



To: Republican Study Committee Members
From: Chairman Jim Banks
Date: March 30, 2022
Subject: President Biden's Bailout of the Terrorist Regime in Iran

TOPLINE: *Under the Obama-Biden administration ISIS terrorists took over Syria, Iraq and Libya, and Iranian-backed militias gained a foothold throughout the Middle East. President Biden already allowed Taliban-run Afghanistan and Putin's invasion. Their lead-from-behind foreign policy has been even more disastrous the second go around. But things could get worse.*

Two years ago, Iranian lawmakers chanted Death to America in parliament, and just a few months ago the Iranian regime tried to kidnap an American citizen on U.S. soil. Biden doesn't care.

The original JCPOA was a bad deal. JCPOA 2.0 is an even worse Nuclear Giveaway.

Biden's Nuclear Giveaway would gift tens of billions in sanctions relief to Iran —the world's leading state sponsor of terrorism, lead to even laxer restrictions on Iran's nuclear program and allow IRGC terrorists to enter the U.S. And the Biden administration will likely flout the law and refuse to submit the agreement in Congress.

As I said before, alongside the 128 Members of Congress who joined the RSC's Maximum Pressure Act, we will fight to reverse any and all sanctions relief until the Iranian regime meets the conditions President Trump set out in his maximum pressure campaign.

Please use this RSC memorandum for policy and messaging regarding Biden's Nuclear Giveaway.

1. If Biden's Nuclear Giveaway is not ratified by the Senate as a treaty and approved by Congress pursuant to the Iran Nuclear Agreement Review Act (INARA), it is illegitimate, and must be reversed as soon as possible. His deal will also necessarily require abusing legal loopholes to suspend sanctions required by Congress.

- ***President Biden can't stop Congress from reimposing any sanctions on Iran that President Biden lifts through JCPOA 2.0.*** The Constitution states the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur" (Article II, section 2). President Biden has refused to submit a new Iran nuclear deal to the Senate for ratification as a treaty. Yet parts of the original JCPOA (such as Clause 26) claimed to prohibit the Congress from reintroducing or reimposing sanctions on several Iranian entities.¹ Any agreement made with Iran which is not a treaty is simply a political commitment which can be reversed by any future President and does not bind the Congress, which can require the President to reimpose such sanctions at any time. The Republican Study Committee (RSC) has laid out its official position that we will work to reverse and

¹Joint Comprehensive Plan of Action. Vienna, 14 July 2015. <https://2009-2017.state.gov/documents/organization/245317.pdf>

reimpose any sanctions relief provided to Iran, and Congress has historically required the President to impose sanctions via legislative vehicles such as the annual National Defense Authorization Act (NDAA).

- **The law requires President Biden to submit this deal to Congress.** The Iran Nuclear Agreement Review Act of 2015 (INARA, P.L. 114-17) directs the President, within five calendar days after reaching an agreement with Iran, to transmit to Congress the full text of the agreement. After that, a 30-day congressional review period begins where the President is prohibited from waiving, suspending, or reducing sanctions on Iran: “the President may not waive, suspend, reduce, provide relief from, or otherwise limit the application of statutory sanctions with respect to Iran under any provision of law or refrain from applying any such sanctions pursuant to” a nuclear agreement with Iran. During the congressional review period, Congress would be able to pass a joint resolution of disapproval against the agreement. The Biden administration has stated that they will be removing sanctions deemed “inconsistent” with the nuclear deal even though the bulk of the sanctions imposed on Iran during the Trump administration were non-nuclear in nature. Credible reports suggest that the that the new agreement will revoke Executive Order 13876 which targets Khamenei's inner circle,² remove the Iran Revolutionary Guard Corps (IRGC) as a Foreign Terrorist Organization, and remove other sanctions which did not exist during the JCPOA, as well as allow Iran to “keep its advanced centrifuges and nuclear materials inside the country.”³ It is clear that this agreement is not the same agreement as the original JCPOA.⁴ Even if President Biden simply replicated the original JCPOA (which is not possible due to Iran’s increased enrichment of uranium, and the new non-nuclear sanctions imposed by the Trump administration), INARA defines agreement broadly to include “**any agreement** related to the nuclear program of Iran that includes the United States, commits the United States to take action, or pursuant to which the United States commits or otherwise agrees to take action, regardless of the form it takes, whether a political commitment or otherwise, and regardless of whether it is legally binding or not, including any joint comprehensive plan of action entered into or made between Iran and any other parties, and any additional materials related thereto...”⁵

The below graphic by the Jewish Institute for National Security of America may be helpful in describing the process required by INARA⁶.

² [https://nufdiran.org/analysis/which-sanctions-are-being-lifted/__;!!Bg5easoyC-OII2vlEqY8mTBrtW-N4OJKAQ!b1NUsaXgNj2Uiqmh-_7vinChLYd4BrRBprgru6YfwzS7fGYcK6e7RF4TA0YO_L9SEvYtpAFw\\$](https://nufdiran.org/analysis/which-sanctions-are-being-lifted/__;!!Bg5easoyC-OII2vlEqY8mTBrtW-N4OJKAQ!b1NUsaXgNj2Uiqmh-_7vinChLYd4BrRBprgru6YfwzS7fGYcK6e7RF4TA0YO_L9SEvYtpAFw$)

³ [Iran seeks ‘creative ways’ to nuke deal after Russian demand | Courthouse News Service](#)

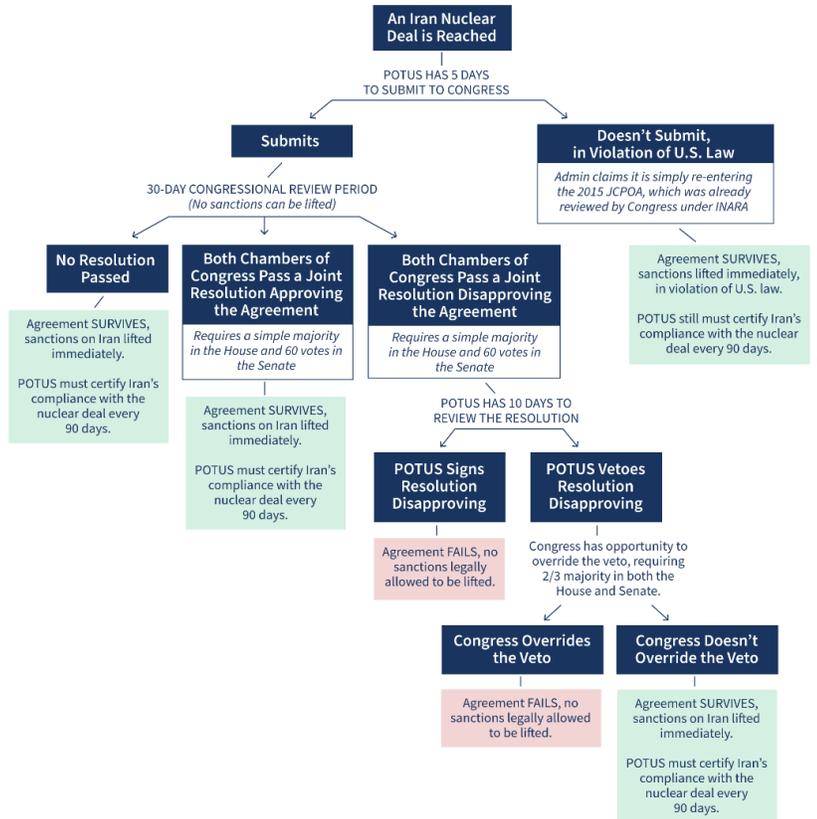
⁴ [Iran hasn't agreed to U.S. conditions for removing IRGC from terror list \(axios.com\)](#)

⁵ [Text - H.R.1191 - 114th Congress \(2015-2016\): Iran Nuclear Agreement Review Act of 2015 | Congress.gov | Library of Congress](#)

⁶ <https://files.ctctusercontent.com/5fbef467001/f5a1f667-e278-488e-b4a9-6e5b49ef3943.jpg?rdr=true>

Requirements of Iran Nuclear Agreement Review Act (INARA)

- **Lifting congressionally mandated sanctions on Iran will require President Biden to abuse legal loopholes.** Many of the sanctions imposed on Iran are required by statutes passed by Congress including the Comprehensive Iran Sanctions and Divestment Act (CISADA) (22 U.S.C. 8501 et seq.), section 1245 of the NDAA for Fiscal Year 2012 (22 U.S.C. 8513a), the Iran Threat Reduction and Syria Human Rights Act of 2012 (22 U.S.C. 8701 et seq.), and the Iran Freedom and Counter-Proliferation Act of 2012 (22 U.S.C. 8801 et seq.). Even though a number of these laws require sanctions on Iran until it ceases its support of terrorism, and verifiably ends its nuclear program, President Obama got around such conditions by abusing waiver and license authorities. For example, President Obama used Iran-related General License H to authorize foreign subsidiaries of U.S. parents to engage in many Iran-related transactions.⁷ Congress can prevent the future abuse of such waiver and license authority, especially with regard to terrorism-related sanctions. For example, RSC's [Maximum Pressure Act](#) would put sunset the president's waiver authority and prohibit licenses or waivers to any entities tied to terrorism unless they stopped their terrorist activities.



2. **Removing the IRGC from the Foreign Terrorist Organization (FTO) list is a non-nuclear related concession to Iran which would reward terrorist blackmail, allow Iranian nationals linked to terrorism to enter and stay in the United States, weaken law enforcement's ability to go after those providing support or resources to the IRGC, and make it harder to hold those outside U.S. soil criminally accountable for helping the IRGC. These concessions would occur while the IRGC is allegedly plotting to assassinate top current and former U.S. diplomats and generals, like Mike Pompeo, Brian Hook, John Bolton, and CENTCOM Commander McKenzie.**

- **It is absurd to say the IRGC is not a terrorist organization. Removing the IRGC from the FTO list because of terrorist blackmail sets a dangerous precedent and will undermine the integrity of the FTO list.** According to declassified assessments from the Department of Defense, Iran-backed militias probably have been responsible for at least 603 U.S. personnel killed in Iraq. The casualties, which occurred primarily in Baghdad and southern Iraq, represent 17 percent of all 3,534 U.S. personnel killed in action in Iraq between May 2003 and January 2019.⁸ President Trump's designation of the IRGC stated that the group is an "active and enthusiastic participant in acts of terror," including the 1983 bombing of the U.S. Marine barracks in Beirut and the 1996 bombing of the Khobar Towers complex in Saudi Arabia.⁹ As recently as 2021 and 2022, the Department of Justice revealed that the IRGC has plotted to assassinate

⁷ [United States and European Union Lift Sanctions to Implement Iran Nuclear Deal | Insights | Sidley Austin LLP](#)

⁸ [How Many US Troops Were Killed By Iranian IEDs in Iraq? - Defense One](#)

⁹ <https://crsreports.congress.gov/product/pdf/IN/IN11093>

former national security advisor John Bolton.¹⁰ The State Department cited a “serious and credible threat” on the lives of former Secretary of State Mike Pompeo and former Trump administration Iran envoy Brian Hook.¹¹ Capitulating to Iran’s calls to remove the IRGC from the foreign terrorist organization list despite the fact that it has not changed its behavior and continues to engage in terrorist activity would set a dangerous precedent and may encourage other terrorist organizations to attempt to remove such a label through terrorist blackmail. This would provide a propaganda victory of the IRGC and cheapen the foreign terrorist organization list.

- ***Removing the IRGC’s terrorist designation isn’t symbolic; it will open the gates for Iranian terrorists to enter the United States.*** The Immigration and Nationality Act’s terrorism provisions render applicants tied to foreign terrorist organizations “ineligible” for visas or admission to the United States.¹² The IRGC’s designation as a foreign terrorist organization made Iranian nationals who served in the IRGC after its designation in April 2019 inadmissible into the United States. The designation also allows consular officers to block those who served in the IRGC prior to April 2019 from entry unless a waiver was issued by the Attorney General or the Secretaries of State and Homeland Security.¹³ The designation also blocks those who had received military training from or on behalf of the IRGC. Removing the designation will make it easier for those connected to this brutal terrorist organization to enter American communities.¹⁴
- ***Removing the designation makes it harder for law enforcement to hold supporters of the IRGC accountable.*** The Countering American Adversaries through Sanctions Act (CAATSA) required the President to sanction the IRGC under Executive Order 13224 within 120 days for its terrorist activities. On October 13th, 2017, the Trump administration designated the IRGC as a Specially Designated Global Terrorist (SDGT) organization.¹⁵ If the Biden administration removes the IRGC from sanctions as a SDGT, or issues broad waivers and licenses making the sanctions inoperable, it would contradict the law passed by Congress. There are reports that Iran is only demanding that the IRGC be delisted as a Foreign Terrorist Organization and is not demanding that the IRGC be removed from sanctions as an SGDT.¹⁶ Yet even if the Biden administration maintains these terrorism sanctions on the IRGC as part of an agreement, the removal of the IRGC from the FTO list maintained by the State Department would have a major impact on the ability of law enforcement to disrupt terrorist networks and hold supporters of the IRGC accountable. Delisting the IRGC from the FTO list would have the following significant implications:
 - ***Higher standards of evidence, and lower criminal penalties for those supporting the IRGC.*** Criminal penalties for engaging in a significant transaction with the IRGC in violation of sanctions law require *willful* violations, a higher standard than providing material support or resources to a FTO, which require only a *knowingly* standard. In addition, criminal penalties for providing material support or resources to a foreign terrorist organization that result in the death of any person include up to life in prison, a penalty which would no longer exist if the IRGC was delisted.
 - ***Removing extraterritorial criminal penalties for those supporting the IRGC.*** The criminal penalties for providing material support or resources to the IRGC as a FTO apply extraterritorially meaning even if the conduct required for the offense occurs outside the United States, if the person providing the material support to terrorism is later brought into or found in the U.S. or the offense affects foreign commerce.¹⁷ This means if a foreign individual supports the IRGC outside the U.S., and then is brought into the U.S., he could be prosecuted for material support for terrorism. Delisting the IRGC as a foreign terrorist organization will make it harder for

¹⁰ [U.S. intelligence shows Iran threats on U.S. soil, but Blinken and Schiff say this shouldn't derail new nuclear deal - CBS News](#)

¹¹ [Iran plotting assassination of John Bolton, others, even while Biden negotiates nuclear deal \(washingtonexaminer.com\)](#)

¹² [Terrorism-Related Inadmissibility Grounds \(TRIG\) | USCIS](#)

¹³ [Yeganeh v. Mayorkas, 21-cv-02426-EMC | Casetext Search + Citator](#)

¹⁴ [Terrorism-Related Inadmissibility Grounds \(TRIG\) | USCIS](#)

¹⁵ [Treasury Designates the IRGC under Terrorism Authority and Targets IRGC and Military Supporters under Counter-Proliferation Authority \(googleusercontent.com\)](#)

¹⁶ [Removing the IRGC from the FTO List Risks Nothing — Bourse & Bazaar Foundation \(bourseandbazaar.com\)](#)

¹⁷ 18 U.S.C. § 2339B

prosecutors to hold those accountable overseas who are providing support or resources to the IRGC.

- **Removing civil private rights of actions for victims of the IRGC.** The Anti-Terrorism Act as amended by the Justice Against Sponsors of Terrorism Act expressly provides victims of international terrorism committed by designated foreign terrorist organizations secondary-liability claims, including for conspiracy and aiding and abetting.¹⁸

3. **The agreement would not prevent Iran from developing nuclear weapons. As outlined so far by media reports, it would be even worse than the original JCPOA, with less restrictions on Iran, and even more sanctions relief.**

- **Shorter breakout time.** The original deal had a politically calculated one-year breakout time (which experts said was even shorter since the Obama administration did not factor in advanced centrifuges that were in storage). The new deal is expected to have a significantly shorter window: closer to six months.¹⁹
- **Billions for supporting terrorism and the lifting of terrorism sanctions for entities continuing to engage in terrorism.** Lifting sanctions on Iranian banks would allow them to access between \$90-130 billion in frozen foreign assets and oil sales with no strings attached on use of these funds. Previously, Iran has spent over \$16 billion on its terror proxies across the region like Hezbollah, Hamas, the Houthis, and on Assad's regime in Syria. There is no indication Iran would spend these funds on domestic needs like education or healthcare, as they have previously siphoned humanitarian funds for their terror groups. In addition, the proposed deal will likely lift several non-nuclear related sanctions on Iran including sanctions on the National Iranian Oil Company, the Central Bank of Iran, and Iran's oil ministry. This would set a dangerous precedent where terrorism-related sanctions are being lifted in exchange for no changes in Iran's support for terrorism, but rather a nuclear deal that is already starting to expire. It also undermines the integrity of the U.S. sanctions architecture.
- **It gives Iran nuclear blackmail by allowing it to keep its advanced centrifuges.** Iran's state-owned press has claimed that the agreement will allow Iran to keep its advanced centrifuges and nuclear materials inside the country as a "form of inherent guarantee to make sure that its nuclear program is fully reversible if the U.S. reneged on its commitments again."²⁰ This is essentially nuclear extortion written into the agreement itself as an attempt to constrain the role of Congress and a future president.
- **Iran's undeclared nuclear activities remain unaddressed in the agreement.** Under the original JCPOA the IAEA did not have access to Iran's military sites. With the 2018 discovery of Iran's nuclear archive, we know Iran has never given up the military dimension of its nuclear program, and the IAEA has since started investigation on Iran's undeclared nuclear activities. The agreement would leave Iran's undeclared nuclear activities unaddressed, and the Biden administration would merely rely on Iran's promise to abide by the deal.²¹ This will create loopholes and fail to prevent Iran from developing nuclear weapons by turning a blind eye to its undeclared nuclear activities.
- **The agreement is already expiring.** Iran has stated that it will not allow a single sunset as part of the original JCPOA to be extended, and key sunsets which were part of the original agreement are already expiring.²² For example, next year Iran will be allowed to launch ballistic missiles, even as Iran continues testing, transferring, and using its ballistic missiles in military operations.²³ In 2025, past UN Security Council Resolutions related to Iran's nuclear program will terminate.

The Biden administration's shorter and weaker deal with Iran will make Americans less safe. Rather than learn the lessons of President Trump's successful maximum pressure campaign, President Biden's Nuclear Giveaway with Iran

¹⁸ 18 U.S.C. § 2333(a)

¹⁹ [U.S. Sees Iran's Nuclear Program as Too Advanced to Restore Key Goal of 2015 Pact - WSJ](#)

²⁰ [Iran seeks 'creative ways' to nuke deal after Russian demand | Courthouse News Service](#)

²¹ <https://www.fdd.org/analysis/2022/03/11/good-bad-ugly-iaeas-new-iran-agreement/>

²² [FDD | Key Sunsets Under the JCPOA and UNSC Resolution 2231](#)

²³ [https://nationalinterest.org/feature/strikes-iraq-reveal-iran**Bs-embrace-missile-operations-201431__4oCZ!!Bg5easoyC-OII2vEqY8mTBrTW-N4OJKAQ!b1NUsaXgNj2Uiqmh-_7vinChLYd4BrRBprgru6YfwzS7fGYcK6e7RF4TA0YO_L9SEtB1ngat\\$](https://nationalinterest.org/feature/strikes-iraq-reveal-iran**Bs-embrace-missile-operations-201431__4oCZ!!Bg5easoyC-OII2vEqY8mTBrTW-N4OJKAQ!b1NUsaXgNj2Uiqmh-_7vinChLYd4BrRBprgru6YfwzS7fGYcK6e7RF4TA0YO_L9SEtB1ngat$)

will likely be even worse than even President Obama's agreement. The RSC will continue to push back against President Biden's Nuclear Giveaway.