

OBAMA OFFICIALS SUPPORT U.S. UNILATERAL SNAPBACK OF IRAN SANCTIONS

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When Iran and world powers concluded the 2015 nuclear deal, formally known as the Joint Comprehensive Plan of Action (JCPOA), President Barack Obama and senior officials in his administration repeatedly touted its key enforcement mechanism. If Iran violated the agreement, they said, the United States could unilaterally reimpose all sanctions enacted by the UN Security Council, even without the support of other countries such as Russia and China. Such a step would be known as a “snapback” mechanism.

The United States retains the right to initiate a snapback even though the Trump administration withdrew from the JCPOA in May 2018. UN Security Council Resolution 2231, which endorsed the JCPOA, defines the term “participant state” to include the United States. A State Department legal opinion released in December 2019 maintains that the resolution does not envision a change in this definition even if Washington abandons the JCPOA.¹ On the contrary, the JCPOA was specifically designed to facilitate a snapback if one of its parties believes, at any time, that Iran is engaging in significant nonperformance of the accord’s provisions.

The conduct of the regime in Iran clearly amounts to significant non-performance of its JCPOA obligations. In 2018, the world learned that Iran had misled the International Atomic Energy Agency (IAEA) and breached its JCPOA nuclear disclosure commitments by concealing a secret nuclear weapons archive. Over the past year, Tehran has repeatedly and overtly violated the JCPOA, including by dramatically expanding its uranium enrichment activities and stockpiles of enriched uranium. According to the Institute for Science and International Security, these actions have brought Iran’s breakout time – that is, the amount of time needed to produce enough weapons-grade uranium for one nuclear weapon – to an estimated 3.8 months.²

The regime has also denied the IAEA’s multiple requests for information and access to suspected nuclear sites, constituting both a breach of Iran’s most fundamental obligations under the Nuclear Non-Proliferation Treaty in addition to significant non-performance of its JCPOA commitments.

This research memo compiles key statements by members of the Obama administration and by several Republican lawmakers in support of the snapback mechanism. The quotations indicate that the authors of the JCPOA specifically intended the use of the snapback mechanism for serious violations of the accord – precisely the type of violations that Iran is committing now. With this fact in mind, the Trump administration should invoke the snapback mechanism in order to hold Iran accountable for its nuclear misconduct.

1. Matthew Lee, “Horse-trading Iran hawks seize on Pompeo’s Senate interest,” *Associated Press*, December 15, 2019. (<https://apnews.com/a9befc75d569d97c82f18d164cc3283d>)

2. David Albright and Sarah Burkhard, “Iranian Breakout Estimates and Enriched Uranium Stocks,” *Institute for Science and International Security*, April 21, 2020. (<https://isis-online.org/isis-reports/detail/iranian-breakout-estimates-and-enriched-uranium-stocks>)

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DEMOCRATIC OFFICIALS



President Barack Obama

“And if Iran violates the deal, all of these sanctions will snap back into place. So there’s a very clear incentive for Iran to follow through, and there are very real consequences for a violation.” (July 14, 2015)³

“With this deal, if Iran violates its commitments, there will be real consequences. Nuclear-related sanctions that have helped to cripple the Iranian economy will snap back into place. ... Now, if Iran objects, we can override it. In the agreement, we’ve set it up so we can override Iran’s objection. And we don’t need Russia or China in order for us to get that override. And if they continue to object, we’re in a position to snap back sanctions and declare that Iran is in violation and is cheating.” (July 15, 2015)⁴

“With this deal, if Iran cheats, sanctions snap back on. Without a deal, the sanctions unravel.” (July 21, 2015)⁵

“And finally, Iran has powerful incentives to keep its commitments. Before getting sanctions relief, Iran has to take significant concrete steps, like removing centrifuges and getting rid of its stock piles. If Iran violates the agreement over the next decade, all of the sanctions can snap back into place. We won’t need the support of other members of the U.N. Security Council, America can trigger snap back on our own.” (August 5, 2015)⁶

“Questions have been raised about whether we have sufficient options for dealing with Iranian violations of the deal. In fact, we have a wide range of unilateral and multilateral responses that we can employ should Iran fail to meet its commitments. First and foremost, as you are aware, the snap back provisions we secured in the UN Security Council is unprecedented. If at any time the United States believes Iran has failed to meet its commitments, no other state can block our ability to snap back those multilateral sanctions.” (August 19, 2015)⁷



Vice President Joe Biden

“And if at any point Iran breaks any of the commitments made in the agreement ... they are much more likely to be detected if they were to cheat, and we’ll have more time to respond, by snapping back sanctions or taking other steps to enforce compliance. And there will be a clear procedure in the final deal that allows both the U.N. and unilateral sanctions to snap back

without needing to cajole lots of other countries – including Russia or China – to support it. That will be written in the final deal.” (April 30, 2015)⁸

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3. President Barack Obama, The White House, “Statement by the President on Iran,” July 14, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/07/14/statement-president-iran>)

4. President Barack Obama, The White House, “Press Conference by the President,” July 15, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/07/15/press-conference-president>)

5. President Barack Obama, The White House, “Remarks by the President to the VFW National Convention,” July 21, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/07/21/remarks-president-vfw-national-convention>)

6. President Barack Obama, The White House, “Remarks by the President on the Iran Nuclear Deal,” August 5, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/08/05/remarks-president-iran-nuclear-deal>)

7. President Barack Obama, *Letter to Congressman Jerrold Nadler*, August 19, 2015. (<https://nadler.house.gov/sites/nadler.house.gov/files/documents/letter%20to%20congressman%20nadler%20re%20jcpoa.pdf>)

8. Vice President Joe Biden, The White House, “Remarks by the Vice President to the Washington Institute for Near East Policy,” April 30, 2015. (<https://obamawhitehouse.archives.gov/the-press-office/2015/04/30/remarks-vice-president-washington-institute-near-east-policy>)



Secretary of State John Kerry

“And I want to underscore: If Iran fails in a material way to live up to these commitments, then the United States, the EU, and even the UN sanctions that initially brought Iran to the table can and will snap right back into place. We have a specific provision in this agreement called snapback for the return of those sanctions in the event of noncompliance.” (July 14, 2015)⁹

“We have the ability to snap back all of the sanctions, and again, what we negotiated is a unique arrangement where one nation alone – say, the United States, if we’re not happy, we can go to the Security Council and we alone can force a vote on the snapping back of those sanctions. And the vote is already structured in the UN resolution that was passed the other day as a reverse vote. The vote will be on whether or not to continue the lifting of the sanctions. So one country alone – the United States – could veto that vote and we don’t lift – we don’t continue the lifting and they all snap back. Unique.” (July 24, 2015)¹⁰

“Of course, we must guard against the possibility that Iran does not uphold its side of the deal. That is why, if Iran violates its commitments once we have suspended sanctions, we will be able to promptly snap back both U.S. and UN sanctions. And since preventing the UN snapback requires an affirmative vote from the UN Security Council, the United States has the ability to effectively force the reimposition of those sanctions. ... If [the Iranians] don’t provide [access to military sites], they will be in material breach of this agreement and the sanctions will snap back.” (July 28, 2015)¹¹

“And if we have even a shadow of doubt that illegal activities are going on, either the IAEA will be given the access required to uncover the truth or Iran will be in violation and the nuclear-related sanctions can snap back into place.” (September 2, 2015)¹²



Treasury Secretary Jacob Lew

“While our focus is on successfully implementing this deal, we must guard against the possibility that Iran does not uphold its side of the deal. That is why, should Iran violate its commitments once we have suspended sanctions, we have the mechanisms ready to snap them back into place. For U.S. sanctions, this can be done in a matter of days. Multilateral sanctions at the UN also can be re-imposed quickly, through a mechanism that does not allow any one country or any group of countries to prevent the reinstatement of the current UN Security Council sanctions if Iran violates the deal. So, even as Iran attempts to reintegrate into the global economy, it will remain subject to sanctions leverage.” (July 23, 2015)¹³

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9. Secretary of State John Kerry, U.S. Department of State, “Press Availability on Nuclear Deal With Iran,” July 14, 2015. (<https://2009-2017.state.gov/secretary/remarks/2015/07/244885.htm>)

10. Secretary of State John Kerry, U.S. Department of State, “Discussion at the Council on Foreign Relations on Iran,” July 24, 2015. (<https://2009-2017.state.gov/secretary/remarks/2015/07/245253.htm>)

11. Secretary of State John Kerry, “Iran Nuclear Agreement: The Administration’s Case,” *Testimony before the House Committee on Foreign Affairs*, July 28, 2015. (<https://docs.house.gov/meetings/FA/FA00/20150728/103823/HHRG-114-FA00-Transcript-20150728.pdf>)

12. Secretary of State John Kerry, U.S. Department of State, “Remarks on Nuclear Agreement With Iran,” September 2, 2015. (<https://2009-2017.state.gov/secretary/remarks/2015/09/246574.htm>)

13. Treasury Secretary Jacob Lew, U.S. Department of the Treasury, “Testimony of Treasury Secretary Jacob J. Lew before the Senate Foreign Relations Committee on the Iran Nuclear Agreement,” *Testimony before the Senate Committee on Foreign Relations*, July 23, 2015. (<https://www.treasury.gov/press-center/press-releases/Pages/jl0129.aspx>)

“I will start with the snapback question. We have reserved the right to snap back in whole or in part. Obviously, if there is some small technical violation, that will not bring back the whole sanctions regime. I think that the goal would be to get them back into compliance. If there is a need to make it clear that violations that are small will get a response, we have the option of putting some of the smaller sanctions back into place. If there is a major violation, we have the option of putting in force all of our unilateral sanctions and ultimately going back to the U.N. for the international sanctions, as well. We have all the authority we need to do that.” (July 28, 2015)¹⁴

“And what I would say is, importantly, that the snapback provisions that are in this agreement, if Iran violates it, make it so that both the U.S. and the international sanctions would be back in place, which puts us in the strongest position. ... The way it was constructed, it is a very strong snapback provision. The international sanctions snap back in a way that we can work our will by exercising a veto if there is a disagreement with us.” (July 29, 2015)¹⁵



Under Secretary of State for Political Affairs Wendy Sherman

“[W]e will absolutely retain the ability to snap back both our own national sanctions and UN sanctions. ... If Iran fails to meet its responsibilities, we can ensure that UN Security Council sanctions snap back into place, and no country can stop that from happening.” (August 5, 2015)¹⁶



Acting Director of the Treasury Department's Office of Foreign Assets Control John E. Smith

“The JCPOA contains a dispute resolution mechanism whereby any JCPOA participant can refer any instances of alleged non-compliance to the Joint Commission, which provides a multilateral forum for addressing issues that arise. If we are unable to address these issues, the United States has the ability to quickly re-impose all of the national and multilateral sanctions that are lifted. At the UN, we have established a snapback mechanism that provides the unilateral ability to re-impose UN sanctions that were in place on Iran prior to Implementation Day without the worry of a veto by any member of the P-5.” (February 11, 2016)¹⁷



Acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin

“And this is what's often in shorthand referred to as snap-back, an issue that largely falls to sanctions enforcement. Should Iran violate its commitments once we have suspended sanctions, we have the mechanisms to snap them bank into place. For U.S. sanctions, it's a relatively straightforward

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14. Treasury Secretary Jacob Lew, “Iran Nuclear Agreement: The Administration's Case,” *Testimony before the House Committee on Foreign Affairs*, July 28, 2015. (<https://docs.house.gov/meetings/FA/FA00/20150728/103823/HHRG-114-FA00-Transcript-20150728.pdf>)

15. Treasury Secretary Jacob Lew, “Impacts of the Joint Comprehensive Plan of Action (JCPOA) on U.S. Interests and the Military Balance in the Middle East,” *Testimony before the Senate Committee on Armed Services*, July 29, 2015. (<https://www.armed-services.senate.gov/imo/media/doc/15-66%20-%207-29-15.pdf>)

16. Under Secretary of State for Political Affairs Wendy Sherman, “The Implications of Sanctions Relief under the Iran Agreement,” *Testimony before the Senate Committee on Banking, Housing, and Urban Affairs*, August 5, 2015. (<https://www.banking.senate.gov/imo/media/doc/ShermanTestimony81515.pdf>)

17. Acting Director of the U.S. Department of the Treasury's Office of Foreign Assets Control John E. Smith, “Iran Nuclear Deal Oversight: Implementation and Its Consequences,” *Testimony before the House Committee on Foreign Affairs*, February 11, 2016. (<https://docs.house.gov/meetings/FA/FA00/20160211/104456/HHRG-114-FA00-Wstate-SmithJ-20160211.pdf>)

procedure, and the sanctions can be restored in a matter of days. But importantly, multilateral sanctions at the United Nations can also be reimposed quickly through a mechanism that prevents any one country, or any group of countries, from standing in the way of snap-back should one of the P5, the permanent five members [of the UN Security Council], seek their restoration. What that means is, if the United States hypothetically goes to seek the restoration of UN Security Council sanctions that are suspended under a deal, even if all four [other] members of the P5 oppose, those sanctions go back into place.” (September 16, 2015)¹⁸



Assistant Secretary of State for Legislative Affairs Julia Frifield

“Everything in the JCPOA and its annexes are commitments Iran made, and must keep, to remain in compliance. If Iran breaks these commitments, we can snap back both unilateral and UN sanctions.” (November 19, 2015)¹⁹



White House Press Secretary Josh Earnest

The Iranians “know that as long as that sanctions architecture is in place, the president with a stroke of a pen, at a moment’s notice, could snap those sanctions back into place. And that is part of what Congress originally envisioned when they passed sanctions legislation. It’s also part of what this administration envisions for holding Iran to account. Because we have said that if we detect, based on the intrusive inspections plan that we have for Iran’s nuclear program – if we detect that they are deviating from the plan, then we can at a moment’s notice snap those sanctions back into place.” (April 6, 2015)²⁰

REPUBLICAN LAWMAKERS



Letter to President Donald Trump by Sens. Tom Cotton (R-AR), Ted Cruz (R-TX), and Marco Rubio (R-FL)

“[Y]our administration has refrained from invoking the snapback mechanism in United Nations Security Council resolution (UNSCR) 2231, which if invoked would restore

international restrictions against Iranian uranium enrichment, plutonium-related heavy water work, and ballistic missile development. Paragraph 10 of UNSCR 2231 defines the United States as a participant for the purpose of invoking the mechanism. We urge you to do so.” (July 2, 2019)²¹

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18. Acting Under Secretary for Terrorism and Financial Intelligence Adam Szubin, “Beyond The Vote: Implications for the Sanctions Regime on Iran,” *The Washington Institute for Near East Policy*, September 16, 2015. (<https://www.washingtoninstitute.org/uploads/Documents/other/SzubinTranscript20150916-v2.pdf>)

19. Assistant Secretary of State for Legislative Affairs Julia Frifield, *Letter to Mike Pompeo*, November 19, 2015. (<https://www.scribd.com/document/291042867/Letter-from-State-Department-Regarding-JCPOA>)

20. Press Secretary Josh Earnest, The White House, “Press Briefing by Press Secretary Josh Earnest and Secretary of Energy Ernest Moniz, 4/6/2015,” April 6, 2015. (<https://obamawhitehouse.archives.gov/realitycheck/the-press-office/2015/04/06/press-briefing-press-secretary-josh-earnest-and-secretary-energy-ernest->)

21. Office of Senator Tom Cotton, “Senators Cotton, Cruz, Rubio Urge President Trump to Increase Pressure on Iran’s Nuclear Program,” July 3, 2019. (https://www.cotton.senate.gov/?p=press_release&id=1172)



Statement by Sens. Ted Cruz (R-TX) and Lindsey Graham (R-SC) and Rep. Liz Cheney (R-WY)

Trump “should order our diplomats to invoke the United Nations snapback to restore international sanctions and restrictions on Iran.” (January 6, 2020)²²



Sen. John Cornyn (R-TX)

“I also hope that our allies in Germany and France and the United Kingdom will work with us to persuade the U.N. to invoke the snapback provisions under the Joint Comprehensive Plan of Action to restore international sanctions and restrictions on the Iranian regime.” (January 8, 2020)²³



Sen. James Risch (R-ID)

“It would be foolish to expect that any amount of unconditional sanctions relief would change Iran’s behavior. Yesterday’s report from the IAEA, the U.N.’s nuclear watchdog, should give the U.N. cause to trigger a full snapback of sanctions.” (March 4, 2020)²⁴



Sen. Ben Sasse (R-NE)

“It is absolutely vital that any Security Council resolutions lifting sanctions contain a robust mechanism for the rapid reinstatement of sanctions if Iran fails to comply with any relevant obligations completely and verifiably. ... It is vitally important that the reinstatement of sanctions be triggered through an automatic procedure if a dispute over Iran’s compliance is not fully resolved after a reasonable period. If the agreement does not provide for such a procedure, future presidents will be deprived of any effective diplomatic means for stopping Iran’s nuclear breakout, and the chances for armed conflict will be dramatically increased.” (July 7, 2015)²⁵

CONCLUSION

The framers of the JCPOA rightly anticipated that Tehran would seek to violate its commitments. The Trump administration should now do what its predecessor repeatedly pledged it would do in the event of significant nonperformance by the regime: snap back sanctions on Iran. In so doing, Washington can hold Tehran accountable for its longstanding campaign of nuclear mendacity.

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22. Office of Senator Ted Cruz, “Sens. Cruz, Graham, Rep. Cheney to President Trump: Iran Has Backed out of Nuclear Deal, Now Is the Time to End the Waivers and Invoke International Sanctions,” January 6, 2020. (https://www.cruz.senate.gov/?p=press_release&tid=4846)
23. Office of Senator John Cornyn, “Cornyn Reacts to President’s Address on Iran,” January 8, 2020. (<https://www.cornyn.senate.gov/content/news/cornyn-reacts-president%E2%80%99s-address-iran>)
24. Adam Kredo, “Iran Caught Hiding Nuclear Work, Sparking Call for Full Sanctions ‘Snapback,’” *Washington Free Beacon*, March 4, 2020. (<https://freebeacon.com/national-security/iran-caught-hiding-nuclear-work-sparking-call-for-full-sanctions-snapback>)
25. Senator Ben Sasse, *Letter to President Barack Obama*, July 7, 2015. (https://www.sasse.senate.gov/public/_cache/files/b21e26d6-46a4-4abb-a94a-f9de0b90cc4d/sasse-letter-to-potus-7-july-2015-1-.pdf)