

The battle over the Iranian Arms Embargo, renewed sanctions, and the future of the JCPOA

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Introduction

What began as a disagreement within the international community over the extension of the soon to expire Iranian arms embargo has now developed into a Transatlantic crisis that may put the Joint Comprehensive Plan of Action nuclear agreement (JCPOA) at risk of collapse.

The US as well as Israel and the Gulf states are keen for the UN arms embargo – due to expire on 18 October – to be reimposed on Iran, although this is opposed by China and Russia. The United Nations Security Council (UNSC) rejected an American proposal to indefinitely extend the embargo – with only the US and Dominican Republic voting for the resolution. Following this, on 19 August, citing “significant non-performance” of Iranian obligations under the JCPOA, Secretary of State Mike Pompeo notified the UNSC that the US was initiating a snapback sanctions process to reinstate all UN sanctions on the Islamic Republic that had been lifted following the 2015 nuclear deal.

The “snapback” process is an integral component of the JCPOA. But the international community rejects the US’s legal right to initiate it as the Trump administration left the nuclear deal in May 2018. As a result, when the US attempted to trigger the “snapback” mechanism, the acting UNSC President, the representative from Indonesia, did not advance the US request.

Thirty days after Pompeo’s announcement, on 19 September, the US unilaterally declared the reimposition of all the UN sanctions on Iran which had ended with the signing of the JCPOA. This announcement was not only criticised by Iran, Russia and China, but also by the E3 (the UK, Germany and France).

The debate over reimposing the UN arms embargo is directly tied to UN Security Council Resolution (UNSCR) 2231, rather than to the JCPOA. Yet while the international response to the arms embargo is important – failure to reimpose it presents regional dangers – more urgent and dangerous seems to be the standoff between the US and its European allies (plus Russia and China) on the issue of snapback sanctions, and between the JCPOA participants and Iran, on the issue of the continued survival of the deal itself.

Relevant UN resolutions

UNSCR [1929](#) in 2010 banned countries from supplying major conventional arms to Iran. The list of banned weapons – including battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile systems – was defined by the [UN Register of Conventional Weapons](#).

UNSCR [2231](#) in 2015 overrode UNSCR 1929 and set in place a five-year countdown to end restrictions on Iranian arms imports and exports (unless countries received approval from the UNSC). The countdown to lifting the UN arms embargo was a central component of the JCPOA – as long as all sides kept their commitments.

Even after 18 October 2020 an embargo will remain on Iran buying or selling goods and technology that could contribute to the development of nuclear weapon delivery systems, including technology related to ballistic missiles. In addition to the five year countdown from the JCPOA’s Adoption day on lifting the arms embargo, Resolution 2231 also began an eight-year countdown to end restrictions on ballistic missiles sales to Iran, which is set to expire on 18 October 2023. An [EU arms embargo](#) on Iran introduced in 2007 also remains in place until at least October 2023. After Brexit, the UK will most likely introduce its own restrictions too.

The state of the Iranian military: and practical ramifications of lifting the embargo

The US assesses that the embargo has been effective in stopping arms sales and that its removal creates significant military options for the Islamic Republic. The US believes Iran will look to buy fighter jets, logistics aircraft, and helicopters. These might include the Russian Sukhoi fighter jet or the Chinese JF-17, which is \$10m cheaper than the Sukhoi, easier to maintain, and uses similar technology to Iran's own fleet of Slovakian-made fighter planes. Iran could also purchase intelligence, surveillance, and reconnaissance technology to decrease its dependency on Russia, and is reportedly looking for new radar-guided air-to-air missiles, such as the Russian R-77-1 or the Chinese PL-15. It has also expressed interest in the Russian T-90 main battle tank.

Whilst China has provided assistance to Iran since the passage of UNSCR 2231, it has been wary not to anger the Trump administration – for example, China recently reduced trade and [oil purchases](#) from Iran by 30 per cent following US pressure. There is no guarantee that China would risk further escalation with the US in sensitive areas, such as selling military equipment to Iran. Indeed, Russia, the world's second largest arms exporter, is Iran's most likely destination for purchasing goods, especially as Iran has repeatedly stated its interest in acquiring [Russian weapons](#), and Russia seeks to take advantage of Iran's need for military modernisation. Buying weapons is a win-win – it will increase Iran's dependence on Russia while providing substantial economic benefit to Russia.

In addition to willing sellers, Iran also requires the financial capacity – which it may not possess – to buy advanced weapons. It would cost Iran an estimated \$100bn to refurbish its air force – the equivalent to Iran's entire hard currency reserves. Iran annually spent \$18-22bn (4-5 per cent of GDP) on defence between 2015-2019. In April 2020 the Rouhani administration increased military spending to an estimated \$20.5bn, but the budget was based on selling 1 million barrels of oil a day at \$50 per barrel, while Iran will realistically export about half as much oil at around half the price. The 2018 re-imposition of US sanctions, which reduced Iranian GDP from 12.5 per cent growth in 2016 to -5.4 per cent in 2018 and -7.6 per cent in 2018, has further limited Iran's capacity to reach the same defence spending levels of the early 2010s which reached over \$30bn.

In any event, Iran already possesses a robust military industry and emphasises self-reliance and domestic production of weapons wherever possible. Iran may thus prioritise technology transfers for the kinds of weapon systems it has been unable to produce in-house. However, not all Chinese technologies are compatible with Iranian equipment, and Russia does not possess all the technology Iran needs. For example, Russian tanks are equipped with a thermal-imaging fire control system from Thales, a French company, which may remain embargoed.

Even during the embargo, Iran successfully developed an indigenous ballistic missile and missile defence capacity – in contravention to several UN resolutions dating back to 2006. In 2007 Iran's first ballistic missile entered service despite two 2006 UNSC resolutions preventing the transfer of any items, materials, goods, and technology that could contribute to Iran's ballistic missile programme. In 2010, Iran's second generation of the Fateh-110 short-range ballistic missile entered service. And in August 2020, Iran [unveiled](#) two new missiles, the Qasem ballistic missile with precision-guidance and a range of over 1,400km and the Abu Mahdi cruise missile with a range of over 1,000km.

Perspectives on the Expiry of the Arms Embargo

Iran seeks the lifting of the embargo to reduce international pressure on the Islamic Regime and to strengthen its regional position through support of proxies, moves stridently opposed by its neighbours. Iranian aid to proxies was estimated in a [2019 BICOM paper](#) at: \$700m per year to Lebanese Hezbollah; \$100m+ per year to the Houthis in Yemen; up to \$1bn per year to

Shia militias in Iraq; and \$100m per year to Hamas and Islamic Jihad in the Palestinian Territories. Deputy Commander of the Islamic Revolution Guards Corps for Coordination Rear Admiral Ali Fadavi [recently told BBC Persia](#) that Iran has spent \$20bn on regional policy since 2016, which averages at \$1.4bn per year. However, Islamic Revolutionary Guards Corps (IRGC) spending has reportedly [increased](#) to \$6.96bn this year.

The view from Iran

Tehran perceives the expiry of the arms embargo as one of the only benefits to remaining party to the JCPOA. Discussing a scenario in which the embargo was extended, Iranian President Hassan Rouhani [vowed](#) in May that Iran would deliver a “crushing response” while Secretary of Iran’s Supreme National Security Council (SNSC), Ali Shamkhani, [warned](#) in June that the JCPOA would “die forever”.

The importance of lifting of the arms embargo goes beyond the scope of simply buying and selling weapons. Alireza Noori, an assistant professor of regional studies at Shahid Beheshti University in Tehran, details five Iranian goals:

1. Foiling the Trump administration’s “maximum pressure” strategy by delegitimising US efforts to extend the embargo at the UN;
2. Causing a rift in the sanctions’ structure, which will help ensure that the lifting of restrictions in 2023 and beyond will be less problematic;
3. Strengthening military deterrence by acquiring advanced weapons systems;
4. Developing – through arms interactions – military-political cooperation with countries such as Russia, China;
5. Advancing regional influence through relying on advanced weapons it can buy, selling its own weapons, and supporting Iranian proxies.

The view from Israel

Israel is concerned the expiry of the embargo will boost the IRGC’s Quds Force, and exacerbate proliferation of Iranian conventional arms across the Middle East, especially to Hamas and Hezbollah along Israel’s borders. Prime Minister Benjamin Netanyahu described the UNSC’s August failure to renew the arms embargo as “scandalous” and “encouraging ... Iranian terrorism and aggression”. Defence Minister Benny Gantz said: “In its unceasing attempts to achieve nuclear weapons, and its efforts to fuel terror and violence, Iran is undermining the peace of the region and the world.”

Israel also believes that failure to extend the embargo rewards Iran for its flagrant transgressions of past UN resolutions and undermines the authority of the UNSC and its ability to enforce its resolutions.

Another concern is the problematic precedent for a similar decision in 2023 that involves removing the limitations on Iran’s missile programme. Israel fears that Russia could be encouraged to sell Iran its advanced S-400 air-defence systems, despite its previous hesitations. The arrival of advanced air-defence systems could offer Iran a sense of immunity and encourage it to accelerate its nuclear programme, and would have major implications for Israel were it to decide to strike Iranian nuclear infrastructure.

In light of these concerns, **Israeli officials supported the US decision to enforce all previously ended UN sanctions on Iran.** Gantz described American pressure as a ‘necessary tool’ and praised ‘the uncompromising efforts to stop it [Iran] and promote stability in our region.’ Foreign Minister Gabi Ashkenazi also thanked the US, calling on all countries to “stand with the US,

prevent the sale of weapons to Iran and to enforce the sanctions in their entirety.” Ashkenazi especially appealed to the E3 to “work towards rigorously implementing the sanctions regime on the national level, as well as on the EU level and through UN mechanisms”.

The view from the Gulf

On 9 August 2020 **the member states of the Gulf Cooperation Council (GCC) – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates – called on the UNSC to extend the arms embargo.** In its statement, the GCC reiterated that, “Iran continues to distribute conventional weapons to terrorist organisations and separatists in the region and to intervene militarily in its neighbouring countries directly or through its satellites trained in its territory.” Against this background, the GCC claimed, “It would be inappropriate to remove the restrictions on Iran’s ability to export conventional weapons until it ceases its activities that cause instability in the region and stops supplying weapons to terrorist organisations and separatist groups ... this is to ensure stability in the region and the world.”

The view from the Trump administration and E3

The Trump administration is adamant about extending the arms embargo but lacks international support – as seen in the UNSC vote in August. In May 2020, Pompeo said Washington “will exercise all diplomatic options” to extend the embargo. The snapback mechanism was not the administration’s initial preference with the decision coming after its abject failure to pass the arms embargo resolution in August. The international community meanwhile sees the attempt to reinstate all UN sanctions on Iran as trying to close any option for a potential Biden administration to return the US to the JCPOA, which it has stated its intention to do.

There is also a legal dispute over whether the US had the right to invoke the snapback clause, as it left the JCPOA agreement in 2018. The US State Department produced a memorandum contending that despite the withdrawal, the US has legal standing to demand the snapback process be enacted per Resolution 2231, which mentions the US by name and does not revoke the participation rights of those who quit the deal (a scenario no one anticipated). Russia, China, and Iran refute this claim.

The UK government meanwhile insists that it supports the arms embargo extension in principle, given Iran’s destabilising influence in the Middle East, but it views the US snapback plan as unworkable since it could not garner consensus from Russia and China. Moreover, Germany’s deputy ambassador to the UN, Günter Sautter, said that despite his country rejecting the US decision to extend the embargo, Germany believed that Iran’s arms transfers to Yemen, Lebanon, Syria, and Iraq were in violation of Resolution 2231.

Despite sharing Washington’s concerns about the proliferation of Iranian arms, the E3 have reiterated their opposition to American snapback sanctions that could lead to the JCPOA’s collapse. In a joint statement on 20 September, the E3 [said](#) any American attempt to impose its own secondary sanctions on any country refusing to comply with the unilaterally reimposed UN sanctions (which in any case was rejected by the rest of the UNSC) was legally void. “Our goal remains to preserve the authority and integrity of the UN security council” they said, adding: “The E3 remain committed to fully implementing Security Council Resolution 2231, which endorsed the JCPOA in 2015. We have worked tirelessly to preserve the nuclear deal and we remain committed to continuing to do so.”

The parties are thus walking a thin line over the JCPOA. The E3 continue to support the nuclear agreement despite their inability to meet their economic commitments towards Iran. And Iran continues cling to the agreement despite eroding key components of the JCPOA by raising the percentage of uranium enrichment and uranium stockpiling (ten-fold the limit), as well as continuing the development of advanced centrifuges.

What next? The battle over the arms embargo and snapback sanctions

The arms embargo remains set to end on 18 October, but the threat of US sanctions raises doubts over states' willingness to risk selling arms to Iran. The US maintains it will act as if all sanctions underpinned by UNSC resolutions that were in place before the JCPOA – including arms bans, restrictions on Iran's ballistic missile activity and its nuclear enrichment – have been put back into effect. The US also expects all UN member states to comply with their obligations to implement sanctions and “is prepared to use [its] domestic authorities to impose consequences for those failures and ensure that Iran does not reap the benefits of UN-prohibited activity”.

It is unclear how the UN can facilitate a resolution. UN Secretary-General Antonio Guterres told the Security Council he cannot take any action against the American declaration because “there would appear to be uncertainty” on the issue. The US could attempt to reinstate the mechanisms for monitoring sanctions on Iran that were dismantled in 2015, but it would likely be pushed back by Russia, China or the E3. Alternatively, the US could decide to impose unilateral sanctions on all entities it deems is in violation of UN resolutions, but it remains unclear how strong the administration will enforce sanctions on Western allies (as well as Russia, China and others) if being ignored. The UNSC could try to pass a resolution excluding the US as a “JCPOA Participant” under Resolution 2231, but the US could simply veto it. The UNSC could theoretically try to prevent the US from exercising its veto on preliminary and agenda-setting votes. But the US could respond by threatening to withhold funding to the UN's political, peacekeeping, and disarmament branches to demonstrate its dissatisfaction.

If the US succeeds in reimposing sanctions, it would create further distance between the Trump administration and Europe. The E3 has become irritated with the US actions at the UN. In July, the US blocked a German resolution calling for a new UN envoy to deal with climate change and security, and the UK has been frustrated by Washington's failure to invest in UN diplomacy over Libya and Yemen. A European diplomat said that the US move to spark a return of all UN sanctions would risk “destroying” the JCPOA nuclear deal, but “it will be a completely contested procedure so the snapback will have no effect, it will not be recognised by others”.

In any event, **the European states seemingly prefer a wait and see what happens in the US Presidential elections in November before taking specific action.**

What next? The future of the JCPOA

Iranian officials have been (purposefully) vague about specific actions if sanctions are reimposed but have raised options such as exiting the JCPOA, or more seriously, withdrawing from the nuclear Non-proliferation Treaty (NPT). In both scenarios, Iran would likely accelerate its nuclear programme and reduce its [nuclear breakout time](#) from the estimated 3.5 months as of late September 2020 to a few weeks. But such drastic retaliatory steps are unlikely in the immediate term.

A more likely scenario would be Iran ramping up uranium enrichment capabilities or curtailing cooperation with International Atomic Energy Agency inspections. Senior Iranian officials told *Reuters* that Iran's leadership is determined to remain committed to the nuclear deal, hoping that a Biden victory will salvage the pact. A senior official involved in the discussions said that “Right now, the decision is to remain in the deal even if Americans make their biggest mistake of triggering the snapback mechanism.”

The aftermath of the American elections will likely lead to renewed discussions over some form of ‘Grand Nuclear Deal’ with Iran. Neither Biden nor Trump see the JCPOA as sustainable in the long run, although their strategies are very different. Biden has pledged to re-enter the agreement in order to revise it while Trump likely hopes to use sanctions (or the threat of them) to forge a grand bargain with the Islamic Republic. Whether either of these policies is realistic remains to be seen.

Until then, the tensions within the JCPOA signatories coupled with Iran continuing to push the boundaries of the agreement could lead to its ultimate collapse. Such a scenario – without any replacement agreement – could trigger a broader nuclear proliferation chain reaction as well as return the option of an Israeli military strike to the table. [Israeli](#) and US security and intelligence officials are also concerned that Saudi Arabia is taking further steps to keep its own option for nuclear weapons in play. New [reports](#) that Riyadh is investing in processes to create the raw material for uranium enrichment underscore that a new nuclear crisis with Iran may spill into the wider region.

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