

Joe Biden and the future of JCPOA

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- Incentives and obstacles in reviving the nuclear deal

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Reviving the JCPOA, or better known as the Iran nuclear deal seems to be a priority for the Biden administration in the Middle-East. The new US president offers a different, more diplomatic way of handling Iran, an extended agreement including the regime's human rights violation, ballistic missiles and regional aspirations too. However, the "maximum pressure" policy of Trump drove the Islamic Republic into a huge economic hardship, it won't be easy to convince Tehran to make new concessions while it develops its missile arsenal and nuclear capacity further, stockpiling twelve times more enriched uranium than allowed.

Trump's Iran policy

Donald Trump's foreign policy agenda toward Iran has essentially broken with its predecessor, Barack Obama's attitude to the regime. As early as 2016 in his campaign Trump declared that under his presidency the US is going to abandon the JCPOA (Joint Comprehensive Plan of Action) arms control agreement or better known as the Iran Nuclear Deal signed between Iran and seven participants – US, France, United Kingdom, Russia, China, Germany (P5+1) and the EU – in 2015. As a part of his transactional foreign policy approach and view, Trump saw the treaty as a one-sided, flawed agreement, a "bad deal" for his country.¹ So not earlier than 2018, despite the opposition of the European counterparts of the deal, President Trump announced the US's withdrawal from the nuclear agreement. Leaving the JCPOA was a vivid start of the new posture of the US foreign policy towards Iran, called as the "maximum pressure" of which had much harder instruments in its toolkit and left

diplomacy more behind.^{II} While leaving of the treaty, sanctions have been reimposed by the US government not just against Iran but every country doing business with the regime, which left the European companies in an uneasy situation.

But under the “maximum pressures policy” besides imposing severe sanctions on the Persian state and Iranian individuals -causing serious hardship to their economy - the US also designated the Islamic Revolutionary Guard Corps as a terrorist organization, as the first official national force to be on the list. The killing of Qassem Soleimani, the key player in the regime’s regional aspirations, the commander of the Quds force, and performer of Iran’s extraterritorial military operations was also part of the maximized pressure.^{III} Meanwhile, Trump gave more economic and military technology support for US’s regional allies such as Israel and Saudi-Arabia and helped Israel archive a historic peace agreement with Arab countries in the frame of the Abraham-accord – which could be implemented in some ways as a regional anti-Iran axis.^{IV}

Maximum pressure, minimum gain?

With the policy of maximum pressure Trump intended to forcing Iran to the table, and sign another, much broader treaty with them which is more beneficial for the US and the region. However, some experts share the opinion that maximum pressure brought minimum gain from the perspective of the US - and the security and stability of the region.^V On the one hand, the US-Iran relations hardly could be called diplomatic, it contained mostly harsh language and twitter messages in the past five years. Tensions gone high several times, some expected military conflict between the two sides and another US intervention in the region,¹ while Iran - contrary to its previous promise – did not abide to its commitment in the JCPOA and expanded its nuclear capacity, infrastructure and uranium enrichment.^{VI}

But on the other hand, Trump strengthened the allies of the US in the region and helped them to seek more strategic independence and forge their own alliance based on common interests (e.g. the Abraham-accords) which certainly increased the

¹ The shutdown of the American drone at the Strait of Hormuz or the attack on the Saudi oil facilities by Iran were significant events which could have been escalated to military conflict

stability of the post-American Middle East.² If nothing else but managing peace agreements between Israel and Arab countries is a success of Trump's foreign policy, a move which Anthony Blinken, the Secretary of State of the Biden-administration himself called a significant foreign policy accomplishment of the former administration.^{VII} Furthermore, maximum pressure didn't break down but drifted Iran's economy into serious stress, and because of its battered economy the regime has a weaker negotiating position which the new administration could easily benefit from when making a new deal.

Joe Biden's new way

The President of the United States, Joe Biden in his campaign promised that the US will reenter the JCPOA and abandon Trump's way of handling Iran and its nuclear ambitions. Rejoining to the nuclear deal is Biden's priority in the region but what new conditions US could negotiate with the Persian country and how it is going to do that will define the US posture and the new administration's position of strength in the region. As a president candidate back then, Biden has drawn up his way of threatening Iran in three steps in a CNN interview in September 13, 2020.^{VIII}

First is simple, US would prevent Iran from acquiring a nuclear weapon at any cost.

Second step articulated by Biden is the "how". "If Iran returns to strict compliance with the nuclear deal, the United States would rejoin the agreement as a starting point for follow-on negotiations. With our allies, we will work to strengthen and extend the nuclear deal's provisions, while also addressing other issues of concern".^{IX} From this it is clear that the new administration would consider the JCPOA as a basis, a starting point for further negotiations with Iran. As a start, the US is likely to rejoin to the JCPOA in that frame which was formed by the Obama administration and its experts, and once Iran and the US comply with the treaty further negotiations will result. This is what Anthony Blinken also confirmed in his first Press Availability in January: "...if Iran comes back into full compliance with its obligations under the

² Stepping back from the region started under the Obama administration and continued under Trump which made the countries of the region to be less dependent from the US and be more autonomous in their defense and strategy as well. For more information: Sean Yom: US Foreign Policy in the Middle East: The Logic of Hegemonic Retreat; 2020.02.28.

<https://onlinelibrary.wiley.com/doi/epdf/10.1111/1758-5899.12777> (2021. 02.26.)

JCPOA, the United States would do the same thing and then we would use that as a platform to build (...) a longer and stronger agreement.”^x

As the third step Biden stated that the US will drive back Iran’s destabilization activity in the region and ensure Israel and the partners of the US could defend themselves against the regimes and its proxies’ aggression. Targeted sanctions also could be expected against Iran’s for its support of terror groups and militias (e.g. Hezbollah, Harakat al-Nujaba or Houthis in Yemen^{xI}) and ballistic missile program.

However, it is not clear that if Iran is going to return to the treaty – which would take longer than expected as they are out of compliance in so many areas – and the US lifts sanctions - which could let Iran integrate itself back into world economy – will Iran have the intention to negotiate the further widening of the agreement. To put it more simply, is the JCPOA seen as a starting point from Teheran as well? Probably not, as Iranian Foreign Minister Mohammad Javad Zarif expressed missiles and regional influence of Iran will not be on the agenda of negotiations – issues which the new administration would like to address.^{xII} But reentering the JCPOA as it was formed without any precondition and lifting the sanctions would take the greatest burdens off the regime and the US could lose its leverage deriving from the results of maximum pressure. This case of scenario concerns several countries from the region as well.

Same old problems

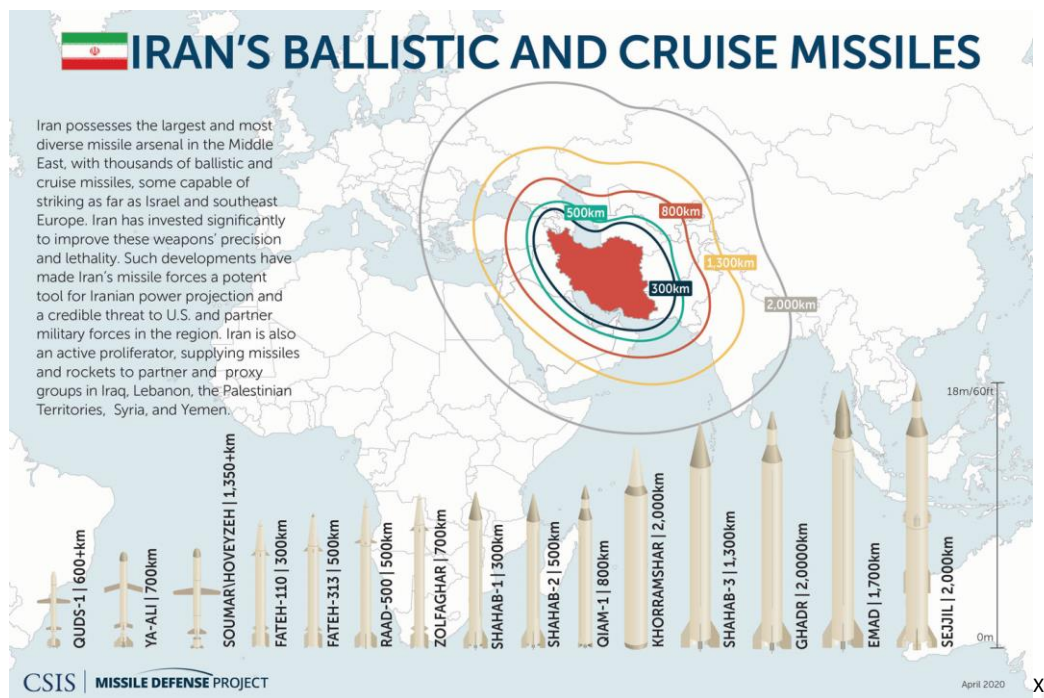
As a matter of fact, the last steps from Biden’s “to do list” contain partly the same issues which the Trump administration objected to in the JCPOA and why they left with the applause of Israel and the Gulf states. Namely, it was mostly limited to the nuclear development and activity of Iran and does not say much about the human rights violation, regional expansion, the support of terror and ballistic missile program of the regime. But these issues are what the countries are most concerned about in the region and partly in the West too.

Perhaps realizing past mistakes, Biden as well as Blinken referred other issues of concern in their speeches which need to be addressed about the Islamic Republic, which also requires the widening of the treaty. They mostly named the regime’s continuous violation of human rights, including detaining foreigners unjustly, the detention of political prisoners and the execution of Navid Afkari, Iranian wrestler,

after as he confessed false accusation against him after torture.^{XIII} That is why targeted sanctions could still be assessed even when most of the restrictions will be lifted in case of reentering the agreement.

As a matter of Iran's growing regional influence which also needs to be managed, it is standing on two legs: its own Quds force, specialized in foreign military missions; and on its proxies who in exchange for ideological, financial and technical support comply with the Islamic Republic's regional aspirations. In the past decade Iran was presented in every conflict zone in the region and has growing influence from Gaza, Lebanon, Syria to Iraq and Yemen, while in lack of regional or international state allies masterly avoid involvement into extended conventional conflicts.^{XIV} Not to mention the regime's ballistic and cruise missile arsenal. As the tool of the country's power projection, it has been improved and diversified significantly in the past decades, with the capability of striking as far as Israel and even southeast Europe (see map below). Missiles were used in several conflict zones where Iran or its proxies are in, inter alia against US forces, Israel, the Kurds, Yemeni or ISIS. However, Iran's response for the killing of General Soleimani was more theatrical than a threat to the US military bases in Iraq, in 2020 January, but gave a presentation of the capability and precision of the Iranian missiles.³

³ In January 8, 2020 Iran launched ballistic missiles in two US air base in Irbil and Al Asad, west of Baghdad after the US's drone attack which killed Qassem Soleimani, Iranian Quds Force's commander



Putting maximum – mostly economic – pressure on Iran did not live up to expectations. However, it weakened Iran much, but did not bring regime change, not even forcing the Persian state's leaders to the negotiation table to make a deal, more beneficial for US. Though, Biden and his administration are likely to apply a more diplomatic approach but it shouldn't completely reject coercive measures against Iran.

“Diplomacy is back”

Joe Biden noted his first remarks in the State Department in February 4, 2021.^{XVI} The new administration defines itself contrary to the previous one in many areas and foreign policy is definitely just that. Many foreign policy decisions made by the predecessor are going under review or even being revoked by the new administration and the US is ready to return as a global power again. Biden's tools for that would be internationalism, more soft- and smart power, putting more emphasis on diplomacy. Same is expected in case of the Islamic Republic and some point of it has already been outlined which Biden called a smarter way to be tough on Iran.

Robert Malley has been chosen as a special envoy to Iran. Malley is a Middle East expert veteran and - just as many others from the administration – worked in the former Obama administration as a national security aide. He was involved in the Camp David peace talks and in the 2015 Nuclear Deal as well, which also shows

Bidens intention to turn back the clock which making countries in the region concerned again.^{XVII}

As it can be seen in the map above as well, Iran's missiles mean a threat mostly to the countries (and western interests) of the region such as the Republic's interventionism, their leaders and experts expressed dissatisfaction in 2015, during the preparation of JCPOA as they were not involved or asked. And they were still worried after the parties signed the treaty which has done nothing with the regime's developing missiles program which is apparently an issue and in itself increasing the region's instability.

But maybe learning from blunders of the past, Anthony Blinken already expressed his expectations about making foreign policy and would like to apply a wider perspective in every issue no matter in which corner of the world it is. Therefore, with the intention of avoiding groupthink and sound more diverse voices or even critics Blinken asked to involve not just more "hawkish" people into the Iran team but experts from Israel and Gulf-countries as well.^{XVIII}

Incentives and obstacles

But Biden's intention to turn back the clock and return to the JCPOA with its original form won't be that easy – and could prove to be insufficient - as both international and domestic political milieu have changed. Not to mention several breaches of the deal Iran has made in the past years and months especially. There are several factors which diplomacy is unable to reverse – a fact that Biden knows too.^{XIX} And it is not just that Iran was never that close to make a nuclear weapon and the only actor who seemed to pull it back is Israel and its (not-so) covered actions.⁴

Currently the US and Iran seem to be waiting on each other, as Anthony Blinken expressed if Tehran resumes full complying obligations of the JCPOA, then Washington would do so. In the last years Iran infringed compliments of the deal in many areas, that is why it will take time to return to it.^{XX} Meanwhile Iranian Foreign Minister Mohammad Javad Zarif offered a "reality-check" to Blinken on twitter,

⁴ Stuxnet or the killing of Mohsen Fakhri-zadeh, Iranian top nuclear scientist. For more information: BARD, Mitchell: Military Options Against Iran In: JWL
<https://www.jewishvirtuallibrary.org/military-options-against-iran> (2021. 02.26.)

Expiration dates of the JCPOA

2020	UN arms embargo lifted
2023	Iran can partially build some advanced centrifuges; UN and EU lift missile sanctions; Iran ratifies IAEA Additional Protocol
2024	Iran can build/test some advanced centrifuges
2025	UN ends consideration of nuclear programme; EU lifts all remaining sanctions; Iran can build/test more advanced centrifuges
2030	Most restrictions on enrichment end; Iran can keep excess heavy water and acquire uranium metals
2040	IAEA stops monitoring Iran's uranium production

Sources: IAEA; Bloomberg; *Joint Comprehensive Plan of Action Annex 1 of the JCPOA (the Iran nuclear deal)

The Economist

rejoining the JCPOA. There are factors which could urge the US to reenter JCPOA and make Iran to do so from political, security purposes to economic and more technical ones.

Incentives for the US to rejoin

Iran on the way of making a bomb

Technical and security purposes which could put pressure on the US to rejoin are in connection with the whole issue the JCPOA is intended to manage, namely Iran's nuclear aspirations. The treaty was signed by Iran and seven counterparts with the intention to restrict Iran's nuclear program, and if Tehran means to make nuclear weapons, it would take the regime a year at least. In return for suspending or terminating nuclear related sanctions and lifting the UN's weapon embargo Iran agreed to many restrictions and gave access to the International Atomic Energy Agency (IAEA), the United Nations' nuclear watchdog for regular inspections.^{XXIII}

XXIV

But most of the restrictions have an expiration date and some of them have been repealed already (for example the UN's arm embargo) or will be expired in the near future (see chart). These restrictions need to be renegotiated and the sunset clauses extended at least, which also proves that the JCPOA requires to be reconstructed in case of rejoining. But it's not the main factor which could urge the US and the international community to remake the nuclear deal.

arguing the US abandoned JCPOA, why it has to take the first step to rejoin while easing sanctions.^{XXI} Iran even called the US to compensate for sanctions that have cost them. A possible scenario is a "coordinated" return, which the European Union could successfully synchronize according to Zarif.^{XXII}

Time passing does not favor either party, waiting on each other to make the first move.

Both sides have reasons not to prolong the

When the US abandoned the agreement, Iran held still on to its commitments for a short term - mostly because of the efforts of the other parties of the treaty. But then it started to violate and ignore its commitments intentionally, as several sanctions hit hard its economy and IRGC General Qassem Soleimani was killed, followed by Mohsen Fakhrizadeh, Iranian top notch nuclear scientist.

In 2019 Teheran started increasing its stockpile of low-enriched uranium and begun enriching uranium to higher level than restricted in the agreement – though still far from 90% pure enrichment used in nuclear weapons. Developing new centrifuges to fasten up enrichment and heavy water production also went further than agreed in the treaty, which according to Iran no longer binds them either.

In 2020, after the killing of General Soleimani Iran resolved limitation on centrifuge quantity, capacity and nuclear fuel produce, which meant the effective end of the JCPOA.^{xxv} In October Iran started to build an underground centrifuge assembly plant in Natanz – reported UN's watchdog - after one of its sites were destroyed in a “sabotage” attack by Israel - according to the Iranian assumption.^{xxvi} The Iranian parliament passed a bill calling for increasing uranium enrichment up to 20% (3,6% was allowed in the treaty), then passed another law called “Strategic Action Plan to Remove Sanctions” which articulates the intention of widening nuclear capacity.

In January, 2021 the regime threatened to block and expel all IAEA inspectors from the country, if parties don't return to the nuclear deal and sanctions won't be lifted.^{xxvii} According to the IAEA report, published in the end of 2020,^{xxviii} Iran now has 2442,9 kg low enriched uranium stockpile, 12 times beyond of the 202,8 kg limit set by the JCPOA. Iran's “breakout-time” - the time frame required to make a nuclear weapon – is now believed to be less than a year.

Meanwhile, Iran continues to develop its missile capacity as well, unveiling an underground strategic missile facility in 2021 January, while asserting its arsenal will never be up to negotiation.^{xxix}

However, Teheran still sees steps taken away from the agreement as reversible in case of all the sanctions are lifted. Most of the measures Iran took to move further away from the conditions of the original agreement are justified and seen as answers to threats and attacks on Iranian officials and interests carried out by US and

allegedly Israel in the last years. On the other hand, the timing of these deviant steps taken by Iran are probably deliberate not just urging the US to revive the accord and mitigate tensions, but to make the regime's position stronger in the future negotiations, it may be seen as bringing many concessions to the table while still making no further commitment as before and as in the past thereby also deflecting to mentioning its missile program.

Incentives for Iran

Empty pockets – political distrust

Iran doesn't need JCPOA at all in a certain sense. It doesn't need restrictions on its nuclear program and blocking the usage of nuclear materials in any form, be it energy, healthcare or weapons. Nor does it need any western inspectors in their country watching every step they take. Iran only needs the sanction and restriction, choking its economy to be eased and lifted. But it has its price, which is defined by the western countries and Iran's neighbors. This price is a predictable Iran, with no adventurous regional endeavors, without an extended missile arsenal or nuclear aspirations at least which only would mean a safer and more secure Middle-East. Cutting Iran off from the global trade and economic system and isolating it in the region could force the regime to the negotiation table and makes it more permissive. That was the case in 2015, when the nuclear deal was signed and even more so now, after Trump's maximum economy pressure policy towards Iran.

As the US pulled out from the JCPOA it not just reinstated all sanctions that were lifted by the nuclear treaty, but stated new non-nuclear sanctions against the regime which highly battered its economy in the last years. First, US restrictions prohibit Iran's trade of gold, aluminum and steel and made impossible the regime to purchase any American dollars. The second stage of sanctions affected the oil industry, shipping, insurance and central bank of the Persian country, while the US deterred any third country to do business with them. Many international companies withdrew from the country to avoid stints, billions worth of Tehran's foreign assets have been frozen again.^{xxx} As a result, Iranian exports decreased almost by 70%, from 29.336 million USD (2018 July) to 8938 million USD (2020 July) as most of its main export products – oil, natural gas and metals – have been sanctioned.^{xxxi} Just as the Iranian currency, rial IRR to USD has fallen, by 49% just in 2020 and seems to be

incapable to break out from persistent inflation – thanks to the drop in oil prices and the Republic’s inefficient, corrupt economy – experts say.^{xxxii} The Islamic Republic’s economy has already been in recession before the JCPOA and the abandonment of the US deteriorated it further, its GDP shrank by 5.4% in 2018 and 6.5% in 2019.^{xxxiii} What is more, the pandemic made these benchmarks even worse. From this perspective it seems that Tehran is more in need of restoring the JCPOA – which would mean the easing most of the sanctions and restrictions.

Not to mention the political deficit and distrust in the Islamic Republic. After the US left JCPOA the agreement proved completely incapable in easing economic hardship put on the population, and the gap widened between civilians and the ruling clerical and political elite including PM Hassan Rouhani. Sanctions deepened discontent further, bringing thousands to the streets protesting against the government.^{xxxiv} The relentless spread of coronavirus in the country and inadequate governmental provisions eroded public trust even more.^{xxxv} Economic recovery - expected only after most of the sanctions are lifted – could be converted to political capital and the silencing of anti-government voices a bit, but problems are hidden more deeply in the system needing a more radical change. But changes in Iran seem to be directed by Ajatollah Khamenei, Supreme Leader of Iran and his narrow circle, which would mean a more radical, tougher Iran drifting more away from any democratic feature. And from this point it could be an obstacle in reviving the JCPOA.

Why timing matters - changing political milieu

In the 2020 February Iranian parliamentary elections conservatives and hardliners have earned great victory. (Though they compete almost with one another as most of the reformists were not even qualified by the Guardian Council, whose members are elected by the Supreme Leader.)^{xxxvi} Such a result could be expected in June 18, 2021 during the presidential elections which -according to Dr. Uzi Rubin from JISS^{xxxvii} - could turn the so far status quo and semblance balance of power between the ideological-military and economic-diplomatic faction. The latter, considered as “moderates” nominated the president of the Islamic Republic so far, but as candidates for the upcoming presidential election are only from the ideological-military faction and related to the IRGC, moderates could be entirely excluded from the decision-making process. Incumbent president Hassan Rouhani

and Iranian Foreign Minister Mohammad Javad Zarif - seen as moderates from the economic-diplomatic faction- will step down in June. It means the team that led the negotiations in 2015 and has clear motivations to restore their prestige and see the US rejoin to the accord will leave. An IRGC President in power with a slighter willingness of making concessions could urge the current Iranian leadership and the Biden administration to revive the agreement before the Iranian elections in June.

Conclusion

Biden's new approach to Iran would include more diplomacy than his predecessor's, however Trump's maximum pressure policy put Iran in a hard economic situation which could mean an advantage to the new administration for furthering negotiations. Iran's destabilizing work in the region and reaccelerated nuclear pursuit urge Washington, while economic hardships and political disillusion compel Tehran to revive the agreement. Returning to the JCPOA and its commitments would mean a starting point for the US to push other restrictions on Iran's missile program and regional aspirations, while Iran just probably wants the immediate lifting of sanctions with a more committed US and a binding agreement which cannot be overturned as easily as before.

Excluding such destabilizing activities of Iran and rebooting the JCPOA in its original form would be like repeating the same mistakes and expecting different results. It would favor only Iran while leave the countries in the region concerned again. Persuading Iran to make new concessions will be a difficult task for the US diplomacy especially within a short period of time until a new, hard-liner president and decision-making establishment come into play – but this is the only solution for a predictable Iran and safer Middle East.

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