



Updated September 25, 2020

Iran's Nuclear Program and U.N. Sanctions Reimposition

U.N. Security Council Resolution 2231 (2015), which the council adopted on July 20, 2015, implements the Joint Comprehensive Plan of Action (JCPOA) and contains other provisions concerning Iran's nuclear program, Tehran's development of missiles, and arms transfers to and from Iran. The United States has threatened to invoke the resolution's "snapback" mechanism, which requires the Security Council to reimpose U.N. sanctions lifted pursuant to Resolution 2231 and the JCPOA.

The JCPOA, finalized in July 2015 by Iran and China, France, Germany, Russia, the United Kingdom, and the United States (collectively known as the P5+1), requires Iran to implement constraints on its uranium enrichment and heavy water nuclear reactor programs, as well as allow the International Atomic Energy Agency (IAEA) to monitor Tehran's compliance with the agreement. Prior to the JCPOA, these programs caused international concern because they could both have produced fissile material for use in nuclear weapons.

Pursuant to the JCPOA, Tehran received relief from sanctions imposed by the European Union, United Nations, and United States. On the agreement's January 16, 2016, Implementation Day, the Security Council terminated sanctions imposed by three previous resolutions on Iran; the council adopted the first of these resolutions (1996) in 2006 and the last (1929) in 2010. The sole operative Security Council resolution concerning Iran's nuclear program, Resolution 2231, also stipulates that the council, which has been seized of the "Iranian nuclear issue" since 2006, is to end its consideration of the matter in 2025. The resolution's snapback mechanism will then cease to be operational.

In May 2018, President Donald Trump issued a memorandum stating that the United States would no longer participate in the JCPOA and would reimpose sanctions that had been suspended pursuant to the agreement. Arguing that subsequent efforts by the remaining JCPOA participants, known as the "P4+1," were inadequate to sustain the agreement's benefits for Iran, the government has undertaken some nuclear activities that exceed JCPOA-mandated limits. Iranian officials continue to assert that Tehran will resume implementing all of its JCPOA commitments if the P4+1 does so.

Iran's Nuclear Program and Selected JCPOA Provisions

Although some Iranian nuclear activities exceed JCPOA-mandated limits, other aspects of the country's nuclear program still comply with those limits. Tehran has continued to allow IAEA monitoring of Iran's JCPOA commitments, which supplement Tehran's obligations pursuant to its IAEA comprehensive safeguards agreement and the nuclear Nonproliferation Treaty (NPT).

The NPT, which Iran ratified in 1970, includes prohibitions on obtaining or producing nuclear weapons. Comprehensive safeguards agreements are designed to enable the agency to detect the diversion of nuclear material from declared nuclear facilities, as well as to detect undeclared nuclear activities and material. (See CRS Report R40094, *Iran's Nuclear Program: Tehran's Compliance with International Obligations*, by Paul K. Kerr.)

Iran is also implementing the Additional Protocol to its comprehensive safeguards agreement. Such protocols increase the IAEA's ability to investigate undeclared nuclear facilities and activities in nonnuclear-weapon states by increasing the agency's authority to inspect certain nuclear-related facilities and demand information from member states. Pursuant to its JCPOA commitments, Iran is implementing provisionally its additional protocol; Tehran is to seek ratification of the protocol by the Iranian parliament no later than October 2023. Iran originally signed such an additional protocol in late 2003, but stopped implementing it in early 2006.

The IAEA also continues to monitor JCPOA restrictions, which supplement Iran's safeguards obligations and prohibit Iran from engaging in a number of dual-use "activities which could contribute to the development of a nuclear explosive device." Should the JCPOA be implemented as envisioned in the agreement, most of its nuclear-related restrictions will expire. In that case, Tehran's nuclear program will be governed indefinitely by Iran's obligations pursuant to the NPT, the government's IAEA comprehensive safeguards agreement and Additional Protocol, and the dual-use restrictions described above.

U.N. Security Council Resolution 2231 (2015) and Snapback

In addition to its JCPOA-related provisions, Resolution 2231 imposes other requirements on Iran. For example, the resolution prohibits certain arms transfers to Iran; bans all Iranian exports of conventional arms until October 18, 2020; and restricts exports of missile-rated items to Iran until October 2023. Despite lacking a direct connection to the country's nuclear program, previous arms restrictions, the first of which were imposed by Security Council Resolution 1747 (2007), were part of a broad U.S.-led approach of pressuring Iran to comply with relevant council resolutions. (For more on the arms restrictions, see CRS In Focus IF11429, *U.N. Ban on Iran Arms Transfers and Sanctions Snapback*, by Kenneth Katzman.)

According to Resolution 2231, a JCPOA participant can, after notifying the Security Council of an issue that the government "believes constitutes significant non-performance of [JCPOA] commitments," trigger an automatic draft resolution keeping sanctions relief in effect. A U.S. veto of this resolution would both reimpose the suspended sanctions and end expiration of the conventional

arms and missile-related export restrictions, as well as Security Council consideration of the Iranian nuclear issue.

Whether the United States has the status to invoke Resolution 2231's snapback mechanism is under debate. The JCPOA lacks a withdrawal clause, and no Security Council resolution has altered the U.S. status as a JCPOA "participant." Resolution 2231 is silent on the mechanism's status in the event that a P5+1 government ceases implementing its JCPOA commitments. The United States neither describes itself nor acts as a JCPOA participant. Not only does the May 2018 memorandum mentioned above describe a U.S. decision to end its "participation" in the agreement, but the United States is also no longer performing its JCPOA commitments.

Paragraph 10 of Resolution 2231 names the P5+1 countries as "JCPOA participants." But it is not clear that "participants" is meant to include a P5+1 government that ceases performing its JCPOA commitments, or if the term merely identifies the JCPOA participants in July 2015. Notably, the agreement describes the P5+1 as "participants" when naming those states as members of the JCPOA-established joint commission. The United States no longer participates in that commission's activities.

In an August 20 letter to Security Council President Indonesian Ambassador Dian Triansyah Djani, Secretary of State Michael Pompeo initiated the snapback process by notifying the council that Iran "is in significant non-performance" of its JCPOA commitments. This action followed the council's rejection of a U.S.-sponsored draft resolution to extend Resolution 2231's conventional arms-related prohibitions. The letter argued that the Resolution 2231 language cited above gives the United States the right to invoke snapback. The P4+1 Governments rejected this claim. Moreover, Djani explained in an August 21 letter to the council that Pompeo's letter "has no legal effect." But Pompeo stated on September 19 that "the snapback of previously terminated UN sanctions...became effective" that same day.

UN Secretary General António Guterres wrote in a September 19 letter that the "majority" of Security Council members have that Pompeo's letter did not constitute "the notification necessary for snapback. The resulting uncertainty, he added, requires the Secretary to refrain from proceeding on the matter. The Security Council could send the issue to the International Court of Justice for an advisory opinion, but the council lacks an independent mechanism to adjudicate these sorts of claims, and council members typically reach political settlements to resolve such disputes. The implications of a council failure to reach such a settlement in this case are unclear.

Possible Iranian Responses

In addition to reimposing sanctions, snapback would remove other incentives for Iran to continue participating in the agreement. These incentives include expiration of the restrictions on Iranian arms-related imports and exports, as well as missile-related imports described above.

Snapback would also end the process by which the Security Council is to end in 2025 its consideration of the Iranian nuclear issue. The council adopted all of the resolutions that imposed sanctions on Iran, as well as Resolution 2231, under Article 41 of Chapter VII, which enables the Security

Council to adopt "measures not involving the use of armed force," including sanctions, "to give effect to its decisions" concerning "threats to the peace, breaches of the peace, and acts of aggression." Since adopting Resolution 1737 in 2006, the council has been considering the Iranian nuclear issue pursuant to Article 41. Iranian officials have touted the end of this status, which, as noted, Resolution 2231 stipulates.

Iranian statements and the JCPOA text indicate that the government may stop performing all or some of its JCPOA commitments if the Security Council extends the above-mentioned arms restrictions or invokes snapback. If Iran were to end its JCPOA participation entirely, the government would be bound only by its comprehensive safeguards agreement, which is of indefinite duration. Iran would not be bound by its Additional Protocol, should snapback occur before Iranian ratification of that agreement.

In such a scenario, the IAEA would retain its monitoring and inspection authority pursuant to Iran's comprehensive safeguards agreement, but the scope of this authority would be narrower. For example, the agency would no longer be able to monitor certain Iranian facilities that do not contain nuclear material but are associated with the government's enrichment program. The IAEA would also retain its authority to verify the absence of undeclared nuclear material and activities, but the agency would have fewer means to do so, if Iran's additional protocol is not in force.

Moreover, Tehran would not be bound by any constraints on its enrichment program, which has been the main source of proliferation concern, although Iran would remain bound by its NPT obligations. Significant expansion of Tehran's enrichment program would likely decrease the amount of time necessary for Iran to produce enough weapons-grade highly enriched uranium for use in a nuclear weapon.

Prior to the JCPOA, Iran was improving its ability to produce fissile material, despite U.N. and other sanctions' evident success in slowing the nuclear program. At the time, knowledgeable IAEA and U.S. officials observed that IAEA safeguards on Iran's declared nuclear facilities would likely have detected an Iranian attempt to use them for producing nuclear weapons. (For more information, see CRS Report RL34544, *Iran's Nuclear Program: Status*, by Paul K. Kerr.) Nevertheless, Iran's continuing nuclear program concerned many governments. Indeed, U.S. and Israeli officials at the time planned for a possible attack on Iran's nuclear program to prevent Tehran from developing a nuclear weapon. The end of Iranian JCPOA participation could beget a similar situation.

Iranian officials have also indicated that the government might withdraw from the NPT in response to snapback; the treaty contains a withdrawal provision. In this case, Tehran would not be bound either by its comprehensive safeguards agreement or by its treaty obligations. Notably, these Iranian officials, echoing a longstanding government position, have stated that Tehran would still refrain from producing nuclear weapons.

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