

Press reports in August 2017 indicated that President Trump might not certify to Congress that all conditions for certification of compliance under the Iran Nuclear Agreement Review Act (INARA, P.L. 114-17)—which amended Section 135(d)(6) of the Atomic Energy Act of 1954 (42 U.S.C. 2160(e))—are being met.<sup>1</sup> The certification requirement is not a specific provision of the July 14, 2015, multilateral nuclear agreement (Joint Comprehensive Plan of Action, JCPOA). The JCPOA was between Iran and the “P5+1” group of countries (United States, Russia, China, Britain, France, and Germany). On October 13, 2017, the President announced a new U.S. strategy on Iran, and stated that he would not be certifying Iranian compliance under INARA when the next certification was due on October 15, 2017.<sup>2</sup> In October 2017 and again in January 2018, the President continued to waive provisions of the key U.S. sanctions laws that were waived to implement the JCPOA.

In October 2017 and more explicitly in January 2018, the President has linked continued U.S. participation to congressional and allied action to address the deficiencies in the JCPOA that the President has identified. Should the President decide to cease implementing the JCPOA, there are several mechanisms he might use. One mechanism—a reimposition of U.S. sanctions—could be employed as early as May 12, 2018, when the existing waiver of a key U.S. sanctions law expires. Regardless of the mechanism used, a U.S. withdrawal from the JCPOA would likely have significant implications for U.S. policy in the region.

This report bases its analysis primarily on the text of key documents involved in the issue—the JCPOA itself;<sup>3</sup> U.N. Security Council Resolution 2231 of July 20, 2015,<sup>4</sup> which endorsed the JCPOA; and the Iran Nuclear Agreement Review Act (INARA, P.L. 114-17, of May 22, 2015).

## Presidential Decision to Cease Implementing the JCPOA—Considerations and Developments

The JCPOA does not specifically provide for any party to the agreement to “withdraw.”<sup>5</sup> Although European and other diplomats argue that Resolution 2231 makes the agreement binding on all parties under the U.N. Charter, officials in the Obama Administration asserted that the JCPOA is a nonbinding political commitment,<sup>6</sup> and Trump Administration officials continue to make that assertion. As President Trump noted in his October 2017 and January 2018 statements, he has the authority to cease U.S. implementation of the accord, and he could reimpose all or some of the U.S. sanctions that were revoked or suspended to implement the deal. He could

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<sup>1</sup> Gardner Harris. “Trump’s Vow to Scrap Nuclear Deal May Have a Hitch: A Compliant Iran.” *New York Times*, August 28, 2017.

<sup>2</sup> White House Office of the Press Secretary. “Remarks by President Trump on Iran Strategy.” October 13, 2017.

<sup>3</sup> The text of the JCPOA can be found on the website of the Department of State at <https://www.state.gov/e/eb/tfs/spi/iran/jcpoa/>.

<sup>4</sup> The text of Security Council Resolution 2231 is at the following link: [http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2231.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2231.pdf).

<sup>5</sup> Some of this section is taken from a legal analysis of this option provided in: CRS Report R44761, *Withdrawal from International Agreements: Legal Framework, the Paris Agreement, and the Iran Nuclear Agreement*, by Stephen P. Mulligan.

<sup>6</sup> Letter from Julia Frifield Assistant Secretary of State for Legislative Affairs, to then-Rep. Mike Pompeo, November 19, 2015.

reinstate those sanctions imposed by Executive Order, decline to continue waiving provisions of sanctions laws, or redesignate for sanctions entities that were “de-listed” from sanctions to implement the JCPOA. It is unlikely that the President would require the approval of Congress for these courses of action.

Statements made by President Trump and newly confirmed Secretary of State Mike Pompeo in late April indicate that the United States is likely to cease implementing the JCPOA. Since the Trump Administration took office, senior U.S. officials have asserted that the JCPOA does not address the full range of potential threats posed by Iran. On August 1, 2017, then-Secretary of State Tillerson told a press briefing: “The conversation on Iran does not begin and end with the JCPOA, the nuclear agreement, and I think if there’s one thing I hope I can help people understand it’s that agreement dealt with a very small slice of Iran’s threats, and that was their nuclear program.”<sup>7</sup> On September 5, 2017, U.S. Ambassador to the United Nations Nikki Haley addressed a Washington, DC, think tank, saying, “The truth is, the Iran deal [JCPOA] has so many flaws that it’s tempting to leave it.”<sup>8</sup> In his speech to the U.N. General Assembly on September 19, 2017, President Donald Trump said

We cannot let a murderous regime continue these destabilizing activities while building dangerous missiles, and we cannot abide by an agreement if it provides cover for the eventual construction of a nuclear program. The Iran Deal was one of the worst and most one-sided transactions the United States has ever entered into. Frankly, that deal is an embarrassment to the United States, and I don’t think you’ve heard the last of it, believe me.<sup>9</sup>

On October 13, 2017, President Trump announced a new U.S. strategy on Iran,<sup>10</sup> based on a six-month policy review of all aspects of Iran policy. The President held out the possibility that he might terminate U.S. participation in the JCPOA if certain conditions are not met, stating that

By its own terms, the Iran Deal was supposed to contribute to “regional and international peace and security.” And yet, while the United States adheres to its commitment under the deal, the Iranian regime continues to fuel conflict, terror, and turmoil throughout the Middle East and beyond. Importantly, Iran is not living up to the spirit of the deal.... That is why I am directing my administration to work closely with Congress and our allies to address the deal’s many flaws so that the Iranian regime can never again threaten the world with nuclear weapons.... However, in the event we are not able to reach a solution working with Congress and our allies then the agreement will be terminated. It is under continuous review, and our participation can be cancelled by me, as President, at any time.

On January 12, 2018, President Trump expanded his criticism of the JCPOA into an explicit threat to withdraw the United States from the JCPOA unless Congress and the European allies “fix the terrible flaws of the Iran nuclear deal.”<sup>11</sup> He identified the areas Congress and the Europeans must address as: (1) a requirement that Iran allow immediate inspections at all sites requested by international inspectors; (2) ensuring that Iran “never even comes close to possessing a nuclear weapon”; (3) the elimination of an expiration date for the JCPOA’s nuclear restrictions on Iran; and (4) subjecting Iran’s development and testing of missiles to “severe

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<sup>7</sup> Department of State. Remarks by Secretary of State Rex Tillerson at a Press Availability, August 1, 2017.

<sup>8</sup> Ambassador Nikki Haley’s Remarks on Iran and the JCPOA. American Enterprise Institute, September 5, 2017.

<sup>9</sup> White House Office of the Press Secretary. Remarks by President Trump to the 72<sup>nd</sup> Session of the United Nations General Assembly. September 19, 2017.

<sup>10</sup> White House Office of the Press Secretary. “Remarks by President Trump on Iran Strategy.” October 13, 2017.

<sup>11</sup> White House. Statement by the President on the Iran Nuclear Deal. January 12, 2018.

sanctions.” The President also called on U.S. allies to “take stronger steps with us to confront Iran’s other malign activities.” Those activities were defined as Iran’s support for terrorist groups, its development of missiles and their supply to Iran’s allies and proxies, Iran’s cyber threats, its human rights violations, and its threats to international shipping.

Since the January 12, 2018, presidential statement, the President has replaced Tillerson and National Security Adviser H.R. McMaster with officials who have been critics of the JCPOA. Secretary of State Mike Pompeo, confirmed by the Senate and then sworn in on April 26, 2018, and National Security Adviser John Bolton who began his appointment on April 9, 2018, have both, prior to assuming their current posts, argued in favor of military action against Iran’s nuclear program and for U.S. efforts to change Iran’s regime, and have also criticized the JCPOA.

Supporters of the JCPOA argue that it was intended to address only Iran’s nuclear program and does not limit U.S. options to address other Iranian behaviors and activities. The JCPOA addresses Iran’s nuclear program only, but some of the other Iranian activities the President identifies are subject to varying degrees of restriction by United Nations Security Council Resolution 2231, which enshrined the JCPOA. The Resolution requires that, for a maximum period ending in October 2020, importation of major combat systems by Iran and any exportation of arms from Iran are banned. For a maximum period ending in October 2023, the Resolution calls on (but does not require) Iran to refrain from developing, including testing, ballistic missiles “designed to be capable of delivering nuclear weapons.” These restrictions would end earlier than the maximum deadlines upon a “Broader Conclusion” by the International Atomic Energy Agency (IAEA) that all nuclear material in Iran remains in peaceful activities.<sup>12</sup> These nonnuclear provisions of Resolution 2231 have had limited effect: Iran has engaged in numerous ballistic missile tests since the JCPOA began implementation in January 2016, and both Obama and Trump Administration officials have termed the tests as “defiant of” and “inconsistent with” the Resolution. Iran continues to openly supply several governments and factions in the Middle East region with arms, possibly including, according to U.N. reports, short-range ballistic missiles.<sup>13</sup> Such weapons shipments appear to constitute clear violations of Resolution 2231.

## European Responses

European Union diplomats view the JCPOA as a binding international commitment, but several key European countries have sought to address President Trump’s concerns, largely in order to preserve the JCPOA. In the immediate aftermath of President Trump’s October 13, 2017, speech, Britain, France, and Germany (the three European countries that negotiated the JCPOA alongside the United States) issued a statement that “Preserving the JCPOA is in our shared national security interest,” while expressing a willingness to work with the United States to address concerns about Iran’s ballistic missile program and regional activities.<sup>14</sup> Subsequently, the three European countries have held numerous meetings with U.S. State Department officials led by senior adviser to the Secretary of State Brian Hook, to discuss potential European steps that could satisfy Mr. Trump’s demands. The European countries have generally opposed explicitly requiring formal renegotiation of the JCPOA and steps that contradict the JCPOA, but these meetings did reportedly produce some European commitments for sanctions on Iran’s missile programs and efforts against Iran’s regional malign activities.<sup>15</sup>

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<sup>12</sup> These restrictions are contained in Annex B of Resolution 2231.

<sup>13</sup> <http://www.newsweek.com/irans-secret-missile-shipments-yemen-confirmed-un-tensions-us-782236>.

<sup>14</sup> Declaration by the Heads of State and Government of France, Germany, and the United Kingdom. October 13, 2017.

<sup>15</sup> Various press reporting and CRS conversations with European and U.S. officials. 2018.

As an important deadline for a U.S. decision on the JCPOA looms on May 12, France's President Emmanuel Macron and Germany's Chancellor Angela Merkel each met with President Trump in Washington, DC, during the week of April 23. Both leaders expressed support for working with the United States on additions to the JCPOA, or other U.S.-European joint action, that would address the expiration of nuclear restrictions, Iran's regional activities, and Iran's ballistic missile programs. President Macron's comments during his visit suggested he might be willing to try to engage Iran (and presumably also Russia and China) in new negotiations regarding these issues.<sup>16</sup> Yet, no firm agreements were announced in the course of the European leadership visits, leaving it unclear whether the leaders had succeeded in persuading President Trump to remain in the JCPOA for now. Both European leaders indicated that it would be unwise to risk the collapse of the accord without a clear alternative in place, and both indicated they intended to continue implementing the JCPOA even if President Trump ceases to implement it.

## **Congressional Responses**

As noted above, President Trump has called on Congress to act on new legislation that addresses the weaknesses of the JCPOA. On October 13, 2017, Senate Foreign Relations Committee Chairman (SFRC) Bob Corker and Senator Tom Cotton released an outline of legislation that would address some of the President's concerns by setting up a trigger to automatically reimpose U.S. sanctions at any time that Iran violates existing JCPOA nuclear restrictions—even after the restrictions expire under the JCPOA. The legislation was not introduced. Another version, reportedly under discussion by Senator Corker and SFRC ranking member Senator Robert Menendez, also has not been introduced. Some experts assess that legislation that would trigger reimposed sanctions after the JCPOA restrictions expire would amount to a violation of the JCPOA and prompt Iran to abrogate the accord. Senator Corker indicated in a press interview on April 29, 2018 that Congress might act to address President Trump's concerns about the JCPOA if European leaders support joint action on the JCPOA even if doing so might appear to contradict the provisions of the JCPOA.<sup>17</sup>

## **Iranian Reaction**

Iranian officials have made clear that they would not renegotiate the JCPOA. Iranian leaders indicate within the JCPOA how they would expect to react to a unilateral U.S. decision to reimpose those sanctions that were lifted or suspended. Paragraph 26 states the following: "... Iran has stated that it will treat such a reintroduction or reimposition of the sanctions specified in Annex II, or such an imposition of new nuclear-related sanctions, as grounds to cease performing its commitments under this JCPOA in whole or in part."<sup>18</sup> Iranian officials have warned that the government may cease performing some or all of its JCPOA commitments. It is likely that Iran's leadership will evaluate the effects on its economy of reimposed U.S. sanctions, should that occur, and perhaps adjust its reaction based on its observations. If reimposed U.S. sanctions do not attract a broad worldwide exit from the Iran market and Iran's economy remains stable, it is possible that Iran might continue to adhere to the accord indefinitely.

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<sup>16</sup> <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-macron-france-joint-press-conference/>

<sup>17</sup> <http://www.foxnews.com/transcript/2018/04/28/corker-on-what-foreign-policy-will-look-like-under-pompeo.html>

<sup>18</sup> Paragraph 26 of the JCPOA.

## Use of JCPOA Provisions

The Trump Administration could conceivably use provisions of the JCPOA itself to cease implementation of U.S. commitments under the agreement. Paragraph 36 of the JCPOA outlines a complex “Dispute Resolution Mechanism” under which any party to the agreement can assert that another party is violating the accord and seek to resolve the issue. The JCPOA mechanism outlines a process by which Iran can resolve such a dispute but provides that, “if the complaining participant deems the issue to constitute significant nonperformance, then that participant could treat the unresolved issue as grounds to cease performing its commitments under this JCPOA....”<sup>19</sup> The dispute resolution mechanism also provides for the United States to be able to “snap back” all U.N. sanctions that were in place prior to Implementation Day of the JCPOA (January 16, 2016).<sup>20</sup> The United States is a veto-wielding permanent member of the U.N. Security Council, and the dispute resolution mechanism enables any veto-wielding member to block a U.N. Security Council resolution that would continue the lifting of U.N. sanctions.

The dispute resolution mechanism generally refers to the ability of any party to complain about potential nonperformance of only those issues that are directly addressed in the JCPOA—and not issues that are not covered by the agreement, such as ballistic missile development or Iran’s regional activities. The International Atomic Energy Agency (IAEA) is the international body that is charged with monitoring and verifying Iran’s nuclear commitments. A U.S. accusation of Iranian noncompliance—in the absence of supporting evidence from the IAEA—would undoubtedly raise questions about the use of this mechanism to leave the agreement. IAEA reports have consistently cited Iran as fully complying with the agreement. The text of the JCPOA dispute resolution mechanism does not address the ability of any JCPOA party to accuse another of violating nonnuclear aspects of the accord.

### Iranian Compliance with the JCPOA

On January 16, 2016, IAEA Director General Yukiya Amano reported to the agency’s Board of Governors that Iran had implemented the nuclear measures required for the JCPOA’s “Implementation Day.” The agency has continued to monitor Iranian compliance with the agreement’s nuclear-related requirements; all subsequent reports, the most recent of which Amano issued on February 22, 2018, document Iranian compliance with these obligations.<sup>21</sup> Although the IAEA reports findings of its inspection and monitoring activities and the JCPOA-established Joint Commission monitors the parties’ implementation of the agreement, compliance determinations are national decisions. Department of State Director of Policy Planning Brian Hook told reporters on March 21 that Iran is in “compliance with their commitments under the JCPOA”—a reiteration of past U.S. assessments.

Although these reports and Tillerson’s certification indicate that Iran has not engaged in any JCPOA-prohibited activities, the agreement describes arrangements for agency inspectors to gain access to Iranian sites, including military sites, other than those that Tehran has declared to the agency, “if the IAEA has concerns regarding undeclared nuclear materials or activities, or activities inconsistent with” the JCPOA. Should such concerns arise, the IAEA is to “provide Iran the basis for such concerns and request clarification.” The IAEA could request access to the site if Iran’s explanation does not sufficiently clarify the matter. The JCPOA provides for a process to resolve the issue in question if Tehran initially declines to provide access to the site. Iran allowed the IAEA to visit the Parchin military site in September 2015 as part of an agreed process for resolving IAEA concerns about possible past Iranian

<sup>19</sup> Paragraph 36 of the JCPOA.

<sup>20</sup> Paragraph 37 of the JCPOA.

<sup>21</sup> *Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015)*, GOV/INF/2016/1, January 16, 2016, and *Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015)*. Report by the Director General, International Atomic Energy Agency, GOV/2018/7, February 22, 2018.

military-related nuclear activities.

Amano's February report states that the IAEA has continued verification and monitoring of the restrictions described in Section T of the JCPOA, which prohibits a number of nuclear-weapons-related activities.<sup>22</sup> The IAEA has not reported whether it has requested access to any Iranian military facilities, but the agency has a number of methods other than inspections, such as analyzing open source information and receiving intelligence briefings from governments, to monitor Iranian compliance with these and other JCPOA commitments. Amano stated in a March 5 address to the IAEA board that agency inspectors "have had access to all the sites and locations which we needed to visit."

U.S. officials have expressed concern regarding Iran's accumulation of heavy water. According to the JCPOA, Iran has committed to refrain from accumulating heavy water "beyond Iran's needs"—an amount which the JCPOA specified is 130 metric tons of "nuclear grade heavy water or its equivalent in different enrichments" prior to commissioning the redesigned Arak reactor. Tehran is to "sell any remaining heavy water on the international market for 15 years." Iran's stock of heavy water has exceeded 130 metric tons on two occasions since the JCPOA began implementation. On February 17, 2016, the IAEA verified that Tehran's heavy water stock had exceeded 130 metric tons; on November 8, 2016, the IAEA verified that Iran's stock of heavy water had again exceeded the JCPOA limit. Iran resolved the issue on both occasions by exporting the excess heavy water. Iran has sent this material to Russia and the United States, shipping at least some of it via Oman. The IAEA verified on February 11, 2018, that Iran had 117.9 metric tons of heavy water.<sup>23</sup>

## Use of INARA Provisions

The INARA law gives the Administration options to cease U.S. implementation of the JCPOA.

### Material Breach Report

INARA authorizes the President to provide Congress with "credible and accurate information relating to a potentially significant breach or compliance incident by Iran ..." and, within 30 days of submitting such information, to determine whether the Iranian breach "constitutes a material breach" and whether Iran has "cured such material breach."<sup>24</sup> Under INARA, an Administration confirmation of an uncured material breach of the JCPOA by Iran would trigger expedited procedures for congressional consideration of legislation that would reimpose those U.S. sanctions that have been waived to implement the JCPOA—and prevent further such waivers. A summary of the expedited procedures is provided in the text box at the end of this report.

An Administration report to Congress of a material breach by Iran would almost certainly prompt other P5+1 parties to question whether U.S. assertions are corroborated by similar findings by the IAEA. The INARA material breach report does not appear to provide for the Administration to accuse Iran of an uncured breach on any grounds other than compliance with the nuclear commitments of the JCPOA. Other P5+1 parties might also question whether the United States has provided information on any potential Iranian breach to the IAEA for further investigation under the dispute resolution mechanism discussed above. If the Administration has not provided such information to the IAEA for investigation, its not doing so would likely raise questions about the credibility of the information or the motives of the Administration in reporting such accusations to Congress separately.<sup>25</sup>

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Text of INARA.

<sup>25</sup> Richard Nephew. "Will Trump Recertify Iran? Much Hangs in the Balance." *Bulletin of the Atomic Scientists*, August 23, 2017.

## Compliance Certification Decisions

INARA requires the Administration to certify, every 90 days, that all of four main conditions of Iranian compliance have been met. The four points are that (1) Iran is verifiably and fully implementing the JCPOA; (2) Iran has not committed an uncured material breach; (3) Iran has not taken any action that could advance a nuclear weapons program; and (4) continued suspension of sanctions (including issuance of waivers of applicable sanctions laws) is (a) appropriate and proportionate to the specific and verifiable measures taken by Iran with respect to terminating its illicit nuclear program and (b) vital to the national security interests of the United States.

A decision on INARA certification is separate from a presidential decision whether to reimpose sanctions. INARA gives Congress the option to reimpose sanctions on Iran under expedited privileges, but does not require such action. INARA contains a provision under which sanctions reimposed by the INARA process cannot be waived or otherwise not implemented by the President.

In his October 13, 2017, speech on Iran, President Trump announced that he was withholding INARA compliance certification on the grounds that he cannot certify that continued sanctions relief is “appropriate and proportionate” to the measures taken by Iran to terminate its illicit nuclear program. Explaining this decision, the President argued that the JCPOA provided “urgently needed relief from the intense domestic pressure the sanctions had created” and also allowed Iran to “sprint towards a rapid nuclear weapons breakout” after the time-bound restrictions on Iran’s nuclear program end. President Trump also asserted that Iran has not complied with the “spirit” of the agreement and has violated some JCPOA nuclear-related provisions. The President used the same grounds to withhold certification at the certification deadline of January 13, 2018. The absence of certification continued at the subsequent certification decision deadline of April 13, 2018.

As discussed in the text box below, the refusal to certify Iranian compliance gave Congress the option to act under expedited procedures to reimpose sanctions on Iran. Congress has not taken such action, to date.

## Sanctions Waiver Decisions

Separately from INARA, the President has the option to reimpose sanctions by refusing to renew waivers of the various sanctions laws, reissuing Executive Orders that were revoked, or imposing new sanctions by executive order.<sup>26</sup> A refusal to certify Iranian compliance under INARA does not automatically cause the reimposition of any Iran sanctions.

To date, the President has renewed the waivers when they have come up for renewal. The waivers were last renewed on January 12, 2018, as discussed in CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman. As noted above, the President stated on January 12, 2018, that he would not renew any waivers subsequently unless his demands for correcting the deficiencies in the JCPOA are met. The next law whose waiver expires is the FY2012 NDAA (120-day waiver period), on

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<sup>26</sup> The waivers required are for the following provisions: Section 1244(i), 1245(g), 1246(e), and 1247(f) of the Iran Freedom and Counter Proliferation Act of 2012 (P.L. 112-239) – every 180 days; Section 1245(d) of the National Defense Authorization Act for FY2012 (P.L. 112-81), every 120 days; Sections 212(d)(1) and 213(b)(1) of the Iran Threat Reduction and Syria Human Rights Act of 2012 (P.L. 112-158), every six months; and the Iran Sanctions Act of 1996 (P.L. 104-172), every six months.

May 12, 2018. The waivers of the other three laws that were waived expire in mid-July 2018 (180-day/6-month waiver periods).

If U.S. sanctions are reimposed, Iran might use the justification in Paragraph 26 of the JCPOA to cease performing its nuclear commitments. However, as noted above, Iran's reaction would likely depend on whether other parties to the JCPOA, and companies in those countries, reimpose sanctions or exit the Iran market in response to the reimposition of U.S. sanctions.

### ***Redesignating "De-Listed" Entities for Sanctions***

An alternative to reimposing sanctions laws or Executive Orders is for the Administration to instead restore the "Specially Designated National" (SDN) designation to some or all of the many entities that were "de-listed" to implement the JCPOA. The entities that were de-listed are those that involve Iran's civilian economy, such as banks, shipping firms, insurance entities, civilian manufacturers, and energy-related entities. Redesignating such entities would resume the application of some U.S. secondary sanctions to those entities, including provisions of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA, P.L. 111-195) or the Iran Freedom and Counter-proliferation Act (IFCA, P.L. 112-239) that largely close the U.S. economy to third-country entities that conduct transactions with Iran-related SDNs.

Iran's reaction to redesignation of listed entities would likely depend on how the Administration implemented this option. Redesignation of a few entities that are marginal to Iran's economy might not cause Iran to cease implementing its commitments. However, redesignation of entities that are crucial to Iran's economy, such as the Central Bank of Iran, the Islamic Republic of Iran Shipping Lines (IRISL), Iran Air, or the National Iranian Oil Company (NIOC), could cause Iran to assert that the United States has breached the agreement.

#### **Expedited Congressional Procedures**

In the absence of the required certification, or after a presidential determination of noncompliance or an uncured breach, a House or Senate party floor leader may introduce, within 60 calendar days, a bill (with stipulated text) to reinstate sanctions. The bill is subject to expedited congressional procedures (though each chamber could choose to use its existing procedures instead). Committees that are referred the bill are automatically discharged if it has not been reported after 10 legislative days (House) or session days (Senate).

In the House, on or after the third legislative day after reporting/discharge, a majority could agree to a nondebatable motion to bring up the bill. In the Senate, after reporting/discharge, a majority could agree to a nondebatable motion to bring up the bill; no cloture process, with its associated three-fifths vote threshold, is necessary for the Senate to do so.

House floor consideration is limited to two hours. The Senate limit on floor consideration is 10 hours; thus, a numerical majority could pass the bill without the need for three-fifths to first invoke cloture. (A majority could also agree to a nondebatable motion to spend less time on the bill.) Floor amendments are precluded in both chambers. Other procedures would expedite second-chamber consideration of a bill received from the other house.

A bill agreed to by both chambers is subject to presidential veto, which can be overridden by two-thirds vote in both chambers. (Senate consideration of the veto message is limited to 10 hours; no cloture process would be required to reach the override vote.) For more information, see "Legislation to Reinstate Sanctions" in CRS Report R44085, *Procedures for Congressional Action in Relation to a Nuclear Agreement with Iran: In Brief*, by Valerie Heitshusen and Richard S. Beth.

**Source:** INARA congressional review provisions, 42 U.S.C. 2160(e).

## Possible Implications of U.S. Withdrawal<sup>27</sup>

The possible implications of a U.S. decision to cease implementing the JCPOA are varied and extensive, and in many ways dependent on the reactions of Iran and of U.S. allies and partners to that decision. Some possible implications are as follows:

- The European Union countries as well as Russia, China, and other major Iran trading partners—which do not support a U.S. withdrawal from the accord—might continue implementing their JCPOA commitments. The EU and other countries could take the further step of attempting to shield their firms from any U.S. penalties—through such actions as blocking regulations or the World Trade Organization complaint process—for conducting transactions with Iran that violate reimposed U.S. sanctions. As noted, should a “critical mass” of major international firms remain in the Iran market, it might be possible to sustain the JCPOA without U.S. participation. Iran’s reaction might depend not only on the economic impact of the reimposition of U.S. sanctions, but also on the extent to which Iranian JCPOA supporters, particularly President Hassan Rouhani, can maintain domestic support for the agreement.
- It is possible that the JCPOA will collapse without U.S. participation. Major international firms, when threatened with U.S. penalties such as being virtually shut out of the large U.S. market, might exit Iran and thereby cause Iran’s economy to deteriorate sharply. Iranian leaders might argue that Iran is no longer benefitting from complying with the JCPOA and then resume those nuclear activities that are restricted under the accord. Iran could, for example, reinstall centrifuges, increase centrifuge production, or produce enriched uranium containing more than the JCPOA-permitted amount of uranium-235. Iran could also undertake new undeclared nuclear activities and/or resume its nuclear weapons program.<sup>28</sup> Whether Tehran would be able to do so undetected would depend on both the nature of the activities, whether and to what extent Iran would disallow IAEA monitoring, and the capabilities of various governments’ intelligence services. Even if Iran were to stop implementing its JCPOA obligations, the government would still be bound by its IAEA comprehensive safeguards agreement and the nuclear Nonproliferation Treaty.
- There is potential for Iran to react to a U.S. pullout from the JCPOA in ways unrelated to the agreement. Iran could, for example, expand its support to regional armed factions and groups to enhance Iran’s regional reach. Iran could potentially conduct cyberattacks on U.S. or other targets. Iran could also increase the pace of its missile tests, or the ranges of those missiles, both of which would, according to U.S. officials, be inconsistent with Resolution 2231.
- A U.S. pullout from the JCPOA might cause other regional countries, such as Saudi Arabia, to try to develop nuclear weapons to counter a possible nuclear-armed Iran. And, North Korea, perceiving that the United States does not uphold

<sup>27</sup> For arguments put forward by experts and former U.S. national security officials, see “Keep the Iran Deal—10 Good Reasons.” The National Coalition to Prevent an Iranian Nuclear Weapon. March 2018. See also Dennis Ross. “Rejecting the Iran Deal Would be a Loss for the U.S.” Washington Post, op-ed. April 3, 2018.

<sup>28</sup> Iran ended its nuclear weapons program in late 2003 and never completed some steps necessary for building such a weapon; CRS is not aware of any public official evidence of a bureaucratic apparatus for developing nuclear weapons. For more information, see CRS Report RL34544, *Iran’s Nuclear Program: Status*, by Paul K. Kerr.

- its commitments, might become reluctant to negotiate a nuclear accord with the United States.
- A resumption of Iran’s JCPOA-restricted nuclear activities could prompt Israel to strike Iran’s nuclear facilities to prevent Iran from having the option of developing a nuclear weapon.
  - The reimposition of sanctions could cause Iranian economic deterioration to the point where substantial unrest erupts. Iran experienced significant public demonstrations, mainly on economic grounds, in late 2017 and early 2018, and a downturn in Iran’s economy could cause such unrest to reemerge. There is also potential for Iran’s economy to decline to the point where Iran’s leaders decide to accept a renegotiation of the JCPOA along the lines President Trump has insisted upon.
  - A U.S. pullout from the JCPOA could cause some Iranian officials, perhaps concerned about potentially severe harm to Iran’s economy, to potentially negotiate new restrictions on Iran’s missile program, such as a limitation on the ranges of such missiles.<sup>29</sup>

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<sup>29</sup> <https://www.reuters.com/article/us-iran-nuclear-usa-irgc/iran-hardliners-pragmatists-show-unity-in-response-to-trump-idUSKBN1CF0R0>.