IRAN NUCLEAR DEAL
THE JCPOA ON GEOPOLITICAL CHESSBOARDS

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New Direction

Founded by Margaret Thatcher in 2009 as the intellectual hub of European Conservatism, New Direction has established academic networks across Europe and research partnerships throughout the world.
What comes next for the Joint Comprehensive Plan of Action (JCPOA), will have very real consequences for the global geopolitical status quo.

Part 1 covers the circularity within Iran’s autocratic governance system, and the key drivers of Iran’s foreign policy. Iran sees itself as a pillar of Shia Islam in the Middle East North Africa (MENA) region, the sentiment of pride and historical connection to the region from the Persian Empire, as well as being a revolutionary government which was able to overcome US puppeteering and manipulation. In this, Iran’s nuclear programme, the developing range of ballistic and cruise missiles, as well as mobilising a network of ‘proxy’ paramilitary organisations and militia in the MENA region, together with disinformation tricks and clandestine operations are tactics for deterrence, to gain leverage in negotiation, and project asymmetric influence.

Part 2, then, illustrates the historical background and lead up to today’s conundrum. The CIA-orchestrated 1953 coup set in motion dynamics that contributed to the 1979 Islamic Revolution, after which, the Iranian government had become hostile to the US. As Iran’s nuclear programme’s aggressiveness caused worry, the UN Security Council’s sanctions from 2006 made the international approach coherent. Following Omani-initiated and Swiss-facilitated backchannel talks, negotiations surfaced from 2013, developing into the Joint Plan of Action (JPA), and finally culminating in the JCPOA in 2015, signed by the P5+1 and Iran. However, Iran continued test firing ballistic missiles. After a change in Administration, the US withdrew from the JCPOA in 2018, reinstating sanctions.

Part 3, following on, elaborates more precisely the JCPOA’s situation on geopolitical chessboards. Iran’s breaches in the nuclear programme are more distinct and reversible, having increased uranium production and enrichment speed. Its missile programme is more controversial but definitely not quieter. Some EU and US sanctions have been beyond the JCPOA scope and remain today, others had been lifted with the JCPOA. The post-withdrawal US sanctions that had been re-instated had also been expanded. Russia and China, meanwhile, have been opportunistic in their energy, infrastructure, and military hardware dealings with Iran. As many EU firms withdrew business with Iran, the EU has made strides to give the JCPOA a lifeline through the INSTEX Special Purpose Vehicle, as well as beginning the tactfully delayable countdown in the Dispute Resolution Mechanism (DRM) of the JCPOA.

Part 4, explores the input from parties outside of the JCPOA signatories, namely Oman and Switzerland as reliable interlocutors. However, in the current situation, a US-led Warsaw Process may provide the additional help needed to bridge the missing gaps, as elaborated in the thematic Working Groups.

Part 5 covers the ‘two-level game theory’ as a theoretical lens which can help conceptualise which ways forward make sense. A ‘chief negotiator’ negotiates with another, as inter-state negotiations on Level I, whilst simultaneously dealing with domestic opposition on Level II. Both impact one another.

Part 6, finally, explores and compares the next possible scenarios for the JCPOA with regard to how they might get there, and what such a scenario might look like. Firstly, the complete abandonment of the JCPOA without anything in its stead may lead to uncoordinated responses to hostilities. Secondly, a reparation could include in small ways tying the controversial proxies to the JCPOA. Thirdly, replacing the JCPOA with a new agreement has a long way to go, whether cosmetically or comprehensively. Fourthly, finally, by concocting a mix, with a slightly repaired binding JCPOA and tying it to a non-binding accompanying agreement, could bridge the gaps albeit with many unstable pieces.

There is a window of opportunity. Repercussions go beyond even the geopolitical status quo. At the end of the day, the actions and inactions will convey human capability and willingness in conflict resolution.
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March 2020
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What comes next for the Joint Comprehensive Plan of Action (JCPOA), or as colloquially referred to as the ‘Iran Nuclear Deal’, will have very real consequences for the global geopolitical status quo.

The JCPOA is an agreement originally signed between Iran, the EU, and the Permanent 5 (P5) Members of the United Nations Security Council (UNSC) and Germany, referred to as the ‘P5+1’, in which Iran considerably but temporarily limits its nuclear programme in exchange for sanctions relief. As the potential loss of life is considerably higher amid possible pursuits of a militarised nuclear programme, it is difficult to overstate the importance of strategically sound but also coherent ways to ensure deterrence. In accompaniment of a ballistic missile programme and avid support of proxy armed groups in the Middle East North Africa (MENA) region, the scope of geopolitical interests impacting the relations between the JCPOA signatories has increased since the JCPOA’s inception. At its current state – namely: with the withdrawal of the US from the deal; struggling attempts by the UK, France, and Germany, referred to as the ‘E3’, to keep the JCPOA salvaged; as well as opportunistic manoeuvres by China and Russia – the JCPOA has reached its expiration in terms of viability. As such, the JCPOA ought to be either abandoned, repaired, or replaced. In this, input from other states, such as Poland and others in Central Eastern Europe (CEE), may be instrumental in filling in the missing pieces. The input need not be massive, it just needs to be clever. Other entities, such as think tanks, have a crucial role in increasing awareness and stimulating intellectual and technical debate. Immaculately perfect agreements do not exist, and the JCPOA and its next steps will not be one either. Fortunately, however, these agreements do not need to be saturated in perfection, they just need to be good enough. Action and inaction will reflect the shift in the balance of power between the JCPOA’s original signatories, as well as humanity’s ability and willingness in conflict resolution for the future.

Historical background and developments in the lead up to the JCPOA’s inception and subsequent weakening, give insight to the ongoing conundrum. In addition to the unravelling tensions between the US and Iran, as the core parties to the JCPOA, the key turning points may hint towards potential steps forward. In 1953, the CIA led a coup in Iran contributing to effects which paved the way for the 1979 Islamic Revolution. Since the consequent severance of diplomatic relations, the Swiss Embassy in Tehran serves as Protecting Powers and back-channel intermediary points, as does the Pakistani Embassy in Washington DC. Even after the Iran-Contra episode and tensions peaking in 1988, there was a brief tilt in momentum towards de-escalation. Yet, following the US embargo in 1995, in 2002, previously undeclared nuclear facilities were exposed internationally, and Iran was frustrated with its perspective insufficient recompensating from the then-EU3 states in the backdrop of antagonistic US stances. The first UN sanctions from 2006 onwards were implemented after failing to meet IAEA requirements to lower enrichment. International pressure was real, coherent, and increasing with real consequence, in which each of the states were dutifully adhering to the sanctions, and the approach was congruent with international law.

Internal pressure within Iran largely tipped the indecision to engage in negotiations and give more time to the other side. By 2012, secret bilateral negotiations between the US and Iran evolved to mid-level, taking place in Oman, which led to transition onto the public sphere and high-level from late 2013

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2. Bethany Allen-Ebrahimian, 64 Years Later, CIA Finally Releases Details of Iranian Coup, Foreign Policy, 20.06.2017
3. Drew Hinshaw, Joe Parkinson and Benoit Faucon, Swiss Back Channel Helped Defuse U.S.-Iran Crisis, Wall Street Journal, 10.01.2020
4. Ali Vaez, Europe Is Running Out of Time to Save the Iran Deal, Foreign Policy, 16.01.2020
and early 2014. The Joint Plan of Action (JPA) was the initial agreement and following series of negotiations which initially began with 6 rounds of negotiations in Vienna, followed by the JPA’s first extension of 4 rounds across New York, Vienna, and Muscat, as well as the JPA’s second extension of another 3 rounds in Geneva going into early 2015. Throughout the JPA, US-Iran bilateral and US-EU-Iran trilateral talks took place. Then, in Lausanne, these and the JPA amalgamated its achievements thus far into negotiating parameters, which then consolidated into the signing of the JCPOA, the resulting agreement, in Vienna in mid-2015.

However, upon a change in Administration, the US conveyed disagreement to the JCPOA. Main criticisms include the expiry dates on ‘sunset clauses’ being too short, the scope being too lenient regarding Iran’s ballistic missile programme, as well as being too narrow in that it does not include taking measures to restrict Iran’s support of proxies in the MENA region.

In the view of the US, these actions destabilising, and confidence to conduct them is enabled by the JCPOA’s existence. In May 2018, the US unilaterally withdrew from the JCPOA, reinstating and expanding sanctions which prevent other states from trading with Iran from November 2018 onwards. In January 2020, previous tensions from indirect confrontation in the Persian Gulf furthered upon serious and recently direct confrontations in Iraq. Though, in response, albeit continuing cooperation with the IAEA, Iran has formally breached its nuclear restrictions in JCPOA.

As the geopolitical dynamics advise that the priorities of JCPOA’s signatories have shifted, its core implications have had entanglements latched onto it and caused a livid imbroglio. It is a common misconception that all of the sanctions were lifted with the JCPOA; many sanctions on bases beyond the nuclear scope from the EU and the US remained in place throughout the JCPOA. In response to Iran’s breach, the E3 (as now after Brexit the term ‘EU3’

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5 Justyna Pawlak, Louis Charbonneau, West considers early sanctions moves in troubled Iran nuclear talks, Reuters, 14.07.2014
6 IRNA, Zarif: Objective, reaching agreement in shortest possible time, IRNA, 25.11.2014
7 John Haltiwanger, Here’s what’s in the 2015 nuclear deal with Iran that the country withdrew from amid heightened tensions with the US, Business Insider, 14.01.2020
8 Ibid.
9 Views from the region, Iraq Struggling Under the Weight of the US-Iran Confrontation, Middle East Policy Council, 20.01.2020
10 Kelsey Davenport, Iran Abandons Uranium Limits, Arms Control Association, 13.01.2020
is no longer applicable) have invoked the JCPOA’s ‘Dispute Resolution Mechanism’, a multistep process intended to fix the problem which includes at its final step a ‘snap-back’ trigger to re-impose UN sanctions. The E3 refused the US appeal to disavow the JCPOA in its entirety or its ‘INSTEX Special Purpose Vehicle’\textsuperscript{11}, the credit-based platform to protect EU firms from select US sanctions on Iran. Meanwhile, actions undertaken by Russia and China in these contexts are difficult to be interpreted as anything other than opportunistic in undermining of the US in light of their overarching geopolitical rivalry on the international arena. As such, the present situation is not conditioned to hold, and will change at some point.\textsuperscript{12}

How this would play out remains both uncertain as well as to be decided.

The situation being uncertain invites an exploration of options and demands innovation. CEE states with strong ties to the US, such as Poland, may wish to consider contributing to improving the potential outcomes of the JCPOA’s next phases. The E3’s aversion to take a decisively confrontational stance against Russia and China makes the CEE states and the US perspectives align at a moment when transatlantic ties have at times been unjustly questioned. CEE states had not traditionally been a mediator, but it may be worth giving the thought a serious try. To be sure, the role of Switzerland in US-Iran tensions has been phenomenal, its reliability in sending encrypted messages quickly and to the correct addressee without incident. Oman too, as a uniquely neutral entity in the MENA region, instigated the backchannel. Both Oman and Switzerland’s efforts have indubitably made the world better off than without it. Unfortunately, it is not enough by itself. Hence the author argues that to ensure Swiss and Omani efforts are not lost, the neutral entities need assistant-mediators which are not entirely neutral, and do regularly care for their relations with the US, and Poland is essential in this.

Because the potential role of said CEE states needs to be more clever than massive, it makes sense to contemplate taking advantage of existing multilateral frameworks, namely those which are relatively new, and as such, full of potential for development and expansion. Joint US and Poland’s efforts in the Warsaw Process constitute an international series of thematically-orientated working groups, aimed to systematically improve the various security factors in the region. Whilst it originally excludes Iran, there exists potential for diplomatic delivery by first creating a coherent approach from its other members. It is a mandatory condition to meet to a significant enough degree overcome the potential scepticism\textsuperscript{13} of partner states in the MENA region. With the rightly attuned support for regional cooperation\textsuperscript{14} mixed in with containment in the repaired version of the JCPOA and its potential accompaniments or replacements, this is attainable technically. This would also invigorate the Warsaw Process initiatives, and if the participating parties could operate knowing well that it would be done in good faith, it becomes, even more importantly, politically pragmatic.

In line with these, non-governmental sectors, such as NGOs and think tanks, could play a steadily increasing role to contribute to shaping the future of the JCPOA. As contributors to opinion-making, increased public debate and awareness in the potential new contributors to the JCPOA in the CEE states would be imperative. Action and inaction by both states and civil society in context of tensions between the US and Iran do, to a significant enough extent, reflect the de facto geopolitical status quo on the international arena, and are being observed by the other remaining signatories as the P5 Members of the UNSC, Russia and China. It sends signals to both friends and adversaries alike.

The ‘two-level game theory’ is an overarching theoretical lens which may provide some clarification or perspective when formulating strategies for the next steps forward. It emphasises that negotiations between states are affected by disputes going on internally within those states\textsuperscript{15}, and vice versa. Examining the ongoing conundrum through the prism of this theoretical lens gives some methodology to attaining better insight into steps forward and circumstances which need to be accommodated on both domestic and international levels.\textsuperscript{16}

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\bibitem{14} Vali Nasr, A New Nuclear Deal Won’t Secure the Middle East, Foreign Affairs, 07.02.2020
\bibitem{16} Eugénia da Conceição-Heldt, Patrick A. Mello, Two-Level Games in Foreign Policy Analysis, TUM School of Governance, Technical University of Munich, 28.06.2017
\end{thebibliography}
In this, the two-level game theory would suggest that it can be beneficial that there is internal dispute to surprising extents in specific situations. This internal dispute creates pressure for the government of a country, i.e. the ‘chief negotiator’, to accept some compromise on the international front, which originally may not have been desirable. Naturally, the objectives set out in the international negotiation would have to be de facto compatible with the chief negotiator’s side interests domestically. Likewise, the compromises made on the domestic front would also not likely come to pass without the pressure of the international negotiation. Even in situations where it could be argued that these compromises are likely to originally occur nonetheless, it is not farfetched to argue then also that, especially with more digitally capable communication with the public opinion, the domestic and international pressures certainly attribute to increasing their pace and scope.

To be sure, it is not a format in which precision can be exercised, nor is it an entirely comprehensively applicable mechanism. Though, illuminating the JCPOA’s future and its implications with the assistance of the lens of the two-level game theory can be useful in deriving a more inclusive or objective perspective. Whilst this alone is not likely to suffice, it could constitute a key building block imperative in figuring out the next best medium-term to long-term policies, as well as the needed attitudes which will likely dictate short-term actions. Such actions inherently must be adequately sound technically, but equally or even more importantly, must be just as politically and diplomatically compatible in delivery. In all, it would be one’s hope that said illumination would contribute to savvy decision making in preventing another re-escalation more so than short-term face-saving manoeuvres on the international arena in the midst of those geopolitical dynamics.

As such, what is potentially next for the JCPOA in essence comes down to either: a combination of its repairing and replacement; an additional separate agreement to accompany its missing pieces, adjusted for changeful geopolitical realities; or, if nothing changes from the current trajectory of developments, the JCPOA’s both de facto and de jure abandonment.

The first scenario is its complete abandonment with nothing in its stead, and the direction in which things are heading in the absence of deliberate intervention. In such a case, a serious platform of communication and negotiation ceases to function. This does not automatically mean Iran will pursue weaponization of its nuclear programme, though retaining this option with its ballistic missile programme would be desirable from Iran’s perspective given its geopolitical circumstances. Furthermore, Iran would have incentive to further support proxies and specifically encourage them to diminish US interests in the MENA region. With each passing day, this would increase the negotiating leverage of Iran should any negotiation be sought in the future. With the exception of some waivers, US sanctions inhibit most other states with trading with Iran, and Iran is seeking to diversify its economy, namely with the assistance of China and Russia. Worse still, Germany, France, and the UK, or the E3 (now in lieu of the ‘EU3’ term for ‘European Three’) would see their efforts have gone in vain, and this would, at best, send mixed signals to other potential partners in cooperation on the status quo. At present, Iran has thus far refused to negotiate an altered version of the JCPOA under current circumstances.

Hence, if it is deduced that this first scenario abandonment of the JCPOA is not preferable, it is imperative to choose a form of repairing, replacing, or combination of repair and replace, for the JCPOA, and carry it out. Such a feat ought to be carefully chosen, but also keeping in mind that it need not be perfect, it just needs to be good enough – and it needs to be there in existence.

As such, a second scenario would opt for the JCPOA to be repaired. Currently being in a state of limbo gives some time to pursue this option, though under precarious terms.

19 Ibid.
20 Ibid.
21 Corneliu Bjola, Ilan Manor, Revisiting Putnam’s two-level game theory in the digital age: domestic digital diplomacy and the Iran nuclear deal, Cambridge Review of International Affairs Volume 31, 2018 - Issue 1, 06.062018, pages 3-32
22 Ibid.
23 Sadeb Sadeghi, Europe Puts What Remains of the JCPOA in Limbo, Foreign Policy, 12.02.2020
The said reparation could be implemented either discretely, publicly, or a carefully concocted mix of both. On the public domain, it could retain its name, so that it is to be associated with its initial inception in the form of a continuation. However, certain elements which would be deemed as broken by certain parties would require a recalibration. In this, elements which require updating would also be changed, namely elements for which EU and US sanctions had been reimplemented. Ballistic and cruise missiles are a core element of Iran’s deterrence policy against geopolitical rivals in the MENA region, as well as an avid network of lethal proxies. These, and others, are subject to sanctions from the EU, US, and the UN. Iran’s ballistic missile programme\(^{24}\), which is originally a non-legally binding part of the JCPOA by means of UNSC Resolution 2231 which had enshrined it\(^{25}\), would become a pivotal feature in the reparation of the JCPOA. Furthermore, timing is crucial, as on 18.10.2020 the legally binding UN ban in the JCPOA on arms exports and imports will expire\(^{26}\), and this would signal how other upcoming sunset deadlines may be handled.

As such, one could argue that additional changes would be necessary regarding the new additional sanctions that had been implemented, which in the meantime became inseparable from the JCPOA. Moreover, the changes to the JCPOA should include adding clauses on Iran taking some responsibility and accountability for the actions of proxies which Iran supports or empowers, even if they are unable to dictate their independent actions entirely, or if Iran attempts to deny their close links. By tying in the JCPOA to a main contention point, it would encourage Iran to take seriously recalibrating the conditions for its support for these proxies. Not only would Iran have incentive to restrict destabilising behaviour of these proxies, such as terrorist attacks, it would be the best enforcer against them, knowing that the repaired JCPOA is at stake. That said, the benefits of being in the JCPOA for Iran may have to at least cosmetically increase to make them acceptable. In this way, repairing and updating the JCPOA takes its weakest point and turns it into the strongest. However, the risk is that essentially the entirety of relations between Iran and the US would hinge solely on the repaired version of the JCPOA, rather than it serving as a focused and specialised agreement on a specific form of disarmament.

In a third scenario, the JCPOA would be replaced. In a ‘complete’ replacement scenario, it would be necessary for some form of an acknowledgement, or a declaration, that the JCPOA is no longer binding or in effect, and recognised as de jure defunct. The JCPOA’s demission would then be accompanied by a new agreement in its stead. For simplicity of reference, the replacement agreement can be referred to as “JCPOA 2” in this written piece. However, this new JCPOA 2 agreement may or may not come synchronised in time with the JCPOA’s demission, depending on the geopolitical aligning of the key actors. For instance, a severance of the JCPOA can be a strong motivator for returning to negotiations in pursuing a JCPOA 2. Each escalation in the meantime indicates what a situation could look like without formulating a JCPOA 2. Furthermore, the JCPOA 2 replacing the JCPOA may or may not be synchronised with the public acknowledgement. That is, the JCPOA may be publicly announced as defunct and its replacement agreement may exist discretely if it would be more practical, or if it were to bring more real benefits for stability on the international arena. This allows for the choosing of the timing for the announcement of JCPOA 2 to be politically compatible. Compelling arguments would be available to use as necessary. To proponents of the original JCPOA, it can be presented as at its core essentially the same thing but with a different name. To its critics, the JCPOA’s replacement can be deemed as the better version deserving of a place on the international arena.

Finally, in a fourth scenario, a clever combination of both a repairing of the JCPOA as well as a replacement agreement may be the most optimal, though likely also the most difficult to construe and uphold. This is likely to give both critics and supporters of the JCPOA an option they like whilst joining the two. Those critical of the JCPOA will engage with the new accompanying agreement more directly. Supporters of the JCPOA would remain engaged with the JCPOA, which would have to be repaired to a certain extent. The new agreement and the repaired JCPOA would have to refer to one another, or be linked directly to some small extent.

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24 Lara Seligman, Pentagon Steps Up Cruise Missile Defenses as Iranian Threat Grows, Foreign Policy, 24.01.2020
25 Kenneth Katzman, Iran Sanctions (RS20871), Congressional Research Services, 24.01.2020
26 Ibid.
In this fourth scenario, there are a variety of combinations of how this could pan out. It is important to choose the right ones because there are a lot of moving, delicate parts that need to be tended to. In a combination which puts more emphasis on the new agreement that serves as a replacement, the new agreement may retain large parts of the JCPOA, amounting to a rebranding effort to make its implementation politically compatible with the geopolitical circumstances. Alternatively, in a combination which emphasises more on the reparation of the JCPOA, where the EU plays a larger role, it would be adjusted gently, though the missing pieces would be filled in at the separate agreement. In both of these, however, it would mean that the JCPOA would remain intact in its current state, injured or healed, though another and entirely new agreement would have to emerge to accompany it. Whether this new agreement would be legally binding to the JCPOA or not is a technical formality, because it would be de facto intertwined to it nevertheless. This new agreement would thence focus on the elements which the JCPOA lacked from the perspective of the US specifically, namely ballistic missiles and proxy support. Therefore, it ought to be a mirror of the JCPOA; where curbing ballistic missiles and proxy support is rewarded with sanctions relief, and a lack of is accordingly punished.

Though the current state of the JCPOA cannot continue indefinitely, with the current key players, the constructive steps forward may seem unobtainable. Nonetheless, the E3 has signalled political will in this regard that has still been criticised as inadequate, and partial reasons may be increasing ties of those countries with both Russia and China, in the view of the US. There has been no serious indication either Russia or China seek to undertake efforts to preserve the JCPOA, which signals that their interests in the JCPOA dismantling can be at least somewhat compensable for interests in preserving the JCPOA.

There are unobvious but real means and conditions to pursue a mix of ‘repair and replace of the JCPOA’. The de facto necessity of pragmatism is the most compelling motivation for each of the P5+1. Whilst it has been stretched to surprising extents, it is in the interests of the US and Iran to de-escalate, even though having external boogeymen is needed from each chief negotiator’s standpoint. Other JCPOA signatories, namely Russia and China, are observing the developments, and assessing what it signals on the changing status quo of geopolitical dynamics on the international arena. The E3 are under pressure to do more despite their difficult situations, or they risk coming short in their actions.

However, it is pertinent that such debate be intensified within circles of the E3 and the EU, as well as the CEE states, have thus far shown capacity to influence the outcome in a positive manner, albeit with its own values and limitations. Where the government bodies and diplomatic outposts had been constrained, think tanks, research institutes, NGOs, and lobbying organisations have demonstrated activity in opinion-making within circles of Congress before and after the JCPOA’s signing. Such soft power-orientated efforts can bring to light that the attitudes are more inclined to de-escalation, and amidst prospects that there are potential positive steps forward, the think tanks and opinion-forming institutions will be incentivised to engage public opinion on the matter more keenly. After all, allegedly, it is an open secret that Iran actually admires the US, and its painful for Iranians to be in a situation where their interests in the JCPOA dismantling can be at least somewhat compensable for interests in preserving the JCPOA.

At the end of the day, the rhetoric can be compatible simultaneously; in brief, in that the US sanctions forced Iran into a renegotiation and changed behaviour, that Iran’s nuclear programme gave additional leverage and the Iranian economy was strong enough to withstand the devastating effects of US sanctions, the MENA regional players are far more included, that the E3 played a crucial role in holding the line, both Switzerland and Oman persevered and remained reliable diplomatic back-channels, and finally, that the CEE countries cleverly bridged the missing pieces to make it all possible.

Whilst the situation is tricky, authentic means for improvement exist. After all, preventing another re-escalation – and thereby, conflict – depends on it. Our actions will reflect the good of humanity.

27 Christopher Thorton, The Iran We Don’t See: A Tour of the Country Where People Love Americans, The Atlantic, 06.06.2012
At its fundaments, deterrence is the policy of discouraging an actor, state or non-state, from behaving in a hostile manner or conducting aggressive action against another by means of having the capacity and willingness to retaliate and ensuring the actor acknowledges this as at least potentially real. As such, how the capability to project influence or conduct an aggressive action is perceived is just as important as the actual capability to do so, as this is to what actors will respond to. In this, the understanding of how actors on the international arena are capable or incapable of getting an upper hand on one another is a determinant of the geopolitical status quo, and this is reflected in the way these actors behave in points of contention, be they open conflicts, diplomatic competition, economic chess, and so on, and the JCPOA is particularly acute in this regard.

The sheer potential damage and loss of life is on a drastically different scale when the pursuit of a weaponised nuclear programme becomes a real possibility, and even more so when actors regard each other’s foreign policy calculus as irrational and unpredictable. This is the core point of being of the Non-Proliferation Treaty (NPT), and the importance of the JCPOA. Its implications are important for the core parties, US and Iran, but just as much for the remaining JCPOA signatories, as well as other actors whose foreign policies are influenced by the geopolitical status quo between those signatories; namely in the MENA region, in Europe, and beyond.

It is also imperative to connote, something which may be sometimes omitted in geopolitical discourse in Western institutions and media; the various groups, communities, and people in the MENA region – of various ethnicities, religions, classes, and ideological leanings – are not merely pawns which are too easily susceptible to propaganda and manipulation, but actors with agency that are capable of initiating and responding to dynamics, making decisions based on their circumstances, historical and present, emotional and practical.

Iran’s post-revolutionary governance system should also be kept in mind by policy-makers, at least at its fundaments: the position of Supreme Leader is a statute from Khomeini’s ‘concept of the Guardianship of the Islamic Jurist’. The Assembly of Experts, or ‘Majles-e khobregan-e Rahbari’, is the body which appoints and dismisses the Supreme Leader. All 88 members of the Assembly of Experts are elected through direct voting from the public with a term for 8 years. However, before they can stand for election, each candidate to the Assembly of Experts must be approved by the Guardian Council of the Constitution, or ‘Shura-ye Negahan-e Qanun-e Asasi’. The Guardian Council, in turn, consists of 12 members, where 6 of these are a ‘Faqih’, an expert in Islamic Law, which are directly approved by the Supreme Leader. The remaining 6 are jurists, appointed by the Iranian Parliament, or the ‘Majles’ from candidates approved by the Head of the Judiciary, who is, of course, approved by the Supreme Leader. The President of Iran, who is the second most important figure in Iran, is chosen through direct public vote, can run no more than 2 consecutive 4-year terms, and is subject to approval of the Supreme Leader. As such, there is considerable circularity in the autocratic system, even more so that the Majles has disproportionately less to say regarding Iran’s foreign policy and its nuclear programme, and can be vetoed by the Guardian Council.

28 Kim Ghattas, Black Wave: Saudi Arabia, Iran, and the Forty-Year Rivalry That Unraveled Culture, Religion, and Collective Memory in the Middle East, Henry Holt & Company, 2020
Iranian strong sentimental driver for Iran's place on the international arena is historically connected to the Persian Empire and feeling of belonging to a several-thousand year old civilisation, where there is value for humanity in its preservation. Within the MENA region, Iran sees its foreign policy which can be described in two distinct but indelibly intertwined roles; one being the pillar of Shia Islam, striving to connect with Shia minorities in other countries as well as Shia majority populations, in which, and the second; a revolutionary government, having, in their view, successfully overcome US and UK manipulation, now has the duty to assist other revolutionary, resistance groups fighting against what they characterise as oppressive and manipulative groups. In this, efforts which would attest to the legitimacy of Iran's Islamic Republic government are invaluable for its top leadership bras, and though having withstood several shocks, the present situation of how it handles crises compared to other states will have an effect on their popularity domestically; in context of the US sanctions, the dwindling oil revenues, as well as most unfortunate coronavirus COVID-19 outbreak. Policy-makers may also wish to keep this in mind.

However, despite these, or because of these – depending on the situation – it would seem that Iran's modus operandi are orbital around three core pieces; the nuclear programme, the development of missiles, the network of non-state 'proxy' groups and allied states throughout the MENA region, as well as a series of clandestine operations and misinformation campaigns, adjusting for the digital age. Each of these are both distinct as well as intrinsically intertwined with each other.
1.1 NUCLEAR PROGRAMME

As it has developed over time and throughout international scrutiny, Iran’s nuclear programme has come to include a series of facilities, projects, key domestic laws, and key individuals, which are contended in the international arrangements it engages with. These various nuclear facilities which had been built up and developed over time are most directly enabling the disputed nuclear programmes, some of which have been kept secret in the past, creating suspicions that there is a possibility for other uncovered activities. From Iran’s facilities, the most important include:

- Parchin Military Complex; though not confirmed to be a nuclear facility, it is a testing site for missile engines and conventional weaponised projectiles capable of mounting nuclear warheads
- Arak Heavy Water Reactor; referred to as ‘IR-40’, was redesigned under the JCPOA to minimise plutonium production and be incapable of weapons grade enrichment
- Bushehr and Darkhovin Nuclear Power Plants; the first locally designed nuclear facilities of Iran, where Bushehr was rebuilt and operational with the help of Russia, some plans in Darkhovin were previously cancelled.
- Esfahan Nuclear Technology Centre, Bonab Research Centre, and the Tehran Nuclear Research Centre; the Bonab facility focuses on use of nuclear energy in agriculture.
- Fordow Fuel Enrichment Plant, heavily fortified and built inside a mountain, and the Natanz Enrichment Plant;
- Uranium Mines in Gachin and Saghand;
- Yazd Radiation Processing Centre and the Ardakan Yellowcake Production Plant.

29 Iran Primer, Iran’s Breaches of the Nuclear Deal, United States Institute of Peace, updated 20.01.2020
Iran has a research reactor, 2 uranium mines, and 3 uranium enrichment plants that the international community is aware of, and a key issue is the lack of transparency and instances of deliberately keeping some nuclear activity secret which cause unease, but also underline the importance of the JCPOA to be a properly functioning mechanism to address these.

1.2 MISSILE ARSENAL

Furthermore, Iran’s development of missiles has made it one of the most sophisticated ‘menus’ in the entire MENA region, despite facing an embargo of weapons and weapons pieces imports, and several failed missile launch tests. Iran’s missiles include ballistic missiles and quasi-ballistic missiles, surface-to-surface projectiles, projectiles launched from drones, as well as cruise missiles.  

Ballistic missiles are propelled only in the first stage and fired in a parabola-like trajectory, in which a majority of the flight is unpropelled towards the pre-determined target or targets. These missiles can meet their targets at an impact with speeds up to 5000 m per second, extremely difficult to be apprehended by air defence systems. Iran’s arsenal of ballistic missiles includes both short and medium range, with their potential distance of hitting targets:

- from 300-350 km, such as the Shahab-1 and Fateh-110 ballistic missiles,
- 500 km, with the Shahab-2 ballistic missiles,
- 700 km, with the Zolfiqlar ballistic missiles,
- 800 km, with the Qiam-1 ballistic missiles,
- up to 2000 km, such as Shahab-3 and the 18m tall Sejjil ballistic missiles.

Quasi ballistic missiles, in turn, are ballistic missiles which are capable of in-air manoeuvres to evade anti-missile defence systems or be more unpredictable by seemingly changing trajectory. More advanced, however, would be cruise missiles, which are guided in propelled flight, right from launch, throughout the low-altitude trajectory, and to impact. Iran’s arsenal includes:

- from 150 km, with the Raad anti-ship cruise missile,
- to 300 km, with the Khalij Fars anti-ship quasi-ballistic missile,
- 700 km, with the Ya Ali cruise missile,
- and even 2500 km, with the Soumar cruise missile.

Other notable pieces of equipment in which analysts, observers, and policy-makers ought to consider is the space launch vehicle (SLV), which are a part of Iran’s space programme, the Iranian Space Agency, but have the means to be reprogrammed into long range ballistic missiles or other forms of long range weapons. Thus far, Iran’s operational rockets include:

- the Safir SLV, capable of a 350 km altitude.

There are several of each of the class-types of missiles or rockets currently in development, notably:

- the Simorgh SLV, would be capable of a 500 km altitude
- the Dezful ballistic missile, only revealed, range of 1000 km
- the Emad ballistic missile, a variant of the Shahab-3, would reach 1700 km
- the Ghadr 1 ballistic missile another variant of the Shahab-3, would reach 1950 km
- the Khorrampshahr ballistic missile, potentially reaching 2000 km
- and the Hoveizeh cruise missile, recently tested, has a reach of 1350 km.

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30 Reuters, Iran able to enrich uranium up to 60%, says atomic energy agency spokesman, Reuters, 09.11.2019
32 Ibid.
33 Ibid.
34 Ibid.
It is difficult to be precisely certain the quantities of any of these missiles, as well as when or if these would become operational. Iran may have about 100 short range ballistic missile launchers and about 50 medium range ballistic missile launchers operational at any moment, which are mobile.

The list does not include artillery launches, such as Koksan M1978, the range of which can reach from 40 km to 60 km, as well as tactical-ballistic missiles that range from 150km to 300km. What is noticeable, however, is an absence of long-range ballistic missiles (LRBMs), but the presence of an array of short-range ballistic missiles (SRBMs) that range from 300 km to 1000 km, as well as medium-range ballistic missiles (MRBMs) that range from 1000 km to 3500 km. For reference, intermediate-range ballistic missiles range from 3500 km to 5500 km, and intercontinental ballistic missiles (ICBMs) exceed a 5500 km range.

With the acceleration of technologies, especially the use of drones to launch some of these missiles, the anticipation of how the arsenal is evolving is pivotal to differing the perceived capabilities from the actual capabilities.

1.3 PROXY NETWORKS AND CLANDESTINE OPERATIONALITY

Though Iran sees and strives to been seen as the pillar of Shia Islam in MENA and majority of its partnerships in proxy activity is forming, directing or assist other parallel paramilitary groups or resistance groups, its networks are, of course, not limited to these, and does undertake pragmatic partnerships. That is not to say that it is always Iran reaching out to these groups or organising them, at times, it can also be that an existing group sees strategic potential in reaching out to Iran for support if it is compatible.

35 Reality Check team,Iran attack: How strong is Iran’s military?, BBC News, 09.01.2020
36 Ibid.
The notion of such conduct was incremented during the 1980-1988 Iran-Iraq War, as well as through contacts with several South American resistance groups.

The most important ‘partnerships’ in this regard is Hezbollah, or ‘Party of God’, based in Lebanon with extensive links in the Lebanese government. Furthermore, Hashd al-Shaabi, or ‘Popular Mobilisation Forces’, as an array of paramilitary organisations and political wings in Iraq, the various Hezbollah and Shia paramilitary groups in Syria as well as the Assad regime, the Houthis in Yemen, notably Hamas in the Gaza Strip, as well as opposition in Bahrain, also constitute what can be regarded as Iran’s proxies.

Though several of these are technically independent entities, having been founded by and receiving funding and armaments from Iran, and have a degree of autonomy in decision making. Nevertheless, in certain instances, these proxies act without the direction of Iran, and it is not always simple to tell when this is the case. Iran’s regional rival for hegemony, Saudi Arabia, also maintains a wide array of competing proxies in each of these countries and areas of conflict. Furthermore, on 18.04.1983, Hezbollah and the ‘Islamic Jihad Organisation’ (IJO) conducted a suicide truck attack at the US Embassy in Beirut, killing 63 people, including 17 US citizens. On 23.10.1983, two truck bombings targeted US and French barracks at the Beirut International Airport killing 307 people. These remain sour points to this day, though it is not indisputably clear whether Iran was behind them or these were independently carried out, but the close ties make the deniability strongly disputable.

Moreover, Iran has conducted or facilitated through mobilising its members of proxy groups several terrorist attacks, bombings, assassinations, and has had several unsuccessful ploys uncovered in various countries, including beyond the MENA region, most notably through Europe and South America, considered as the ‘underbelly’ of the US, where Hezbollah has gained considerable links in Venezuela as well as on the Brazil-Paraguay-Argentina border, laundering substantive amounts of money and sending them back to the MENA region. Iran’s and Hezbollah’s activities being largely about inhibiting a core Iranian opposition group from any efforts in obtaining legitimacy or having a stable base. For example, in June 2018, a plot against the Iranian dissident group National Council of Resistance of Iran (NCRI), was foiled in Paris, and a diplomat in the Embassy of Iran in Vienna, Assadollah Assadi, was arrested shortly after in Germany. The then-Ambassador of Iran in Albania, Ghomalhossein Mohammadnia, was expelled on 19.12.2018 along with another diplomat from the Embassy for planning a terrorist attack, namely against NCRI, which is known to have moved its base to Tirana. Furthermore, in targeting secessionist groups, namely the Arab Struggle Movement for the Liberation of Ahvaz (ASMLA), in October 2018, Iranian intelligence attempted an assassination of one of its leadership figures in Denmark.

Besides targeting opposition and secessionists, Iran is vehemently being against Israel or hostile towards Israeli diplomats, with deadly attacks in the past. For instance, most notoriously, on 17.03.1992, the Embassy of Israel in Buenos Aires was attacked in a suicide bombing by IJO, supposedly in response to the assassination of Hezbollah’s then-Secretary General and co-founder. The attack has been allegedly linked to Iran. Also, the 18.07.1994 bombing on the ‘Argentine Israelite Mutual Association’ (AMIA) building in Buenos Aires has been linked to Iran as well as Hezbollah. Beyond South America, on 14.02.2012, bombings in Bangkok, Thailand, where a plot by Iranian nationals to assassinate Israeli diplomats had been unsuccessful.

Further still, the circumstances and drive also have led to Iran becoming creative in their pursuits, adapting for changing platforms of influencing opinions and understanding within geopolitical competition. Canadian cybersecurity firm ‘Citizen Lab’ had uncovered in their studies an active and targeted disinformation campaign affiliated to Iran in a tactic which they dubbed the ‘Endless Mayfly’. A fabricated story, deliberately damaging the perception of a rival entity, would be posted on a fake news website, made to look like an authentic media of a foreign country, or putting the story on a website made to look like a well-known international media outlet.

38 Gabrielle Lim et al., Burned After Reading: Endless Mayfly’s Ephemeral Disinformation Campaign, Citizen Lab, 14.05.2019
These stories would then be shared en masse through a large number of fake Twitter accounts, propagating the story. However, once monitoring bodies begin to sniff that something is not right, these stories and Twitter posts would be immediately deleted, avidly removing any trace. The effect is that the headline has been seen, and goes under the assumption that a majority of readers would do little to cross-reference or check the information again. The effect is that, when such a feat is pursued repeatedly, it has influence little by little, is very difficult to trace, and provides some degree of deniability – a cyber-orientated disinformation version of Iran’s proxy conduct. Even more, it gives Iran insight into how quickly or slowly such monitoring mechanisms are capable of reacting to such a campaign.

The combination of the twin-sided ideological drive as a compass to navigate geopolitical realities motivates Iran to enhance the projection of its reach.

It aims to do so through the support of these proxy groups politically, but also by means of intensive weapons proliferation and elaborate supply routes, that together with the steadily improving missile systems, also creates additional deterrence in Iran’s foreign policy options. This is particularly troubling because, at minimum the US and the E3 may largely disagree on several things at best, and, in the view of those more critical, the US and the E3 are dealing with not just an unpredictable but also not a rationally-behaving state actor.

All of this drastically changes tone with the idea of weaponised nuclear pieces possibly being installed into these projectile warheads. Thus, the necessity to first encourage desisting the pursuit of such, and second, to decrease the risk of mishandling and accidentally letting the material slip outside of the right hands and into the wrong ones.
In context of the key turning points in the lead-up to the JCPOA’s inception and subsequent weakening, the background gives insight to the ongoing conundrum. At its core, the most instrumental actors in this are Iran and the US, with the E3 and EU playing a more auxiliary role, Oman and Switzerland being the essential neutral pieces, without which, a JCPOA agreement may not have come to fruition.

The remaining P5 signatories, Russia and China, too have played a role, though their geopolitical interests have been at odds with the US as well as the E3 and EU, especially now that the dynamics have shifted their priorities and methods of approach.

At heart of the tensions between the US and Iran are resentments related to Iran’s sentiment of having been subject to exploitation and manipulation. This can be traced back even to the 1890 revolt against tobacco concessions to the UK, in which the Shia clergy demonstrated themselves as a prominent political force that stands up against foreign plundering. In 1901, Shah Mozaffar ad-Din

39 The revolt also alarmed Russia, which expressed stern opposition to the deal
agreed to sign a concession to William D’Arcy, then based in Australia, for essentially kickstarting the petrochemical industry in Iran. Exclusive rights for oil production and exploration were granted for the next 60 years in exchange for a fee amounting to the company’s shares as well as 16% of future oil revenue. The UK bought over half the shares of the company only after its first discoveries of oil in 1908. This company would then be bought by another oil company as a subsidiary, and would be renamed into the Anglo-Persian Oil Company (AIOC).

In the backdrop of a flailing economy, post-WW1 UK-instigated losses to the USSR, and overall ineffectiveness in governance, Reza Pahlavi decidedly seized power in a coup on 21.02.1921 and was later appointed Shah on 15.12.1925. Reza Shah pursued secular policies unpopular with the Shia clergy. As the APOC steadily became less popular, Reza Shah strove to renegotiate the terms in 1932 and 1933, following intense pressure from the parliamentarians in the Majles. Working conditions were atrocious, and the pollution in the immediate vicinity was intolerable.

2.1 COUP 1953

By this time, about 75% of oil bound for Europe was produced in Iran. In 1950, a similar oil-rights arrangement was reached between the US and Saudi Arabia i.e. with Aramco, however, on a 50-50 sharing basis. The now-AIOC rejected appeals to modify their agreement with Iran to a similar model, or at least in part raise their 16% share to something less one-sided. In March 1951, Prime Minister Haj Ali Razmara, the sole Iranian voice against nationalisation, was assassinated by hardliners. Mohammed Mossadegh began to voice necessity for reforms, the loudest of which was pushing for the nationalisation of Iranian oil, angering the AIOC.

Moreover, the general perception internationally was that the conditions inside Iran would make it inclined to naturally lean towards socialism and the USSR. Though it was slowly but surely gaining authentic though limited momentum, the Tudeh Party’s policy to support Mossadegh would fluctuate on and off. In 1951, Mossadegh implemented the nationalisation of oil with a successful vote in the Majles, to which the AIOC responded with a boycott of Iranian oil. Amidst this, now as new Prime Minister, Mossadegh’s renegotiations between Iran and the UK were complex but largely unfruitful, as the UK believed that Mossadegh would be removed shortly anyway.

The Shah agreed to a plan to remove Mossadegh, as the newly sworn in Administration of Dwight Eisenhower asserted it would happen with or without him. Over the nights of 15-16.08.1953, supporters of the Tudeh Party had uncovered parts of the plot and alerted Mossadegh, confirming his suspicions. Several Generals had been arrested, the Shah to fled temporarily to Iraq and then Italy, and the initial coup attempt failed.

On 17.08.1953, anti-monarchical Tudeh supporters began causing unrest in the streets angrily in response to the attempted coup. Not having presented decisive opinions after the initial attempt, Kermit Roosevelt, the head CIA officer in Tehran, had actually received

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41 Anglo-Iranian Oil Company
42 Kermit Roosevelt Jr., Countercoup: The Struggle for the Control of Iran, McGraw-Hill, published 1979

Note: on 21.03.1935 the country changed name from Persia to Iran. Another key turning point was the humiliating joint Soviet and UK invasion of Iran in August 1941. Shah Mohammed Reza Pahlavi was throned in favour of his father, with an angry new obsession for a strong military. Also, in September 1941, the Tudeh Party was formed, a communist pro-Soviet but pro-nationalist party which gained influence in its early years. As the most coherent political force in Iran at the time, its popularity began to decrease when, despite being pro-nationalisation, it would also be lenient towards USSR appeals for leases of oil in pretext of ideological solidarity. After a failed assassination attempt on the Shah in 1949, the Tudeh party was banned, but quickly reorganised underground with its military wing.
instruction on 18.08.1953 to abandon the coup, but refused.\textsuperscript{43} Some CIA assets began protests against the Tudeh Party and the Shah's political opponents, posing as staunch supporters of Mossadegh's new emergency powers\textsuperscript{44}, causing the Tudeh supporters to retaliate and caused considerable riots and bad press. Using the thorough scheme of bribing politicians, military officers\textsuperscript{45}, and notably gangs and newspapers took advantage of the believable pretext for Mossadegh's removal. Surely enough, on 19.08.1953, the next day, the coup succeeded, taking over key buildings and instating General Fazlollah Zahedi in Mossadegh's place. On 22.08.1953, the Shah returned.\textsuperscript{46}

The impact of a specific person's decision in a specific time and place has effects which resonate several decades later. The 1953 coup is an important turning point worth revisiting because it is one of the core elements of deep mistrust which still haunts attitudes between the US and Iran today. Certainly, the CIA played a role, as did MI6, though historiography encourages to at least reconsider the extents\textsuperscript{47} of the contribution. One argument is that the CIA's role has been somewhat exaggerated, where they helped a turning point which was already turning anyway. Eisenhower would have had incentive in context of the Cold War to inflate the role of the CIA as it would give a perception that the US influence is more far-reaching than others thought. The other argument is that the CIA's role was carefully planned with contingencies and determined calculus. Whilst the US had indeed carried it out, the internal dispute was pre-existing and considerable\textsuperscript{48}, and so were the plans for insurgencies from outside of Tehran. Politically though, this can be and had been from the beginning spun, as seen fit.

After the commotion, in 1954, the AIOC renamed to British Petroleum (BP). Iran's Shah had been in power previously from external intervention, but in the aftermath of the coup, the tone changed. It was in the interest of the US for the Shah to remain in power and to thrive so that the efforts would have not gone in vain. In 1956, following training and reorganising of the Shah's intelligence and security sector, the 'Sazeman-e Ettelaat va Amniyat-e Keshvar', or SAVAK, was formed with the help of the CIA and Mossad. SAVAK became the notorious secret police of the Shah, who slowly begun to change and become more autocratic with intensifying crackdowns on political opponents throughout his reign. Meanwhile, on 05.03.1957, the 'Atoms for Peace' programme\textsuperscript{49}, a civilian nuclear cooperation agreement, introduced plans to construct Iran's first nuclear facilities and technical assistance, as well as for Israel and Pakistan. In 1958, Iran joined the International Atomic Energy Agency (IAEA).

On 09.01.1963, the Shah introduced reforms dubbed 'the White Revolution', which launched Iran's modernisation, such as women's rights to vote, religious freedom, secularisation, and economic growth. In March 1963, Ayatollah Ruhollah Khomeini, who gained esteem within the Shia clergy leadership, publicly denounced the Shah, was then arrested in June causing some civil unrest after the Shah's criticism of the Shia clergy. Khomeini was arrested again and sent into exile in November 1964. Some parts of sectors missed out on the reforms' benefits, leading to some economic inequality that gradually made the Shah less popular as his grandeur was increasingly extravagant, such as his Shahanshah\textsuperscript{50} coronation. Furthermore, the Shah was able to persuade the US to keep selling huge amounts of weaponry\textsuperscript{51} and technology to Iran, by sternly hinting he would turn to the USSR if they did not.

In striving for world power status, Iran's nuclear programme picked up momentum. In 1967, the Atomic Energy Organization of Iran (AEOI) expanded to include the Tehran Nuclear Research Center (TNRC). It obtained a highly-enriched uranium fuelled 5-megawatt\textsuperscript{52} nuclear research reactor from the US. Iran signed the Nuclear Non-Proliferation Treaty (NPT) on 01.07.1968, made effective 05.03.1970, and became subject to its articles that accompany IAEA verification processes. Under these, states limit, amongst others, proliferating nuclear arms, fissile material, nuclear technology, and uranium enrichment plants in operation at any given time.

\textsuperscript{43} Bethany Allen-Ebrahimian, 64 Years Later, CIA Finally Releases Details of Iranian Coup, Foreign Policy, 20.06.2017
\textsuperscript{44} James Risen, SECRETS OF HISTORY: The C.I.A. in Iran -- A special report.; How a Plot Convulsed Iran in '53 (and in '79), New York Times, 16.04.2000
\textsuperscript{45} Ibid.
\textsuperscript{46} Stephen Kinzer, All the Shah's Men: An American Coup and the Roots of Middle East Terror, John Wiley and Sons, 2003
\textsuperscript{47} Dariush Bayandor,Don’t Just Blame Washington for the 1953 Iran Coup, Foreign Policy, 19.11.2019
\textsuperscript{48} Ibid.
\textsuperscript{49} Ibid.
\textsuperscript{50} Indra Ekmanis, The history of US-Iran relations: A timeline, PRI, 03.01.2020
\textsuperscript{51} Ibid.
\textsuperscript{52} Ibid.
2.2 REVOLUTION 1979

After steadily building Iranian hegemony in the MENA region in the 1970s, there was a key turning point, however, in 1974, when the Shah was told that he had cancer and would likely succumb to it in the near future. It made him depressed and inactive. By 1978, however, the signals that change was underway were getting louder. On 19.08.1978, tragically 420 civilians were trapped in the Rex Cinema in Abadan, which had been set ablaze. Protests against the Shah's governance ensued, escalating on 08.09.1978 as police fired on Tehran's religious demonstrations, and in December 1978, which paralysed the country.

On 16.01.1979, the Shah fled, leaving administrative duties to his opposition Prime Minister as tactical compromise. However, despite permitting re-entry of Khomeini on 01.02.1979, the two did not converge for joint governance, and Khomeini appointed his own Prime Minister, Mehdi Bazargan. Revolutionaries continued seizing control of government buildings, media, the military, and other crucial elements. By 11.02.1979 the Islamic Revolution had been established de facto with militants overwhelming the Shah's troops, and formalised on 01.04.1979 by a popular referendum; regardless of the cliché, a pivotal turning point. On 16.01.1979, the Shah fled, leaving administrative duties to his opposition Prime Minister as tactical compromise. However, despite permitting re-entry of Khomeini on 01.02.1979, the two did not converge for joint governance, and Khomeini appointed his own Prime Minister, Mehdi Bazargan. Revolutionaries continued seizing control of government buildings, media, the military, and other crucial elements. By 11.02.1979 the Islamic Revolution had been established de facto with militants overwhelming the Shah's troops, and formalised on 01.04.1979 by a popular referendum; regardless of the cliché, a pivotal turning point. On 22.04.1979, the Iranian Revolutionary Guard Corps (IRGC) was established in a system based on personal ties, and 'brotherhood', rather than at first coherently organised ranks. Yet, the Revolution's many implementing factions, were not all in agreement or coordinated. Some were even unaware of the more radical Islamic elements in the newly proposed constitution, namely the "wilayat al-faqih"; a Marja Islamic clerical rule.

Nevertheless, upon Khomeini assuming the new position of Supreme Leader, some of the very first thoughts within the new government were to maintain good relations with the US. Bazargan worked to normalise relations with the US, though he became increasingly at odds with some of the less secular Mullahs, and eventually with Khomeini himself. When Carter brought in the deposed Shah for medical treatment for cancer, the new Iranian government accused the US of this being politically motivated. In an angered response, on 04.11.1979, a student group, the ‘Daneshjuyan Mosalman Piru Xatt Emam’, or ‘Muslim Student Followers of the Imam’s Line’, stormed the US Embassy in Tehran without even notifying Khomeini, taking 52 US diplomats and civilians as hostages, which would be held for 444 days until 20.01.1981 in what was known as the ‘Iran Hostage Crisis’. Though Khomeini praised the move, it signalled he still had limited control over all the actions of participating revolutionary groups. By choosing to support the hostage taking as a means to help attain validity internally within Iran, the trade-off was international isolation, which could have been calculated as most likely temporary. It was an egregious violation of the Vienna Conventions on Diplomatic Relations, effective since 24.04.1961. In response, the Embassy of Iran in Washington DC was closed.

The clergy would still have to consolidate the revolution, needing to supress rebellions Kordestan, Khuzestan, Khorasan and Baluchistan, armed opposition, and even a counter-coup. Only by 1983 did Iran stabilise. Less discussed is that the Marxist group ‘Mojahedin-e-Khalq’, or MEK, were also participants of the Embassy storming, probably in attempt to maintain political relevance. In 1981, there was an assassination attempt by the Marxist dissident group MEK, on Ali Khamenei. MEK had been established well-before the Shah's deposal, and now had become an enemy of the new Iranian government too. A member of MEK placed a bomb close to Ali Khamenei, which damaged severely his organs and rendered his right arm permanently damaged; to this day he tends to refrain from unnecessarily showing it.

Arguably, it was only really from internal disputes of that forced a harsher stance towards the US, most likely the need to consolidate the Revolution and authority over it. Iran's diplomatic relations with the US and many other Western states were severed. Since then, the Swiss Embassy in Tehran serves as Protecting Powers and back-channel intermediary points, as does the Pakistani Embassy in Washington DC through the Interests Section.

53 Growing up and right up until after the 1953 coup, the Shah had been described as indecisive and weak-willed, which slowly changed after

54 Black Friday


56 Drew Hindshaw, Joe Parkinson and Benoit Faucon, Swiss Back Channel Helped Defuse U.S.-Iran Crisis, Wall Street Journal, 10.01.2020
Antagonism within Iran against the West solidified at this point, in their view, with regard to the US handling of the hostage crisis and the unjustifiably inflated sense of control it gave them.

An arms embargo was immediately put in place after the US Embassy storming. The Ronald Reagan Administration was aware that the missing weapons parts which were embargoed could be supplied by the USSR, and cause a drift towards the USSR. Moreover, in 1982, in the midst of the Lebanese Civil War, Hezbollah kidnapped 104 hostages, mostly US citizens, which would be held until 1992. In what became known as the ‘Iran-Contra Affair’, the US was effectively trading arms for hostages, and funnelling the funds to the anti-Sandinista insurgents in Nicaragua, despite it being explicitly prohibited by Congress and publicly encouraging other states to stop arms sales to Iran.

In the meantime, Iran’s personnel specialising in nuclear technology had fled to avoid persecution for having ties with the Shah. China began to assist Iran’s lagging nuclear programme and, in December 1984, the nuclear research centre in Isfahan was opened. During the Iran-Iraq War, the IRGC developed a knack for asymmetric warfare. Mohsen Rezaei Mirghaed, then-IRGC Commander, also argued in favour of a nuclear weapon, whether for deterrence or use. In 1987, Khomeini officially relaunched Iran’s nuclear programme, though allegedly as an attempt to revitalise Iranian energy infrastructure instead. Just after tensions peaking in the final stages of the conflict, on 03.07.1988 a commercial airliner, Iran Air Flight 655, had been tragically shot down mistakenly by the US, killing all 290 on board. There was a brief tilt in momentum towards de-escalation with the George HW Bush Administration’s “goodwill begets goodwill” notion. On 03.06.1989, Khomeini died, and the Assembly of Experts elected Khamenei as his successor the day after.

In 1990, China began providing more technical help to Iran. In 1995, Russia’s nuclear assistance to Iran had increased. In March 1995, however, the Bill Clinton Administration added supplementary sanctions on Iran for continued support to Hamas, UJO, and Hezollah, notably by means of Executive Order (EO) 12957, and in May 1995, with EO 12959, which prohibits any trade with Iran, where it was previously growing after the Iran-Iraq War. These were combined with the Iran and Libya Sanctions Act (ILSA) implemented August 1996. The US slowly began to suspect that Iran could pursue a nuclear weapon.

On 16.03.2000, US sanctions on Iran were slightly eased as part of considering small incremental steps for rapprochement, and as a signal to Iran’s reformists. In the aftermath of 9/11, President Mohammed Khatami and the Iranian government quickly condemned the attacks, and the IRGC even worked with the US in Afghanistan against the Taliban. Hence, it was an unpleasant surprise for him when George Bush designated Iran as one of the “axis of evil” in his State of the Union Speech in January 2002. In July 2002, however, there was an early divergence from the EU and US stances on Iran. The EU did not follow the 1996 embargo, and through Iran selling bonds of USD 500 million to banks in Europe, it meant Iran was able to engage with international capital markets for the first time since 1979.

In August 2002, the ‘Shura-ye melli-e moqawemat-a Iran’, or National Council of Resistance of Iran (NCRI), publicised activity in Iran’s nuclear programme which was previously kept secret, and internationalised the attention on it. The NCRI is a dissident group in exile, and despite having been disputed of whether or not NCRI is the political wing of MEK, they generally have enjoyed some support of the US. The NCRI is based in Paris, and so Iran argues to its domestic audience that it is a foreign attempt of manipulation by discouraging nuclear energy progress, which is a national right. However, it is important to connote that the freshly exposed fully operational facilities specialising in production in Arak and enrichment in Natanz were not discovered by the NCRI, as US intelligence had already briefed the IAEA before the NCRI’s announcement.

57 David E. Sanger, U.S. ending a few of the sanctions imposed on Iran, New York Times, 18.03.2000
58 Kate Lyons, Iran nuclear talks: timeline – For more than 10 years, diplomatic attempts have been made to address Iran’s nuclear policy, The Guardian, 14.07.2015
59 Patrick Kingsley, Highly Secretive Iranian Rebels Are Holed Up in Albania. They Gave Us a Tour, New York Times, 16.02.2020
60 Jeffery Lewis, NCRI Did Not Discover Natanz, Arms Control Wonk, 28.10.2006
Hence, throughout this time, Iran saw value in being deceptive and attempted to subtly increase their de facto leveraging position, reflecting the nature of Iran’s modus operandi. Nevertheless, in December 2002, working groups on the “Trade and Cooperation Agreement” (TCA), which had begun in 2001, were undertaken as a means to rectify this attitude. It included talks regarding terms and problems with proliferation and weapon parts. Furthermore, these same talks also covered the wider spectrum of Iran’s activities – recognising these cannot be utterly separated – namely human rights abuses, undermining the peace process between Israel and Palestine, terrorist attacks which can be linked back to Iran, illicit narcotics trade, treatment of refugees and opposition parties of Iran in exile, such as the same NCRI. In March 2003, the US launched the invasion into Iraq. US military presence, now in both Afghanistan and Iraq, made tensions with Iran soar.

Iran’s decision to remain secretive about Natanz and Arak made their argumentation of a nuclear programme that was genuinely not seeking militarisation much more unconvincing. The argumentation that US would abuse the openness to undermine the regime was not received generally well because the fear in the international community that Iran would pursue a nuclear weapon was far more urgent. Also in March 2003, the IAEA visited Iran’s nuclear facilities, but its personnel were barred from freely inspecting. In May 2003, Iran permitted some IAEA inspectors to visit the Kalaye Electric Company (KEC), but then declined their requests to take back samples with them. This was a clear shortcoming to agreed obligations in the NPT, and as such, the IAEA’s conclusion from the visit prompted potential referral to the UN Security Council (UNSC).

2.3 MORE SANCTIONS 2006

Indubitably, these steps gave a glimpse into what might work, though it was still far away from a coherent framework. In effect, where it was compatible, the EU3 and the US acted as two sides of the same coin. Even where US could want negotiations with Iran, the circumstances from the US point of view were lacking to agree to them. These were slowly bridged by the EU3’s efforts, for whom the move was potentially beneficial and with minimum costs or risk. One could argue that the situation in 2005 would be an eerie reminiscing of the situation in early 2020, the time of writing this report. From the view of Iran, frustration looms with insufficient recompensating from the EU3 states in the backdrop of antagonistic US stances.

62 Ali Vaez, Europe Is Running Out of Time to Save the Iran Deal, Foreign Policy, 16.01.2020
In June 2005, Mahmoud Ahmadinejad won the elections, and was inaugurated as President of Iran in August 2005. He employed more hard-liner rhetoric, orbital around a reaffirmation of Iran’s dexterity. In his view, resilience to manipulation by not just the US but the EU3 as well was ensured by thwarting off curiosity in Iran’s nuclear programme; a trade-off between international cooperation and sovereignty. In this attitude, a disapproval from Western states was an equivalent reaffirmation that Iran was doing what was in their best interest. Uranium conversion resumed in the facilities in Esfahan. The EU’s hard efforts in proposing the ‘Long Term Agreement’ were rendered null by Ahmadinejad. Then, in February 2006, enrichment at Natanz resumed, distinctly violating the Additional Protocol. Ahmadinejad also ordered the AEOI to end cooperation with the IAEA. However, the IAEA Board of Governors (IAEA BoG) is obligated to make an appeal to the UNSC in a case like this. Notwithstanding, in July 2006, the Arak production plant was opened. This time, however, after the UNSC heavy debating’s intensified, UNSC Resolution 1696 was passed also in July 2006, which made it the first UNSC Resolution to demand a cessation of uranium enrichment from Iran. Finally, the UN had scrutinised Iran’s nuclear programme.

Khamenei and Ahmadinejad remained stubborn. The EU3 lobbied hard for the IAEA’s referral to the UNSC to not be but empty words. After all, the institutions and law-based order only function as much as they are enforced. Russia and China were initially hesitant, but were persuaded. As such, on 23.12.2006, UNSC Resolution 1737 was realised, and the first UN sanctions against Iran were implemented, accompanying the pre-existing US sanctions. It was emphasised in these documents that reversals on these breaches would be rewarded with opening possibilities for negotiating. The ‘P5+1’, or ‘EU3+3’, had made their internationalised efforts UN mandated.

In March 2007, UNSC Resolution 1747 was passed, from which UN sanctions against Iran intensified. However, in November 2007, the US National Intelligence Estimate (NIE) assessed that Iran’s nuclear programme had not been militarising since 2003, which would have raised questions on how to re-adjust the policy towards Iran. Meanwhile, UN sanctions intensified again in March 2008 via UNSC Resolution 1803. Again, in September 2008 with UNSC Resolution 1835, but this time, with a more succinct reiteration that the pursuit of peaceful nuclear technology is acceptable – a clear mirroring of Iran’s rhetoric that this is what its nuclear programme is for. The encouragement was to do so in an internationally accepted platform, transparently and legally. This was one of the best mirroring moves.

Early into his Administration, Barack Obama sent a secret message to Khamenei on potential openness to negotiate, though without a positive response. In May 2009, however, Salim bin Nasser al-Ismaily, an Omani envoy sent by the Sultan of Oman, met with Dennis Ross, an adviser to Hillary Clinton as then-Secretary of State, with an offer to negotiate from Iran. However, in June 2009, Ahmadinejad was re-elected, heavily condemned throughout Iran and across the world for massive electoral fraud, prompting mass protests dubbed the ‘Iran Green Movement’ which would last for several months. In September 2009, it was unveiled by the CIA that there an enrichment facility, operating underground in Fordow, had been kept hidden despite previous scrutiny. Scepticism towards Iran had been proven both wise and justified. Concern that more could be hidden was both real, as well as a political opportunity for Iran’s rivals. An immediate reaction to the suddenly increased tensions was from Israel, averring the readiness of the Israeli Defence Forces (IDF) to mobilise. The US had to urge restraint.

In June 2010, UNSC Resolution 1929 was implemented, imposing further sanctions, but it was also unique in blocking France and Russia from carrying out uranium enrichment-related activities with Iran, of course, with their agreement as P5 members. Accompanying these, though separately from the UN, in July 2010, ‘The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010’, or ‘CISADA 2010’, was brought into force by Obama. As supplementary sanctions CISADA 2010 are the first unilateral sanctions against Iran since the 1995-1996 embargos. Also in July 2010, the EU had independently implemented their first series of sanctions against Iran under ‘Council Decision of 26 July 2010’ L195/39, or Council Decision 2010/413/CFSP. At this moment, there were finally sanctions.
from the UN, the US, and the EU, all separately but operating in symbiotic unison, conveying the cohesion of the ‘international community’ in seeking to alter Iran’s behaviour in its nuclear policy.

Also in July 2010, when Iran had kidnapped 3 backpackers from the US, Ismaily had begun negotiating their release. John Kerry, then still as Senator, became eagerly involved in the Omani backchannel. The first hostage was released in September 2010, and the other 2 about a year later. The same month, in September 2010, Obama invoked EO 13553, which strengthened existing sanctions against Iran on the grounds of human rights violations.

In December 2010, the Arab Spring began in Tunisia and spread vigorously across neighbouring MENA states. A shift in the balance of power came with the subsequent political instabilities and internationalised civil wars which unfortunately unravelled from some of these. Protests in Iran erupted as well in February 2011, having still fresh in mind the unmet demands of the protests following Ahmadinejad’s false re-election. The IRGC had opportunistically become involved in Syria to back the regime of Assad, coordinating with Hezbollah from Lebanon, which they founded and maintain a high degree of influence over. In May 2011, as the protests in Iran and Syrian war quickly escalated, EO 13574 was put forward, and in November 2011, EO 13590 re-enforced the US sanctions against Iran for human rights abuses, significantly expanding the sanction reasons beyond the nuclear aspect.

Meanwhile, on 03.09.2011, the Bushehr nuclear power plant began supplying electricity to the grid, making Iran the first state in the MENA region to do so. Moreover, on 08.11.2011, an IAEA report states that the militarisation of Iran’s nuclear programme may have resumed. On 17.03.2012, the EU Council ruled that Iran would be entirely disconnected from SWIFT transactions, arguably a pivotal move which shows the weight of the EU’s actions in context of international response. On 23.03.2012, the ‘EU Council Regulation No 267/2012 of 23 March 2012 concerning restrictive measures against Iran and repealing Regulation (EU) No 961/2010’ was swiftly implemented. On 14.04.2012, the P5+1 and Iran discussed the nuclear programme in Istanbul, but on 25.05.2012, the IAEA noted that enrichment at Fordo reached 27%. Discussions over 18-19.06.2012 in Moscow also reach no consensus. As such, on 01.07.2012, the EU’s embargo on Iranian oil takes effect, and as Parchin base seems to be increasing in activity, on 15.10.2012, ‘Council Decision 2012/635/CFSP’ from the EU added even further sanctions against Iran. These additional sanctions were perhaps the most comprehensive from the EU, targeting a significantly larger and wider array of organisations, industries, companies, and individuals.

The list of Iran’s sympathisers on the international stage was really growing thin. Khamenei’s support for Ahmadinejad and the hard-line leadership began to seem shaky as it undermined the legitimacy of the Islamic Republic government as a whole. In this time, from 2005, around the time of Ahmadinejad’s election when Iran had about 0 centrifuges, had steadily enlarged its number of centrifuges right up until 2013 to about 20,000. Enriched uranium stockpiles increased from also 0 to over 8 tonnes, where 200 kg of this uranium was enriched to over 20%. For reference, more than 90% of uranium enrichment is required to reach weaponization capabilities, and this level makes a leap more than worryingly feasible. Internal discontent was again the deciding factor more so than international pressure. It is not farfetched to argue that this is both despite and as a result of the increasing sanctions in this time, both independent and internationally coherent. Conditions necessary to induce the Iranian government to respond to the international coercion and contemplate a change in behaviour and policy direction were set into motion.

66 Gary Sick, Iran After the Deal, Foreign Affairs, 07.09.2015
67 Ibid.

ewndirection.online @europeanreform
2.4 JPA 2013

Meanwhile, Kerry had visited Oman a few times, as well as having met Ismaily in Rome, London, and Washington DC. Furthermore, Deputy Chief of Staff Jake Sullivan and Deputy Secretary of State William Burns also became key individuals in this process in 2012. After Obama’s re-election, in March 2013, the series of secret bilateral talks in Oman expanded. Burns met with his counterpart, Iranian Deputy Foreign Minister for European and American Affairs, Ali Asghar Khaji, who was also invited by Oman, the manner of which acutely underlined neutrality.

That this channel had already existed was a huge advantage, as otherwise, the US State Department would be first figuring out how to even conduct communication on the matter, likely through the Swiss and Pakistani Embassy counterparts, or even consider if such an option really is plausible. Oman’s unique history and ability to maintain good relations with Saudi Arabia, Iran, and the US, makes the negotiation ground one of balance. Oman’s ability to do so, being geographically between the Shia and Sunni powerhouses also makes it a geopolitical necessity for Oman’s survival. Bilateral conversations in secret gave the opportunity to be direct and candid, but they also really had to be. Furthermore, the longer it went on for, the larger the risk of it prematurely leaking to the press – like walking a tight rope.

In Iran’s Presidential election in June 2013, Rouhani won on a reformist campaign, succeeding his political rival Ahmadinejad. His previous engagement with the Omani backchannel with the US, talks with the EU3, and presiding over the nuclear programme, were key factors which reflected Khamenei’s intent in endorsing Rouhani. Naturally, as his term began in August 2013, Rouhani announced intentions to renew negotiations with the P5+1. The previously existing format and backchannel survived. Veering from backchannel to public negotiations, it advanced onto a higher level with Kerry as now US Secretary of State, and Mohammed Javad Zarif, now Iranian Minister of Foreign Affairs.

At the UNGA Session in the NY HQ, Rouhani and Zarif spoke to the press, making their openness known. On 26.09.2013, Zarif and Kerry sat down together at a multilateral meeting chaired by the then-EU High Representative Catherine Ashton, followed by an informal bilateral meeting – the first of this kind since 1979. The day after, on 27.09.2013, Obama and Rouhani held a telephone conversation. Small gestures are important in public diplomacy, conveying confidence in the need for rapprochement as well as validity in the rhetoric they are conveying to the public. Crucial in this role was Ben Rhodes, Obama’s aide in communications, who also wrote his speeches and planned visits abroad. He enabled a unique way of making what would become the next negotiations with Iran presentable to the public voters, and therein, pressure on domestic political opponents in both countries.

After 4 intensive days of bargaining, at about 03:00 local time in Geneva on 24.11.2013, the first agreement to what would become a series of negotiations known as the Joint Plan of Action (JPA) was signed between the P5+1 and Iran at Foreign Ministry levels with the EU mediating. Its terms consisted of Iran stopping enrichment of more than 5%, not installing additional centrifuges, and halting activity in the Arak heavy water reactor, whilst being able to maintain the quantities of 3.5% enriched uranium it already has, and giving daily access to IAEA inspectors in Natanz and Fordo.

Some fragilities in public rhetoric regarding interpretation on certain terms were noted by then-Deputy Foreign Minister of Iran Abbas Araghchi, a key negotiator, but the attitude and openness were positive. On 20.01.2014, the JPA agreement was officially implemented. The IAEA issued a statement acknowledging Iran’s initial adherence to the terms of the agreement, alleviating “limited, temporary, targeted, and reversible” sanctions, with total concessions over 6 months of USD 7 billion, namely orbital around:

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68 Laura Rozen, Three days in March: New details on how US, Iran opened direct talks, The Back Channel – Al Monitor, 08.01.2014
69 Julian Borger, Breakthrough hailed as US and Iran sit down for nuclear deal discussion, The Guardian, 27.09.2013
70 Rhodes’ most distant background, before getting involved in international affairs, was a fictional novelist, which made him skilled in presenting narratives and telling histories
71 Fredrik Dahl, West, Iran activate landmark nuclear deal, Reuters, 20.01.2014
72 Ibid.
73 Anne Gearan, World Powers reach nuclear deal with Iran to freeze its nuclear program, Washington Post, 24.11.2013
• The ‘Iran Freedom and Counter-Proliferation Act of 2012’, or ‘IFCA’, with waivers granted for specific parts so firms were not required to further decrease buying Iranian oil, from which Iran could thence receive USD 700 million per month. Also, the EU allowed insurance for ships transporting Iranian oil after updating some of their regulations.

• EO 13622, EO 13645 and specific parts of trade regulations between the US and Iran were eased, including parts of IFCA, allowing Iran to export petrochemicals by selling in gold.

• EO 13382 and other specific US-Iran trade regulations were eased so that Iran Air could buy spare parts and US aircraft, as well as repairs and inspections for Iran’s civilian aircraft.

• The Iran Threat Reduction and Syria Human Rights Act of 2012, or ‘ITRSHRA’, as well as the Iran Sanctions Act of 2006, or ‘ISA’, which was a rebranded version of the 1995 embargos and 1996 ILSA, also saw specific waivers to be compatible with the waivers in IFCA.

• Furthermore, tuition payments amounting to USD 65 million would be paid directly to schools and education institutions for Iranian students in other countries.

• Automotive manufacturing firms in Iran could now also conduct transactions with foreign firms.

• and finally, no additional nuclear-orientated sanctions were not to be imposed by the P5+1 states under the JPA’s conditions.

In its nature as an interim agreement, its purpose is to provide extra time and tailor the appropriate conditions whilst working towards a more conclusive deal. It is also a sample of tangible results, with their positives and negatives.

Negotiations from 18.02.2014, the JPA’s initial phase, included 6 rounds of negotiations in Vienna. As soon as 20.02.2014, some basic steps for a framework were announced by Ashton and Zarif. The first crucial pillar of the negotiations pertained to agreeing on ways to demonstrate the explicitly peaceful nature.

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74 Tariq Rauf, Only a pragmatic approach to Iran’s nuclear programme will yield results, SIPRI, 18.02.2014
of the nuclear programme, as well as resolving disagreements on aspects which could be alleged to have potential military dimensions. The second pillar focused on which sanctions could or could not be removed, and how to incrementally implement their lifting. Just as importantly, however, the negotiations served as a basis for further negotiations. Khamenei had made clear to the public that Iran is wary of anything which could undermine Iranian national pride. It could arguably be used as a hint for the P5+1 of what tone is needed to come from the negotiations, so that the rhetoric would be acceptable to the hardliners in Iran.

The lifted sanctions that were chosen in JPA’s first agreement back in November 2013 showed that the scope of factors causing contention is wider than the nuclear policy. Each of the P5+1 were wondering whether or not Iran could or wanted to militarise their nuclear programme. The more nuclear activity Iran had that could be stopped, the more leverage Iran had at these negotiations. In Iran’s point of view, the ballistic missiles used as deterrence added to this leverage and projected strength in the midst of international isolation.

Each discussion lasted from 3 to 5 days at a time; taking place once a month in March, April, and May 2014. In June 2014 however, by the 5th round of negotiations, observers became increasingly anxious for news. In July 2014, under this pressure, the 6th round of negotiations went on for a record of 18 days. This is the longest consecutive time devoted by any US and Iranian diplomats to a single cause in recent modern history. In that 6th round, the negotiating sides concluded that whilst the willingness is clear, the JPA would require an extension to preserve momentum and not lose progress made thus far. It also meant that this exact format type did not need to be changed too drastically.

In the meantime, interests of Iran and the US were overlapping elsewhere in the fight against ISIL in Iraq. In June 2014, the IRGC led the formation of the Hashd a-Shaabi conglomeration of paramilitary forces in Iraq, as in October 2014, the US led the formation of the Combined Joint Task Force – Operation Inherent Resolve (CJTF-OIR), also operating against ISIL in Iraq. To be sure, this did not make the IRGC and Hashd allies with the CJTF-OIR, these were still entities hostile to one another. However, avoiding each other and inherently at least tolerating one another for the time being required some coordination between the US and Iran.

The JPA’s First Extension totalled 4 rounds that followed the 6 initial ones: with the 7th JPA round taking place in September 2014 in NYC; the 8th round in October 2014 in Vienna; the 9th round in November 2014 in Muscat, where it had all begun; and the 10th round in November 2014 returning to Vienna, during which, on 24.11.2014, deadlines for 01.03.2015 and 01.07.2015 were announced.

The JPA’s Second Extension totalled another 3 rounds in Geneva went on into early 2015: with the 11th JPA round in December 2014, January 2015, and finally in February 2015. The JPA’s Second Extension served as a method to plan out the coming negotiation on the deal’s framework. Throughout these JPA rounds, however, US-Iran bilateral and US-EU-Iran trilateral talks took place. It signalled which were really the main negotiating parties with the largest differences to overcome. Russia and China were needed to be happy sufficiently to not veto in the UNSC.

Beginning on 26.03.2015, in Lausanne, negotiations regarding the ‘nuclear Iran Deal framework’ resumed, equipped with established prerequisites over two Extensions. During this negotiation, Kerry visited the Residence of the Permanent Representative of Iran to the UN – a breakthrough since the Hostage Crisis. However, sensing that the Lausanne negotiations were picking up speed, domestic opposition attempted to intervene; and 47 Senators from the US GOP signed a letter to Iran attempting to discredit the JPA’s progress. Kerry assured Rouhani his disagreement with the letter. In effect, it showed the US negotiating team’s commitment to the JPA negotiations was serious. Also, the real domestic US opposition to it put pressure on Iran’s negotiating team.

75 Ibid.
76 Ibid.
77 Justyna Pawlak, Louis Charbonneau, West considers early sanctions moves in troubled Iran nuclear talks, Reuters, 14.07.2014
79 IRNA, Zarif: Objective, reaching agreement in shortest possible time, IRNA, 25.11.2014
Right up to this crucial point in 2015, the international community had been coherent in its sanction adherence since at least 2012. In this time, Iran’s crude oil exports decreased by over 50%, and access to Iran’s foreign assets of USD 120 billion were considerably impeded. On 02.04.2015, in Lausanne, the framework for the JPA and other elements important for the P5+1 were affirmed in a joint EU-Iran statement. In this, Iran agreed to reduce its enrichment by 98% before the latter deadline.

Further discussions continued in Geneva. Arguably, for Iran and the US, negotiations between themselves were difficult, but even more difficult were those domestically. Scepticism from Iran’s hardliners in the Majles was stern, as was scepticism from the GOP in Congress. On 22.05.2015, the ‘Nuclear Agreement Review Act’ was passed in Congress. It approved the framework for what would become the JCPOA, and made it subject to “Congressional Review and Oversight” for 60 days.

In a change of tone, on 24.06.2015, 19 US diplomats and experts in relevant fields from both the Democratic Party and GOP sent a letter to the US negotiating team. In it, an outline of their worries covered several tentative provisions in the draft agreement. Rather than simply belittling the idea, the letter called for a number of improvements, suggesting that, if implemented, it would win their support. This was a constructive move on the domestic front. It took seriously the complexity surrounding the “Iran Deal”.

One of the signatories, Robert Einhorn, then-Special Adviser for Nonproliferation and Arms Control at the US Department of State, noted a surprising amount of agreeable factors in it. Albeit a short notice letter, it was one example of how compromise is possible within Congress, and the means to present a more unitary stance on the international stage. In this way, the US set an example for the other P5+1 signatories – and especially Iran – on how to positively handle domestic disagreement on the JCPOA. On 23.06.2015, in turn, the Majles passed a ‘Nuclear Achievements Protection Act’, putting restrictions on Rouhani’s negotiating wiggle room.

2.5 JCPOA 2015

The 30.06.2015 deadline had passed, but at this point, too much effort had been spent to getting so close to such an unprecedented feat to really contemplate walking out without an agreement. Since the start of the JPA, about 687 days later, a total of 106 days of those were spent negotiating, surpassing all previous records of the P5+1 resources and efforts into a single cause.

Its apex was reached in Vienna, where negotiations went on for 17 straight days, and culminated on 14.07.2015, when the JCPOA was finally signed. It read 109 pages of fine print and jargon on readjusting international sanctions and Iran’s nuclear programme.

On 20.07.2015, UNSC Resolution 2231 was passed which officially enshrined the JCPOA as legally binding into international law.

The JCPOA entails some creative elements as well as remarkably extensive and intrusive restrictions. For starters, the IAEA, as the JCPOA verifying entity, must regularly supervise:

- Iran’s uranium mines,
- centrifuge production plants,
- the configuration of Iranian nuclear reactors
- operationality of enrichment facilities,
- the size of Iran’s uranium stockpile,
- and the levels of enrichment of Iran’s uranium stockpile.

80 The first instance when sanctions from the UN, EU, and US were all symbiotically complementary
81 Public Statement on U.S. Policy Toward the Iran Nuclear Negotiations - Endorsed by a Bipartisan Group of American Diplomats, Legislators, Policymakers, and Experts, The Washington Institute for Near East Policy, 24.06.2015
82 Ibid.
84 Ibid.
85 Zachary Laub, International Sanctions on Iran, Council of Foreign Relations; CFR Backgrounders, 15.07.2015
86 Ibid.
87 John B. Bellinger III, The new UNSCR on Iran: Does it bind the United States (and future presidents)?, Brookings Institute, 21.07.2015
88 Gary Sick, Iran After the Deal, Foreign Affairs, 07.09.2015
89 Ibid.
Furthermore, one of the more pivotal elements of the JCPOA is the “snapback” mechanism. It is outlined in paragraphs 36 and 37 in the JCPOA text, as well as in paragraphs 10 to 13 of UNSC Resolution 2231. The JCPOA snapback enables UN sanctions to be suddenly re-implemented if Iran breaches its commitments to the JCPOA – and more importantly, without possibility of veto from the UNSC. Additionally, the JCPOA enforces the prohibition of illicitly trading key materials and technologies. A designated trade channel which is tightly overseen and technically specialised ensures the nuclear materials passing through are strictly for peaceful purposes.

In effect, a large concession made by the P5+1 to Iran was the temporality of the agreement. Some restrictions imposed on Iran’s nuclear facilities are subject to expire in 2025, and others in 2030, known as ‘sunset’ clauses. The according argumentation is that those individuals politically active with the Islamic Revolution in 1979 are likely to be far less active, if at all, by that time. Then, renegotiating terms for the JCPOA’s extension would look substantially different than those in 2015. As such, at the core of the steps leading to the JCPOA and the core concessions in the JCPOA itself are time buffers. Buying precious time to make small, incremental successes along the way, and re-negotiate the terms again seems to be an acceptable trust-building measure.

In the immediate period after the JCPOA’s signing, it went under a ‘review period’. The JCPOA faced extensive scrutiny within the US and Iran especially. Lobby groups, think tanks, news portals, pundits, and all others – each thoroughly weighed the pros and cons. Debates in Congress were highly politicised and intense. Just before the US Senate headed to recess on 05.08.2015, a pivotal dinner took place between undecided US Senators and P5+1 diplomats. The diplomats asserted that this was the best deal possible, and that they would not return to the negotiating table. In this and other meetings, a “secret weapon” in persuasion was then-US Energy Secretary Ernest Moniz. As a nuclear physicist, he was able to explain the science behind the JCPOA’s terms without a condescending tone. By 20.08.2015, the Democrats had enough support to override resolutions put forth which disapproved the JCPOA.

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90 Ibid.
92 Ibid.
93 Some accounts suggest John Kerry did have this tone, however
94 Sabrina Siddiqui, Congress does not have votes to block Iran deal, says Nancy Pelosi, The Guardian, 20.08.2015
The JCPOA includes a “Road-map for the Clarification of Past and Present Outstanding Issues regarding Iran’s Nuclear Program”. On 27.08.2015, as Step 1 of the JCPOA’s ‘Road-Map’, Iran provided the IAEA appropriate documentation on outstanding issues.

For Step 2, the IAEA submitted questions to Iran regarding Iran’s statements in Part 1, and issued plans for finalised assessments by the IAEA BoG, which would become Step 3 of the Road Map. On 03.09.2019, Khamenei declared that the Majles would have the final decision on approving the JCPOA. The Majles had set up a Special Committee on the JCPOA, which also wanted to see first what Congress would do. Then, on 07.09.2015, the 60-day Congressional Review Period expired. With the opposition overall sufficiently convinced to give the JCPOA a go, the US began implementing it.

At the sidelines of the 70th session of the UNGA, in an “accidental meeting”, Obama shook hands with Zarif on 28.09.2015. The two underlined necessity to respect the overwhelming effort put into the JCPOA by showing diligence in following through. Incremental steps in diplomacy became more relevant as the transparency of Iran’s nuclear programme was continually ascertained by the IAEA. Finally, on 14.10.2015, Iran’s Guardian Council accepted the JCPOA after extensive and exhausting debate between Iran’s moderate and hardliners. Shortly afterwards, on 18.10.2015, ‘Adoption Day’ was jointly announced by EU High Representative Federica Mogherini and Zarif with upcoming steps for the JCPOA’s implementation.

As such, upon the IAEA ascertaining that Iran was complying with the JCPOA’s terms on key nuclear obligations, on 16.01.2016, the ‘Implementation Day’ took place, with an initial reversal of the agreed-upon sanctions going into effect. It is a common misconception that all sanctions against Iran were lifted with the JCPOA Implementation Day. All of the relevant, nuclear-related UN sanctions were indeed lifted, as well as a comprehensive selection from the EU and the US.

In effect, this makes Iran also the first state subject to Chapter VII of the UN Charter which has managed to resolve the issue through diplomacy, as opposed to war, government change, or UNSC resolution orientated intervention. Narratives emerging from US asserted that the US sanctions forced Iran to the negotiating table. Reversely, from the Iranian side, the narrative was that determination to create a capable nuclear programme was pivotal in finally convincing the US to bargain. This rhetoric was aimed towards the domestic audience in US and Iran, as well as international partners. It is not so farfetched to argue that these arguments are not mutually exclusive.

2.6 WITHDRAWAL AND ESCALATION 2018-TODAY

However, opposition to the JCPOA persisted in both Iran and the US. Notably, the newly incumbent Administration of Donald Trump, elected on 08.11.2016 and inaugurated on 20.01.2017, had begun conveying considerable disagreement to the JCPOA in itself as one of many disagreements with policies implemented by the preceding Obama Administration. Trump had in his electoral campaigning addressed in his view the necessity to review sternly the accord. Main criticisms circle around the leniency and insufficient length of sunset clauses. Furthermore, in focusing closely on Iran’s nuclear programme, the criticism argues that the scope is too limited, giving unrestrained ease to accelerate Iran’s ballistic missile programme. Worse still, the JCPOA does not really include taking measures to restrict Iran’s support of ‘proxies’ in the MENA region. In the view of the incumbent US Administration, these actions are destabilising, and confidence to conduct them is enabled by the JCPOA’s existence.

95 Report by the Director General, Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran, IAEA BoG, 27.08.2015
96 Jay Solomon, Iran Leaders Say Parliament Will Have Final Say on Fate of Nuclear Deal, The Wall Street Journal, 03.09.2015
97 Ibid.
98 Reuters World News, Iran’s Guardian Council passes nuclear bill into law, Reuters, 14.10.2015
100 Ja’far Mohammadi, Will Iran’s Nuclear Negotiating Team Introduce the „Fourth Option” in History of the Security Council?, Iran Review, 19.10.2015
101 John Haltiwanger, Here’s what’s in the 2015 nuclear deal with Iran that the country withdrew from amid heightened tensions with the US, Business Insider, 14.01.2020
102 Ibid.
In the provisions of the JCPOA, the US President is to certify every 90 days that compliance is being held if he or she believes this is the case. At earlier stages, in April 2017 and in July 2017, certification from the US was granted that Iran was complying. However, on 13.10.2017, Trump announced that, under domestic US law, the US would not certify Iran’s compliance to the JCPOA. In anticipating that would sanctions lifted, several companies saw opportunities in the market, and rushed to prepare investments and trade. Since JCPOA Implementation Day saw those select sanctions lifted, Iran’s economy grew 7% each year, in which FDI increased, oil exports increased almost to pre-sanctions levels, and access to foreign exchange reserve funds and the international financial system was granted.

On 12.01.2018, the US waives certain nuclear orientated sanctions with an ultimatum to the EU and EU3, asserting that if they do not fix Iran’s flaws, the US will withdraw. Accordingly, on 08.05.2018, Trump announced the formal withdrawal of the US from JCPOA. With it, the US would begin re-instating the first wave of sanctions which had been lifted under it, to be carried out in phases so as to allow US companies to readjust.

Sanctions are at the core of Trump Administration policy to isolate and apply “maximum pressure” on Iran. The stated purpose is coercing Iran to negotiate a revised JCPOA that takes into account the broader range of US concerns about Iran which had been previously, in the view of the Trump Administration, given too leniently or excluded. Even so, on 21.05.2018, US Secretary of State Mike Pompeo outlines 12 preconditions for a renegotiated JCPOA, which, absent regime change, are unlikely to be met in full.

Following the US withdrawal, and anticipating potential effects in the first few months, the EU enacted an updated blocking statute on 07.08.2018 to nullify US sanctions on countries trading with Iran in specific fields. Additionally, the EU set up the ‘INSTEX Special Purpose Vehicle’ to protect EU companies from the US sanctions’ effects. Despite a difference in opinions expressed by the EU, the US would go on without a change in decision. On 05.11.2018, the next wave of US sanctions targeted namely: port operators and energy, shipping, and shipbuilding sectors; transactions by foreign banks with Iran’s Central Banks, with this, restricting Iran’s access to hard currency held in banks abroad.

In the short-term, the effect of the reinstatement was Iran’s economy plunging into a severe recession, causing domestic discontent. As Iran’s economy tumbled, however, on 29.01.2019, testimony was given by US intelligence officials to the US Senate Select Committee on Intelligence that Iran was still not taking the steps necessary to create a weapon device in its nuclear programme. This was likely due to the EU3 insisting to refrain from doing so. The economy of Iran continued to suffer even more after exceptions were removed in May 2019, and the value of the Iranian Rial dropped dramatically. That month, Rouhani announced a partial withdrawal from specific commitments under the JCPOA. Little by little, Iran announced small breaches of its JCPOA nuclear limits on 15.07.2019, on the basis that the US secondary sanctions were returning. Iran’s breaches were described by Mogherini as small and reversible, but urged Iran to return to compliance.

The contention point seemed to be orbital around Iran’s compliance with UNSC Resolution 2231, specifically with regard to missile tests, with particular concern about the Khorrarmshahr missile. The UN Secretary General (UNSG) Reports to the UNSC, every 6 months, also asserted increasing concern over the ballistic missiles shared by most of the P5+1. Only Russia contested. The activity also concerns Iran’s relations with the groups in Yemen, Syria, and Iraq, but distinct UN action would be blocked by Russia’s contestation. Furthermore, waivers for foreign governments to give technical help to Iran’s nuclear programme which were permitted by the JCPOA were now also removed.

The tensions increased with indirect confrontation in the Persian Gulf furthered upon serious and direct confrontations in Iraq. On 04.12.2019, a letter from Ambassadors of the E3 to the UN explained that the new Shabab-3 missile that was tested is compatible to mounting a nuclear warhead. Towards late December 2019, confrontational incidents between Hashd and US....

103 Daniel R. Coats, STATEMENT FOR THE RECORD, WORLDWIDE THREAT ASSESSMENT of the US INTELLIGENCE COMMUNITY, Senate Select Committee on Intelligence, 29.01.2019, str. 10
104 BBC News, Iran nuclear deal breaches not yet significant, EU says, BBC News, 15.07.2019
105 Ibid.
106 Views from the region, Iraq Struggling Under the Weight of the US-Iran Confrontation, Middle East Policy Council, 20.01.2020
forces in Iraq were becoming increasingly frequent and dangerous. On 27.12.2019, a US contractor from Academi was killed. Having already earlier placed the IRGC as a designated terrorist organisation, the US added also key individuals from Hashd. In a swift follow-up, Trump ordered the assassination of Qassem Soleimani, carried out on 03.01.2020 in a drone strike just outside Baghdad Airport. Burns and Sullivan, as former negotiators from the US side in Oman describe their convicement that in assassinating Soleimani, the US no longer has windows for negotiation. On 05.01.2020, Iran had removed all limits on uranium enrichment, making it the JCPOA’s next substantive breach.

Tensions soared upon the follow up retaliation on 08.01.2020 of a barrage of missiles launched directly from Iran striking the US facility by Erbil International Airport and in Ayn Al Asad military compound in Iraq, reportedly injuring several US military personnel. Tragically worse, however, was the accidental shooting of Ukraine International Airlines Flight 752 also on 08.01.2020, with human error in a mistaken decision amidst high-alert and the commercial airliner not being instructed to divert away from certain areas. Iran admitted responsibility of the catastrophic mistake, and asserted that the state would bring to justice those responsible.

The US, in the meantime, notably through Secretary of State Mike Pompeo, appealed to the EU to join the US in abandoning the JCPOA. In response, the EU kindly refused the request, noting they would not disavow the JCPOA. Iran formally continues cooperation with the IAEA, who was able to confirm that Iran had formally breached its limitations under the JCPOA. Meanwhile, the EU’s INSTEX and ‘Credit Line Proposal’ remain in play, and the EU and EU3 continued to try to preserve the JCPOA without jeopardising their relations with the US too much. The EEAS statement on 04.02.2020 of incumbent EU High Representative Josep Borrell in Tehran affirmed willingness to contribute to de-escalation and a keenness to figure out the next best steps.

107 Jake Sullivan, William J. Burns, Soleimani’s Ultimate Revenge: In his death, the Iranian general may cost the United States far more than it gained by his killing, Carnegie Endowment for International Peace, 06.01.2020
108 Colum Lynch, The Iran Deal Is Not Dead Yet, but It’s Getting There, Foreign Policy, 14.01.2020
109 Kelsey Davenport, Iran Abandons Uranium Limits, Arms Control Association, 13.01.2020
110 Ali Vaez, Europe Is Running Out of Time to Save the Iran Deal, Foreign Policy, 16.01.2020
111 EEAS Iran Task Force, Iran: Remarks by High Representative/Vice-President Josep Borrell at the press conference during his visit to Tehran, EEAS Press Material, 04.02.2020
Thus far, after Brexit, the now-E3 (or perhaps “EU2+1” may be more appropriate) have held steadfastly to their traditional role since joining the process of negotiating Iran’s nuclear programme – buying time. Persuading both Iran and the US by helping build smaller elements is not working anymore with the same tactics. As significant geopolitical dynamics have shifted for the now P4+1 signatories\(^{112}\), it may no longer suffice to get the P5+1 on board.

On 19.02.2020, Iran’s uranium stockpile had reached 1510 kg\(^{113}\), which is over 5 times the permitted amount of 300 kg that was accepted in the JCPOA. Other reports suggest this figure is closer to being just over 1000 kg. However, this does not exceed 4.5% enrichment of the uranium, where enrichment of 90% is necessary\(^{114}\) to weaponize the uranium. Nuclear experts debate how many further steps would be needed to undertake such. Other experts debate whether Iran would want to undertake such, or even remain in the NPT.

The aforementioned build-up and construction of the present situation indicate that it will have to change, whether gradually or with turning points\(^{115}\) on the geopolitical chessboards.

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112 i.e. the P5+1 without the US
113 Al Jazeera, Iran’s enriched uranium stocks 5 times over nuke deal limit: IAEA, Al Jazeera, 03.03.2020
114 Ibid.
115 Jonathan Marcus, Is the Iran nuclear deal dead and buried?, BBC World News, 06.01.2020
Each state is pursuing their national interests. In those states, political groups domestically pursue their interests in context of national interests. Whether one agrees or disagrees with the method and scope of the JCPOA, it is difficult to overestimate the importance of attempting to dissuade a state from pursuing a militarised nuclear programme.

Withdrawing from the JCPOA, the incumbent US Administration asserted that Iran could not be trusted to fulfil its obligations. In the US view, Iran continued to develop its missile programme without consequences because of the leniency and narrow scope of the JCPOA. Its signing also gave confidence to Iran to exert malign influence in the MENA region more audaciously. Iran, in turn, views that the US withdrawal despite Iran's adherence to the JCPOA means regaining leverage previously given up is necessary. The US sanctions seem to have had a larger effect economically, but politically it has been arguably marginal. Albeit criticised, the EU's role thus far has kept the whole JCPOA still alive – it is difficult to argue that Russia and China have contributed to this at all – but the time the E3 have bought at present will soon run out. Another delay tactic whilst minimising flare points is needed until some means of rapprochement, direct or indirect, is realised.

At its core, the contention lay with Iran’s nuclear programme, missile programme, and support for ‘proxies’ and clandestine operationality. In this, assessing the steps taken related to the JCPOA by Iran and each of the P5+1 is key in order to assess potential ways forward.

### 3.1 IRAN’S BREACHES

Since the US withdrawal, Iran’s breaches of the JCPOA in the nuclear programme are more clearly defined and transparent. Breaches with regards to missile programme development are more ambiguous. In all, a total of 6 UNSC Resolutions which had previously enforced action against Iran that covered both had been ended by means of diplomacy that led to the JCPOA, these being:

- UNSC Resolution 1696, passed 31.07.2006, demanding Iran suspend uranium enrichment,
- UNSC Resolution 1737, passed 23.12.2006, imposed sanctions on Iran’s nuclear programme, suspected WMD-related infrastructure, required Iran to cooperate with IAEA after refusing enrichment halts.
- UNSC Resolution 1747, passed 24.03.2007, expanded the list of sanctioned Iranian entities,
- UNSC Resolution 1803, passed 03.03.2008, expanded the list further,
- UNSC Resolution 1835, passed 27.09.2008, reaffirmed the preceding four UNSC Resolutions,
- UNSC Resolution 1929, passed 09.06.2010, imposed a total embargo of weapons, prohibited Iran from any form of ballistic missile-orientated activities; enforcing these, UN-mandated inspection and detainment of ships.

UNSC Resolution 1929 stood out. Assets tied to the IRGC and the Iran’s shipping lines (IRISL) were frozen.
伊朗核协议：《联合全面行动计划》（JCPOA）的国际象棋棋盘

新方向

签名于《综合全面行动计划》（JCPOA）文件（2015年7月14日）

来源：维基媒体 commons

Joint Comprehensive Plan of Action

签名

新方向
It established a Panel of Experts, whose mandate was prolonged via UNSC Resolution 1984, passed 08.06.2011; UNSC Resolution 2049, passed 07.06.2012; and UNSC Resolution 2105, passed 05.06.2013. Noting that Iran’s nuclear programme and shipping as critical to its economy, it arguably authorised states to sanction Iran’s civilian sectors. The responsibility lay with Iran for closely tying a large civilian sector of its economy to that under scrutiny for becoming militarised. This was substantiated reason for worry, and in this way encouraged separation.

Furthermore, in UNSC Resolution 1929, “any activity related to ballistic missiles capable of delivering nuclear weapons, including launches using ballistic missile technology” is forbidden for Iran. The language in UNSC Resolution 2231, which replaced these 6 and enshrined the JCPOA, is a key contention point. In UNSC Resolution 2231, “Iran is called upon not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology”. The binding legality is unfortunately subject to dispute. Consequently, Iran has tested or launched:

- on 10.10.2015, the Emad missile\(^{117}\), with a precision guidance system and a range of 1700 km,
- on 21.11.2015, the Ghadr 110, with a range from 1500 km up to 2000 km,
- on 08-09.03.2016, several test-fired missiles, including Qiam 1 and Qadr ballistic missiles,
- on 29.01.2017, the Khorramshahr, a MRBM, in a failed test-launch\(^{118}\),
- on 23.01.2017, a ballistic missile test\(^{119}\), as part of a military parade in Tehran,
- in January 2018, where 6 Qiam missiles hit ISIL positions in Deir ez-Zor,
- from February to August 2018, missile tests included a Khorramshahr, 2 Shahab-3, a Qiam, and 3 Zolfijar ballistic missiles, capable of carrying nuclear warheads. Furthermore, 2 new missiles were revealed by Iran, the Fakour and Fateh Mobin, with a reach of 1300 km
- 01.12.2018, a Khorramshahr missile tested at Shahroud facility
- 02.02.2019, a Hoveizeh cruise missile was successfully tested, has a reach of 1350 km, announced on 40th Islamic Revolution anniversary
- 07.02.2019, a Dezful ballistic missile revealed, range of 1000 km, along with plans for over 50 missile tests yearly
- 07.01.2020, more than 10 ballistic missiles\(^{120}\) launched against the Al Assad military base in which US troops were injured, as well as another hitting a base in Erbil.

In this, long-range ballistic missile activity (LRBM) is absent. From Iran’s perspective, missiles are a deterrent because they substitute Iran’s weak air force. Israel and Saudi Arabia, in turn, have more sophisticated arsenals, though likely in less quantities, which gives them precision air strike capabilities. In this, Annex B of UNSC Resolution 2231 is a key upcoming contention point: the binding ban on its arms imports or exports remained in place expires on 18.10.2020, 5 years after JCPOA Adoption Day.

Conversely, Iran’s 5 breaches nuclear programme are more distinct. In response to US withdrawal, on 10.05.2018, Iran announced intent to reverse its uranium enrichment restrictions.\(^{121}\) Firstly, on 01.07.2019, Iran accelerated low-enriched uranium (LEU) production by 4 times its previous levels.\(^{122}\) JCPOA terms, which were to this point adhered to, specified a maximum stockpile of 300 kg. Excess amounts had to be sold or traded. However, on 03.05.2019, the US sanctioned any state or firm which would help Iran sell this excess uranium. For reference, 1050 kg would be needed to develop a single nuclear warhead. As such, the retaliatory move was considered mostly reversible and non-proliferation sensitive. It was also transparently confirmed by the IAEA and announced beforehand by Iran’s authorities.

Secondly, a week later, on 08.07.2019, Iran increased enrichment from 3.67 % to 4.5 % levels.\(^{123}\) For reference, in 2010, Iran’s enrichment peaked at 20%, before the backchannel.

\(^{117}\) RT, Emad for it: Iran unveils underground ballistic rocket launch site, RT, 05.01.2016
\(^{118}\) It flew about 1000 km before exploding in the re-entry phase
\(^{119}\) Unclear which ballistic missile type exactly
\(^{120}\) Fateh and Qiam missiles
\(^{121}\) Oren Dorell, Iran preps ‘industrial-scale’ nuke production after U.S. leaves nuclear deal, USA Today, 11.05. 2018
\(^{122}\) Iran Primer, Iran’s Breaches of the Nuclear Deal, United States Institute of Peace, updated 20.01.2020
\(^{123}\) Ibid.
Weapons-grade enrichment needs to be over 90%. A nuclear warhead would need the gas to be solidified into power, then transformed into a fissile core, before being mounted onto a projectile such as a ballistic missile.

Thirdly, on 25.09.2019, Iran installed 40 advanced centrifuges, namely, 20 IR-6 and 20 IR-4 centrifuges at the Natanz facility. An IR-6 can enrich about 10 times faster than a basic IR-1 centrifuge. In JCPOA Section A point 2, Iran can maintain 5060 IR-1 centrifuges. Further, the IAEA confirmed Iran installed 164 IR-4 and 164 IR-2 centrifuges. This breach reduced the time needed if Iran decided to bolt for a nuclear warhead. These breaches affect mainly Articles 26 and 36 of the JCPOA.

Fourthly, in November, Iran made a series of steps of accelerating enrichment production. On 04.11.2019, Iran added another 30 IR-6 centrifuges. Salehi announced Iran increased daily production from 450 g to 5 kg. On 07.11.2019, the gas began pouring in the 1044 centrifuges at the Fordow facility. Furthermore, on 11.11.2019, the IAEA report suggested 372.3 kg uranium was enriched. Moreover, uranium had been traced at undeclared facilities. Finally, on 16.11.2019, Iran told the IAEA that it had 131.5 metric tonnes of heavy water, surpassing the 130 metric tonne limit under the JCPOA. Whilst heavy water processing is cumbersome, it can be used to enrich plutonium in the longer run.

Fifthly, finally, on 05.01.2020, Iran’s announcement it does not intend to adhere to the JCPOA’s uranium enrichment restrictions makes the most recent breach. Arguably, the intent in itself may make it the most significant breach. It entails enrichment levels, total capacity, stockpile quantities, as well as removing restrictions on research and development. Most crucially, on 19.02.2020, Iran’s uranium stockpile had reached 1510 kg, but not exceeding 4.5% levels. Other figures suggest this figure may be closer to 1000 kg, but it is still enough to produce a nuclear warhead after the necessary next lengthy and complex processes. Nevertheless, the IAEA can verify and report, though reports of obstruction are emerging. Rouhani insisted these are reversible with the reversal of US sanctions.

Each of the P5+1 are anxiously anticipating this date in how they will change their approach to Iran with regard to competing geopolitical interests between them.

### 3.2 US SANCTIONS AND WAIVERS

It is not farfetched to argue that an influential driver of the Trump Administration’s approach is the desire to show superiority over the Obama Administration. Nowhere is this felt more acutely than with the JCPOA and coordinating foreign policy with Israel. The core which has not changed is the US seeking to prevent Iran from obtaining nuclear weapons.

There were existing US sanctions on Iran from before the JCPOA. These remain in place until today, at the time of writing this report. US sanctions on Iran cover 4 main areas, all intertwined. Firstly, regulations block Iran from access to the US financial system, and punish trade with Iran. Secondly, sanctions respond to Iran’s human rights abuses, namely through provisions in CISADA, ITRSHRA, and IFCA. Thirdly, sanctions target the IRGC, terrorism-related entities which were not “delisted”, and support of regional governments and armed factions causing those human rights abuses. Fourthly, sanctions target efforts to acquire missile and advanced conventional weapons capabilities and technologies linked to weapons proliferation. Whilst the list may or may not be definitely exhaustive, some key US sanctions that remained during the JCPOA are in acts from Congress:

- the ‘Iran-Iraq Arms Non-Proliferation Act’, passed 18.06.1992, prohibits trade with Iran which could be tied to WMDs in any way

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124 Ibid.
125 Not coincidentally, the announcement coincided with the start date of the Hostage Crisis in 1979
126 Iran Primer, Iran’s Breaches of the Nuclear Deal, United States Institute of Peace, updated 20.01.2020
127 About 400 of these are for medical isotopes only
128 Al Jazeera, Iran’s enriched uranium stocks 5 times over nuke deal limit: IAEA, Al Jazeera, 03.03.2020
129 Ibid.
130 Brett McGurk, The Cost of an Incoherent Foreign Policy, Foreign Affairs, 22.01.2020
131 Ibid.
132 Kenneth Katzman, Iran Sanctions (RS20871), Congressional Research Services, 24.01.2020
133 Ibid.
• the 'Iran-North Korea-Syria Non-Proliferation Act' (INKSNA), passed 22.11.2005, and expanded thereafter. US not obligated to terminate sanctions on some entities under INKSNA,

• section 9. b) of the ISA, targeting transactions with Iran related to WMDs and arms; as well as an array of EOs:
  • EO 12959, signed 06.05.1995, i.e. the arms embargo, considerably hindered US trade and investment with Iran;
  • EO 13224, signed 23.09.2001, a response to 9/11 which sanctions terrorism entities worldwide, Note: JCPOA did not commit the US to revoke Iran’s placement as a state terrorism-sponsor;
  • EO 13382, signed 29.06.2005, freezing assets of WMD material proliferators
  • EO 13438, signed 17.07.2007, aimed to reduce flow of material goods to Iraqi insurgents, impacting Iran’s interference in Iraq
  • EO 13572, signed 29.04.2011, sanctions reacting to those conducting repression in Syria, expanding previous sanctions
  • EO 13606, signed 22.04.2012, sanctions reacting to human rights abuses by governments of Iran and Syria, also through use of technologies,
  • EO 13628, signed 09.10.2012, adds sanctions on Iran regarding financial transactions, interest, assets, credit; also implements the ‘Iran Threat Reduction and Syria Human Rights Act’ passed by Congress 10.08.2012, with the exception of EO 13628’s Sections 5 to 7 and 15.

Since the above were not lifted, other US sanctions were chosen to be lifted as part of the JCPOA. These show the trade-off of choices; generally US secondary sanctions were lifted. With EO 13716, signed on JCPOA Implementation Day 16.01.2016, the US sanctions lifted per the JCPOA and previous EOs revoked or amended include:

• EO 13574, signed 23.05.2011, further implemented the ISA, expanded sanctions,

• EO 13590, signed 21.11.2011, sanctions ‘goods, services, technology or support for Iran’s energy and petrochemical sectors’,

• EO 13622, signed 30.07.2012, squeezed Iran’s petrochemical industry, credits, loans, and financial transactions,

• EO 13645, signed 03.06.2013, furthering and implementing existing EOs and Acts,

• and amending Sections 5 to 7 and Section 15 of EO 13628, signed 09.10.2012, in line with Annex V. These sanction properties, transactions in foreign exchange, limit investments, loans, licenses, and general entities which did business with Iran.

The lifting of these sanctions had eased limits on Iran’s oil exports of and foreign sales of gasoline. The energy sector equipment, FDI in Iran’s energy sector, the automotive sector, financial sectors, and trading in the Iranian Rial, all were given a chance to revitalise.

On 08.05.2018, the US withdrew from the JCPOA. Trump signed EO 13846 on 06.08.2018. Firstly, Section 9 point b) of EO 13846 revoked and overrode EO 13716 that enacted the JCPOA. As a result, the aforementioned sanctions which were revoked in EO 13716 were fully reimposed with EO 13846. Secondly, however, the enactment also aggressively expanded the scope of sanctions against Iran. Both the reimposed and new sanctions on Iran were to be implemented over a 90-day period initially, and targeted mainly:

• financial sectors and trading mechanisms, including the purchase or acquisition of US bank notes by Iran, trade in gold, transactions in the Iranian Rial, insurance, anything related to Iran’s sovereign debt;

• graphite, aluminium, steel, coal, industrial software;

• wide scope of Iran’s energy sector, petroleum products, petrochemicals, activity related to the production chain;

• shipping, shipbuilding, port operators;

• automotive sector via payable-through account sanctions;

• certain restrictions with civilian airlines, potential

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134 Ibid.
135 Joint Comprehensive Plan of Action Full Text, Annex II – Sanctions-related commitments, section B – United States, part 4
136 Al Jazeera, Donald Trump declares US withdrawal from Iran nuclear deal, Al Jazeera, 08.05.2018
‘dual-use’ parts for commercial aircraft or units in their entirety, aircraft and aircraft parts substantially linked to the US;

- luxury goods imports from Iran to the US, including caviar and Persian carpets;
- as well as an expanded list of Iranian individuals.

Albeit the move was aggressive, the US had noticed the sheer scope and size of these restrictions for existing arrangements to undergo sudden change. Notably, interests of the US and P4+1 states which had reintegrated certain deals with Iran were at risk. Also, interests in both Iraq and Afghanistan have been integrated with Iran’s economy.

On 05.11.2018, the Significant Reduction Exceptions (SREs) were given to China, Taiwan, Japan, South Korea, India, Italy, Greece, and Turkey; a total of 8 countries. The SREs enabled these states to temporarily continue purchasing oil from Iran and conduct transactions with Iran’s Central Bank without US retaliation. Their previsions were generally associated with IFCA, and their scope included:

- a continuation of waiving Section 1247 part e) of IFCA, so mainly Iraq can keep buying Iranian natural gas for an adjustment period of 90 days, extendable to 180 days,
- specifically 2 waivers in IFCA allowed foreign entities to conduct civilian work on Bushehr nuclear power reactor, remove Iran’s LEU that exceeded 300 kg, buy heavy water from Iran,
- a total of 5 other waivers for Iran’s nuclear programme as per the JCPOA received an extension,
- an IFCA waiver permitted work on Iran’s Chahbahar Port, noting Afghanistan’s and India’s construction involvement,
- a waiver renewed on Rhum gas field in North Sea, partially Iranian, and allows licenses to be granted for certain firms, namely BP.

Following the first wave, on 05.11.2018, the next wave of US sanctions would hit Iran, namely on:

- port operators, any energy export and import means, shipping, and shipbuilding sectors;
- petroleum-related transactions;
- and transactions between Iran’s Central Bank and any foreign banks, restricting access to hard currency Iran holds in banks outside of Iran.

Moreover, on 15.04.2019, the US designated the IRGC as a terrorist organisation, making any ties of any business to it sanctionable. On 22.04.2019, the US announced that the SREs are to expire shortly, and no more extensions or additional SREs would be granted. On 02.05.2019, the SRE termination came into effect. Notably, on 03.05.2019, the US ended the nuclear-orientated IFCA waivers, including the means for US and non-US entities to purchase excess LEU that Iran has. On 08.05.2019, EO 13871 was signed, sanctioned Iran with regard to iron, steel, aluminium and copper. The purpose stated is to deny the Iranian government revenue and proceeds from material trade which may be used to fund activities unfavourable for US interests in the MENA region.

On 07.06.2019, US sanctions against Iran’s petrochemical industry came into effect, based on their propensity for sending their proceeds to the IRGC. Then, escalations between Iran and the US in the Persian Gulf increased, and in response, on 24.06.2019, EO 13876 was signed, imposing further sanctions on Iran, freezing billions in assets, as well as expanding the list of entities, including 8 specific persons in the IRGC, aerospace programme, and navy, and the Supreme Leader’s Office as well. Beyond the financial impact, some of these individuals were already disconnected financially from the US, and so the move was aimed at their international isolation, and as a declaratory statement.

Yet, perhaps a point which could particularly encumber potential return to negotiations was on 31.07.2019, where Zarif specifically became subject to US sanctions. Then, on 10.01.2020, EO 13902 was signed, furthering sanctions on Iran again, and included ‘construction, mining, manufacturing, and textiles sectors’. It pertained to transactions with other commodities that can be tied to Iranian government personnel. Even further, on 03.09.2019, the US added all Iranian institutions associated to aeronautics and space research on the sanctions list. On 04.11.2019, the US sanctions on Khamenei’s inner circle came into effect.

137 The agreed upon stockpile limit under JCPOA
138 Julian Borger, Donald Trump orders fresh sanctions against Iran’s Ali Khamenei, The Guardian, 24.06.2019
Around this time, widespread protests in Iran began as a result of increased fuel prices, adding pressure on the Iranian government that threatens their legitimacy in the eyes of Iranian people. In these, 731 banks and 140 government sites nationwide had been torched, and the brutal crackdown by the Iranian government killed over 1500 protesters. Protests against the Iranian government have occurred yearly since 2016, starting in various places, citing economic hardships, discontent with Iran’s involvement in conflicts in the MENA region which damages Persia’s legacy, and human rights abuses, including the temporary internet shutdowns and violent crackdown against both peaceful and non-peaceful protesters. Iran’s government asserts that these are artificially induced plots by Western adversaries as a clear indication of refusing to take responsibility for the situation, citing historical incidents.

3.3 EU SANCTIONS AND REDUCED TRADE WITH IRAN

In context of the JCPOA, the E3 have always had a peculiar situation. It is even more so now, where the E3 act as the EU2+1 in the post-Brexit EU. Relations of the E3 with the EU in itself have changed since the JCPOA’s signing and even more so today. The EU, in turn, has at stake its position as an influential actor on the geopolitical stage.

Firstly, maintaining a strong position and good relations with the UK is imperative for the EU. Secondly, following a gradual and general drift with relations with the US, the ability to effectively maintain an independent foreign policy is shown at various contention points in the JCPOA. More importantly are steps by the E3 and EU which accentuate their role as an initiator rather than reactor to the situation.

The EU did not follow the US approach in the 1995 arms embargoes. However, after UNSC Resolution

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139 Reuters, Iran says hundreds of banks were torched in ‘vast’ unrest plot, Reuters, 27.11.2019
1929 of 2010 was passed, in multilateral coherence, the 2 key additional EU regulations in 2012 made the EU sanctions nearly as extensive as the US sanctions. These are the EU Council Decision 2010/413/CFS of 26.07.2010 and EU Council Regulation No. 267/2012 of 23.03.2012. Under the JCPOA, the EU lifted its ban on purchases of oil and gas from Iran, and Iranian banks were readmitted to the SWIFT electronic payments system. The EU sanctions lifted are intricately outlined between the Decision and Regulation that complement each other. The EU sanctions that were lifted per the JCPOA, outlined in Annex II part b) of the JCPOA, pertain to:

• petrochemicals, the wider energy sector, oil storage, oil and gas imports from Iran;
• shipping insurance for Iran’s petrochemicals, frozen assets of many Iranian firms involved in shipping, shipbuilding technology, Iranian tankers and cargo vessels;
• financial, banking and insurance sectors;
• precious metals, trade with Iran in gold, precious metals, diamonds;
• frozen Iran’s Central Bank assets, banned transactions between EU and Iranian banks, short-term export credits, guarantees, and insurance;
• graphite, metals, and industrial software.

A considerable number of entities that had been sanctioned by EU Council Decisions and Regulations over the years were "delisted" by the EU on Implementation Day. Yet, some EU sanctions remain in place despite the JCPOA until today, and these pertain to:

• arms sales to Iran, gear which can be used to conduct repression;
• missile technology, parts that could be used in missiles, and other proliferation-sensitive items;
• and EU-based assets frozen on Iranian persons and entities that abuse human rights or support terrorism, namely from visiting EU countries.

In general, the EU and EU Member States have largely disagreed with the US regarding withdrawal from the JCPOA. After the US withdrawal, the EU had not reimposed sanctions on Iran. Instead, the EU and E3 have sought to preserve the JCPOA by maintaining economic relations with Iran. However, the several companies from EU Member States and the UK are tightly integrated with the US market. As such, to avoid risking potential losses and backlash from the US, many EU firms have decreased or halted entirely their business with Iran on their own initiative. Some notable sectors include:

• petrochemical product trading, where none of the EU Member States purchased oil from Iran since re-implementation day 05.11.2018, despite Italy’s and Greece’s granted SREs;
• investments in the energy sector, namely with France, Austria and Italy. Total SA withdrew from the 5 USD billion investment in the South Pars gas field. The investment partner, China National Petroleum Corporation (CNPC), took over after the withdrawal. Furthermore, OMV of Austria also halted development with Iran;
• the automotive and transport industry, where Renault and Citroen stopped investments amounting to USD 1 billion in partnership with 2 Iranian firms. Daimler and Volvo suspended operations, and Scania’s contracts are uncertain. Plans for railway upgrading were cancelled.
• shipping and port operators, where Hapag-Lloyd, a German firm, and AP Moller-Maersk, a Danish firm, have stopped business with Iran;
• banking and transaction services, where DZ Bank and Allianz, Oberbank, and Banque Wormser Freres, each began cancelling works with Iran. Notably, in July 2018, Deutsche Bundesbank blocked Iran’s USD 400 million from the Europaische-Iranische Handlesbank, which was “re-listed” on 05.11.2018;
• telecommunications, where Deutsche Telekom announced in September 2018 ending business in Iran,

Manufacturer of Mercedes Benz automobiles
• commercial flights, Air France and British Airways announced also in September 2018 their flights to Iran have now insufficient demand to continue operating services there;
• and other industries, such as transfers technology for gas turbines in Iran were planned by Siemens and Mapna, an Iranian firm, which then Siemens stated it would not pursue new business with Iran. Danieli and Gruppo Ventura, Italian conglomerates, have also ceased business conduct with Iran.

However, there are exceptions where firms have been able to at least partially operate. For example, a project in the Rhum gas field in the North Sea is partly owned by the NIAC. BP and Serica Energy continue operating with US waivers. About 5% of UK’s gas imports are supplied by the field. Beyond these, FS of Italy is set to construct a railway between Arak and Qom in a USD 1.4 billion deal, which is still technically active.

### 3.4 EU PUT FORWARD THE SPVS

Wary of the consequences to EU firms, the EU sought to act. On 06.08.2018, the EU invoked the “blocking statute” from 1996. It seeks to protect EU firms from reimposed US sanctions. On 24.09.2018, at a meeting of the P4+1, the creation of a “Special Purpose Vehicle” (SPV) was endorsed. The SPV would facilitate trade with Iran by avoiding USD transactions and exposure to the US market.

In a 31.01.2019 joint statement, France, UK, and Germany announced the SPV, titled “Instrument for Supporting Trade Exchanges” (INSTEX). The INSTEX SPV is financially supported by each of the E3, based in France, managed by Germany, and led by the EU European External Action Service (EEAS). The Advisory Board of INSTEX includes deputy-Minister level persons from the E3. Most importantly, however, it would initially pertain to essential sectors, namely agriculture, pharmaceutical goods and medical devices. In effect, it would aim to mitigate the side-effects of US sanctions, without conflicting with the US policy. However, expansion to the petrochemical sector is possible in the future. On 14.04.2019, Iran set up the “Special Trade and Finance Instrument” (STFI). The STFI is the needed counterparty to INSTEX.

On 07.05.2019, US Treasury Department Under Secretary for Terrorism and Financial Intelligence Sigal Mandelker asserted that INSTEX may be abused by Iran and still conduct money laundering and fund proxy groups, even though the EU demands Iran not to do so. The US is considering sanctioning the STFI, as Iranian banks that are sanctioned may be part of it. INSTEX has begun processing, but is yet to have an impact that noticeably changes the situation. As such, Iran has expressed impatience.

However, over the 24-26.09.2019 G7 Summit in Biarritz, Emmanuel Macron led an initiative for a ‘credit line’ of USD 15 billion for purchasing Iranian goods via INSTEX, where credit would be paid by Iran’s oil supplies in the future. The condition is Iran’s full return to compliance with the JCPOA. The US protested against the idea. Later, on 29.11.2019, 5 EU states – Belgium, Denmark, Netherlands, Finland, and Sweden – as well as Norway, all jointly announced their intention to join INSTEX.

At present, the INSTEX, according STFI, and ‘credit line’, all connote some political will, however, it still remains insufficient to actually enable some minimal trade with Iran. On 27.02.2020, the P4+1 met for a Joint Commission meeting to consider next steps forward. Most importantly, the EU reaffirmed commitment to the JCPOA.

Additionally, around this time, the work-in-progress Swiss mechanism for enabling humanitarian aid to get to Iran is close to nearing its finishing stages. All this does demonstrate the ability and willingness to think of mechanisms and implement them, but the EU, E3 and Switzerland, are under pressure of time with increasingly impatient governments of both the US and Iran, as well as Russia and China prying for opportunities for their self-benefit.

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141 March 2016
142 However, although Norway is not an EU Member State, Norwegian firm Saga Energy also signed a USD 3 billion deal to build solar power plants in Iran.
143 Ali Vaez, Europe Is Running Out of Time to Save the Iran Deal, Foreign Policy, 16.01.2020
144 Ibid.
145 Ellie Geranmayeh, Trading with Iran via the special purpose vehicle: How it can work, ECFR, 07.02.2019
146 Zoi Didili, Six European nations join INSTEX mechanism for trade with Iran, New Europe, 03.12.2019
147 Al Bawaba, Iran: EU Aims to Keep JCPOA Nuclear Deal Alive, Al Bawaba, 27.02.2020
3.5 CHINA AND RUSSIA CHOOSE OPPORTUNISM

China and Russia are opportunistic actors and are swift to make strides to benefit from other parties being at odds with one another. China is embracing the role of a geopolitical competitor to the US, and Russia the role of a spoiler for US interests. Historically, both states imposed sanctions only in line with the UNSC, and since the US withdrawal, have sought to circumvent US sanctions brazenly.

China and Russia are increasing activity with Iran in trade overall, with some emphasis on energy, defence, and economic development in context of responding to changes relevant to the JCPOA. Actual agreements, however, are somewhat sluggish in following through. Their murkiness also makes it difficult to assess whether they contribute to the JCPOA, have positive effects, and how they could impact the EU and E3 efforts to keep the JCPOA alive whilst keeping relations with the US.

A notable early point with regard to energy can be that on 01.11.2017, Putin visited Tehran and agreed on USD 30 billion in energy development. On 13.11.2019, Iran began the FTA with “Eurasian Economic Union,” (EAEU) after year-long discussions, notably involves Russia and Kazakhstan. In this, Russian ports have been reported to offer Iran’s ships to deliver oil supplies as an intermediary with other buyers, a direct circumvention of US sanctions. Russia is also an exporter of oil, so will only support Iran to the extent the deal is beneficial for them.

China is Iran’s largest oil importer. From 2012 to 2016, when the international sanctions were coherent, China reduced oil imports from 600 000 to 435 000 barrels daily. After 2016, China increased imports beyond 2011 levels, though, since 2018, has decreased. However, in context of the wider US trade war with China, the US began to more frequently sanction Chinese entities that deal with Iran in spite of US sanctions. Furthermore, 20 million barrels of oil from Iran had been stored in China’s Dalian port, before the SREs expired. Despite the 02.05.2019 SRE ending, China continues to import some lower amounts of Iranian oil. On 23.07.2019, the US sanctioned Zhuhai Zhenrong Company Ltd. for Iranian oil purchases. On 25.09.2019, COSCO Shipping Corporation Ltd. was sanctioned by the US for helping shipments of Iran’s oil.

Though Iran seems to excel on the asymmetric front, in terms of conventional military aspects it is still lagging, which has caught the interest of both China and Russia. Before the JCPOA was even signed, in April 2015, Russia removed bans on supplying Iran with the S-300 air defence. The delivery, signed 2007, was withheld after UNSC Resolution 1929, which did not prohibit that specific defence system anyway. In early 2016, however, supplies of 5 S-300 batteries went on. Russia overtly plans to resume arms supplies immediately when the 18.10.2020 JCPOA arms embargo expires. Some of these sales include Yak-130 trainers, T-90 MBTs, and the said S-300 air defence systems. Additionally, China and Iran are discretely consulting supplies of Chinese FD-2000 and LY-80 air defence missiles. The latter would accompany the Chinese JY-10E air defence, already integrated into Iran’s military.

Since Iran’s ballistic missiles thus far compensated for a weak air force, prospects of Russia and China supplying fighter jets to Iran are potential contention points. Some speculated sales include SU-35, SU-30SM, or SU-27SM3 fighters from Russia, as well as J-10C fighters from China. Moreover, some IRGC officials have advocated for Iran to become less reliant on imports, and begin to domestically start creating an air force, such as the Iranian-made Kowsar jet. Iran’s tank arsenal, namely the Karrar and Zulfiqar tanks, also seem to be reliant on Russian assistance. Hence, as Russia’s interest in Iranian military industry deals are relatively more known, consultations between Iran and China would appear to be more evasive of public attention.

148 Free Trade Agreement
149 Sanction based on IFCA
150 Sanction based on EO 13846
151 Anton Mardasov, How will Russia, China support Iran’s military after UN arms ban ends?, Al Monitor, 09.03.2020
152 Ibid.
153 Ibid.
Furthermore, Russia asserted it would resist appeals to agree on extending said ban beyond 18.10.2020. It is worth noting that in this specific context, the E3 also suggested they are sceptical of the merits of extending the ban with regard to preserving the JCPOA. Russia needs the anti-US actors in the MENA region, but certainly does not wish to support militarisation of Iran’s nuclear programme. With these regards, the Russian rhetoric has been rather consistent. Moreover, Russia benefits from this status quo by offering mediation services, where Russia can keep relations with Iran whilst developing relations with Israel, Saudi Arabia, and the UAE.

Projects related to the ‘Belt and Road Initiative’ (BRI) previously on hold resumed after the JCPOA was signed, and continued despite US sanctions. Iran’s increasing relations with countries in Central Asia are crucial to this. In February 2016, the Kazakhstan-Turkmenistan-Iran railway link connected China to Iran. Loans from China also fund railway and infrastructural links to Oman. In August 2019, just after Biarritz, Iran enlarged China’s investments to USD 280 billion, including the pivotal gas and petrochemical sectors and USD 120 billion in manufacturing and transport. Chinese firms Geeliran and Chery still cooperate with Iran in the automotive industry.

A key contention point, is the US sanctioning Chinese entities for arms sales to Iran, related to its missile programme, as well as conventional capabilities. The effectiveness is disputed. However, some US sanctions manage to disrupt economic activity. The CMPC withdrew from investment in the South Pars field. In November 2018, Kunlun Bank, a sanctioned Chinese bank associated with CNPC had stopped accepting incoming transactions from Iran. It was a significant flow of funds between China and Iran. However, Iranian accounts may still be used to purchase imports from China into Iran. Estimates also suggest USD 20 billion is available to fund the Niayesh Tunnel and infrastructural projects. In April 2018, the US denied export licenses against ZTE Corporation based on delivering telecommunications technologies to Iran and North Korea, which had been disputed in March 2017. Other settlement examples include on 27.03.2019, a USD 1.9 million settlement for exports to Iran by a Chinese subsidiary of a US company, Black and Decker.

3.6 E3 BEGIN THE DRM COUNTDOWN

On 14.01.2020, the US appealed to the E3 to abandon the JCPOA. That same day, as a response to Iran’s brazen infringements, the EU invoked the JCPOA’s ‘Dispute Resolution Mechanism’ or DRM. The process is orbital around the JCPOA’s ‘Joint Commission’. Its members constitute the P4+1.

On 27.02.2020, the P4+1 met in Vienna at Political Director and Deputy Minister of Foreign Affairs levels to consider next steps forward, mostly regarding INSTEX, the STFI, and the ‘credit line’. It was the 15th Joint Commission meeting, described as a ‘regular Joint Commission meeting’, and not immediately clear if this was part of the DRM. A representative of the E3 asserted that Trump’s efforts to bring back UN sanctions will almost certainly by blocked by the remaining P5 members, and that it is not appropriate to let him alone choose bits of the JCPOA he likes and does not like. Outside of the DRM, China and Russia have been opportunistic, but their presence in Joint Commission meetings is a necessity for the wholeness of the P4+1.

The DRM, as described in the JCPOA, is carried out in 6 steps, divided into 2 main categories. In the first, it is comprised of the first 4 steps:

1. If a JCPOA signatory believes another signatory is breaching their commitments, it can submit the issue to the JCPOA’s Joint Commission. There would be a time frame of 15 days to fix the problem, with possibility of extending, given that all members agree. If the 27.02.2020 meeting was de facto part of the DRM, it is possible that it is still part of Step 1, given that all of the P4+1 are comfortable with extending the duration as long as is needed.

154 Ibid.
155 Ibid.
156 Sanctioned under CISADA 2012
157 Audrey Wilson, European Powers Censure Iran Over Nuclear Breaches, Foreign Policy, 15.01.2020
158 Michelle Nichols, How the Iran nuclear deal dispute mechanism works, Reuters, 14.01.2020
159 Al Bawaba, Iran: EU Aims to Keep JCPOA Nuclear Deal Alive, Al Bawaba, 27.02.2020
2. If any signatory in the Joint Commission feels the problem persists after Step 1, it is brought to the level of the Ministers of Foreign Affairs. Again, 15 days are given unless unanimous agreement extends it. The accused or accusing signatories can ask an ‘Advisory Board’ to assist. The Advisory Board has 3 members; accusing and accused sides each with 1 member, and another independent member. A non-binding opinion from the Advisory Board is due, can be in accompaniment to the Ministers or in their stead.

3. If in this minimum 30-day period the problem persists, Step 3 gives an additional 5 days for the Joint Commission to review Advisory Board opinions.

4. Step 4 is reached when the JCPOA signatories still regard the actions by the accused to “constitute significant non-performance”. In this, the problem would obtain a ‘status’ as “as grounds to cease performing its commitments under this JCPOA in whole or in part” by the accusing side. The signatory can notify the UNSC of the problem, in which it would describe the exhausted means of the DRM thus far.

The importance of Step 4 is paramount, as Iran has said it would quit the NPT if the other JCPOA signatories did indeed refer it to the UNSC as part of Step 5.

5. Reaching this stage means that the signatory which invoked the DRM has notified the UNSC, and the platform has shifted from the Joint Commission to the UNSC. In Step 5, the UNSC has 30 days to vote on a UNSC Resolution to reaffirm the continuation of sanctions relief for Iran, or consider discontinuation. Given no P5 vetos, the UNSC Resolution requires 9 votes in favour at minimum from 15.

6. Finally, if no UNSC Resolution emerges in Step 5, the DRM reaches Step 6, which is its ‘snapback’ feature. All previous UNSC Resolutions which instated sanctions on Iran that were lifted per the JCPOA are immediately re-instated, not applying retroactively – unless, of course, the UNSC decides otherwise.

However, should the snapback occur, it would be widely understood – given today’s attitudes – that the JCPOA would in effect cease to exist.

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160 John Irish, How the Iran nuclear deal dispute mechanism works, The Independent, 20.01.2020
HELP OF FRIENDS

Throughout the course of the lead-up to the JCPOA, and even after the US withdrawal, the P5+1 have needed other parties. Thus far, the largest roles have been Oman and Switzerland, as neutral facilitators. In the P5+1, the EU has mediated and shuttled between the US and Iran as well. These feats are remarkable and the world is better off that they have happened. However, as the geopolitical scope expanded, it may be pertinent to expand the external parties which may help bring about understanding.

4.1 PROTECTIVE POWER EMBASSIES

The Embassy of Switzerland in Tehran serves as the Protecting Power for the US in its Interests Section, as well as for Saudi Arabia in a comprehensive package. Furthermore, the Embassy of Switzerland in Riyadh serves as the Protecting Power comprehensively for Iran, and in the Interests Section of its Embassy in Cairo. In turn, the Embassy of Pakistan in Washington DC serves as the Protecting Power for Iran in its Interests Section. Other notable such posts include the Embassy of Italy in Tehran, which is the Protecting Power for Canada, and the Embassy of Oman in Ottawa serves as the Protecting Power for Iran, each comprehensively.

Switzerland’s role has been unique, and is naturally in the interest of Switzerland as well. In the 2003 invasion of Iraq, Switzerland helped ensure to avoid clashes between Iran and the US, and throughout the JCPOA. Hence, upon the finalisation of the JCPOA, several Swiss enterprises and businesses had a slight competitive edge over other companies whose country may not have been involved in the realisation of the JCPOA.

Since the US withdrawal, Switzerland has made strides to keep relations between both the US and Iran whilst maintaining a back channel for communication alive. Swiss companies in the food and pharmaceutical industries have faced setbacks in trading in light of the renewed and additional US sanctions as certain goods, despite being exempt, were unable to be paid for by banks in Iran.

Moreover, Swiss back-channel diplomacy had also starkly increased. In December 2019, talks between the US, Iran, and Switzerland were taking place and were even announced by the State Secretary for Foreign Affairs of Switzerland. The talks regarded namely trade for essential pharmaceutical products and food, circumventing the Iranian Central Bank.

However, shortly after the drone strike on Soleimani and al-Muhandis by Baghdad International Airport, the Swiss Ambassador to Iran, Markus Leitner, communicated messages from the US to Iran as a part of reducing tensions, beginning with hand delivering an encrypted fax from the White House to Javad Zarif reading “don’t escalate”. This was followed by several messages, rational and direct, as opposed to some of the inflammatory rhetoric on the public sphere. Then, the retaliatory missile barrage caused no fatalities despite some reported injuries, and it would seem that de-escalation had been achieved, at least for the time being. Of course, few are convinced that this is the end of the retaliation, and that at a later time, an attack on US personnel or interests would be unsurprising.

161 Drew Hinshaw, Swiss Back Channel Helped Defuse U.S.-Iran Crisis, Wall Street Journal, 12.01.2020
162 Ibid.
Oman’s unique role in the region has been crucial. During the Dhofar rebellion from 1962 to 1976, then-freshly throned Sultan Qaboos had received assistance from Iran to quell the separatist uprising in the south, which created a lasting sense of gratitude than transpired beyond the 1979 Revolution, despite the Shah’s removal. Then, as a member of the GCC, with a closeness to the UAE and Saudi Arabia as well as Qatar, it gave good grounds to be a mediating body.

It has also been throughout this time a geopolitical necessity, being geographically in between Saudi Arabia and Iran, as well as with a unique population with a slight majority of Ibadi Muslims as well as Sunni. Colloquially, “friend to all, enemy to none” is a motto which is generally adhered to.

4.2 WARSAW PROCESS

Furthermore, since Qaboos became Sultan in 1970, Oman had maintained care of its relations with the US. Uniquely, Oman is also slowly opening up to establishing diplomatic relations with Israel, where many other Arab nations are still reluctant. Oman, having being pivotal in shuttling messages and hosting secret meetings between the US and Iran which lead to the JPA and JCPOA, now under a new Sultan, is expected to continue to strive to be a solid neutral partner.

However, at present, it is not farfetched to argue that it is not enough. Without finding additional means of resolving the ongoing conundrum, Switzerland and Oman would be largely left on their own to search for new means to tackle the problem, which has grown in geopolitical scale.

The author of this report argues that accompanying Switzerland and Oman, as well as the E3, are EU members in the Central Eastern Europe (CEE) area, namely Poland, have the potential to play a key albeit small role in the JCPOA’s future. One of Poland’s key characteristics in regional cooperation formats which is immensely beneficial is that it is a co-founder, with a partner, and it has proved to be remarkably successful.
Key examples include the Eastern Partnership (EaP) from Sweden and Poland, the Three Seas Initiative (3SI) from Croatia and Poland, or the Bucharest Nine (B9) from Romania and Poland, and have shown means for growth. However, the newest co-founding regional initiative has been a little more controversial and may potentially have a role to play as it evolves.

On 13-14.02.2019, the US Department of State together with the Ministry of Foreign Affairs of the Republic of Poland (known by Polish initials as ‘MSZ RP’) jointly organised the ‘Ministerial to Promote a Future of Peace and Security in the Middle East’. With over 60 delegations participating, it marked the inception of the ‘Warsaw Process’, and announced 7 distinct expert-level thematically arranged working groups:

- countering terrorism and illicit finance,
- missile non-proliferation,
- maritime and aviation security,
- cybersecurity,
- energy security,
- humanitarian issues and refugees,
- human rights.

President of Poland Andrzej Duda and Minister of Foreign Affairs of Poland Jacek Czaputowicz represented the hosting side. The Ministerial featured US Vice President Mike Pence, a rare appearance from US Presidential Advisor Jared Kushner, Israeli Prime Minister Benjamin Netanyahu, and Pompeo, though several high-ranking figures from EU states, including Mogherini, did not attend. The initiative, “operating under the aegis of a Ministerial-level plenary”, is aimed to be “a means of promoting security and stability... through meaningful multilateralism that fosters deeper regional and global collaboration” in the MENA region.

The Warsaw Process conference received mixed reactions both within Poland and internationally. Purposefully excluding Iran and the anti-Iranian rhetoric at the event, namely from the US, Israel, and Saudi Arabia led observers to evaluate that its purpose was to at least semi-formalise a political bloc that is against Iran, and convince those uncertain to join the bandwagon. In reaction, the Embassy of Iran in Warsaw asserted that the nature of the conference was anti-Iranian. The Embassy held some consultations with MSZ RP to have at least some form of contact, and the Ambassador of Poland to Iran was summoned after the conference’s announcement.

163 Warsaw Process, Poland and The United States Announce Details of the Warsaw Process Working Groups, Ministry of Foreign Affairs of the Republic of Poland, 05.08.2019
164 Alex Ward, The US held a global summit to isolate Iran. America isolated itself instead., Vox, 15.02.2019
Though Iran claimed it undermined Polish-Iranian relations, which go back some 600 years, from the perspective of Poland, Iran being close to Russia is also unpleasant, given that Russia is increasingly openly hostile to Poland – not mentioning the tragic history.

It is not farfetched to argue that at least certain themes, such as the missile proliferation, aim to address what are, in the view of the incumbent US Administration, shortcomings in the JCPOA. The timing of the conference is shortly after beginning the second re-implementation of US sanctions. Furthermore, it comes in the backdrop of some tensions between Israel and Poland regarding the political history. Such a conference that was clearly in Israel’s interest was unable to distinctly help settle the differences in perspectives on the matter in the immediately observable aftermath.

However, there are 2 main criticisms which are even more controversial. Firstly, the way in which the Warsaw Process’ first Ministerial was announced gives the feeling to observers that solely Poland agreed to the idea, but it was only asked because other US close friends were unwilling to do so. Secondly, Poland may have been pressured into acquiescing to the idea. Rather than authentically jointly declaring the initiative, unconfirmed claims purport that the announcement came from the US without even notifying Poland beforehand.

Whether these claims and criticisms are valid or not, the Warsaw Process does have the means for the international community to take advantage of the situation and ensure the results are positive and constructive. Since the Ministerial, its subsequent Warsaw Process Working Groups have held 7 thematic conferences:

On 07-08.10.2019, the first working group took place in Seoul on cybersecurity. It discussed cybersecurity infrastructure and stability, responsible state behaviour in cyberspace and exchanging experiences on incident indicators and responses both state and regional levels.

Shortly after, on 10-11.10.2019, in Washington DC, the working group on human rights debuted, discussing women’s protection and participation in conflict resolution in part of implementing demands UNSC Resolution 1325, passed 31.10.2000, as well as adequate National Action Plans and women in key decision-making positions in security and political institutions in the MENA region and the world.

On 21-22.10.2019, in Manama, the working group on maritime and aviation security had set on how to interdict and impede illicit shipments with weapons proliferation and WMD-related cargo, focusing firstly on the Proliferation Security Initiative’s (PSI) Statement of Interdiction Principles, and secondly, on expanding international arrangements in this purpose.

Then, on 24-25.10.2019, in Warsaw, energy security was taken up, with the critical energy infrastructure protection (CEIP), safeguarding energy transit routes and the petroleum supply chain, particularly where malign actors exploit the sector, as well as the stability of markets, and steps to diversify energy sources to renewables.

Furthermore, on 14-15.11.2019, in Bucharest, the working group on missile proliferation underscored the problem in the region, and potential steps that reinforce existing international non-proliferation norms, improve transparency, and promote regional confidence building measures.

Over 04-06.02. 2020, in Brasilia, the working group on humanitarian issues and refugees took place, covering ongoing efforts, and coordination with UN agencies and humanitarian NGOs, protecting children in conflicts and access to education during displacement.

Finally, on 04-05.03.2020, in Marrakesh, the final Warsaw Process Working Group took place on counterterrorism and illicit finance, which discussed perspectives on countering al-Qaeda and its affiliates as well as other terrorist groups, promoting a set of non-binding principles that could address the still real threat. The destabilising “activities of Iran and its proxies, especially Hezbollah, and the need to collectively confront Iran’s continued support to terrorist groups” was also covered.

165 Jonathan Marcus, Warsaw summit: Why Iran is the elephant in the room, BBC News, 12.02.2019
166 United World, Globalists organize anti-Iranian circus in Warsaw, United World International, 14.02.2019
An overarching summary of the Warsaw Process Working Groups was planned to be held in Washington DC in the spring, however, the COVID-19 pandemic may cause a delay. Though it got off to what could be perceived as a shaky start, over the year the Warsaw Process has developed some real potential.

Firstly, there is also merit in Poland and CEE states being involved. Whether the exact nature is more of an auxiliary, a facilitator, or potentially mediator, would remain to be seen. Some expert circles in Poland are sceptical of the idea of Poland mediating with regard to political will and availability of resources. These processes have a still long way to go, but that is an advantage with regard to demonstrating that perfect solutions are rarely attainable, and others also struggle with this, but steps forward are needed. With this, however, Poland talking with entities who have inflicted among the most catastrophic harm in history onto it, has a very different signal than countries which are adamantly neutral or those who themselves have fortunately not been targeted for annihilation or had their country destroyed.

Secondly, any architecture in the MENA region with regard to political stability and security will nevertheless have to include Iran in some way, and observers of the Warsaw Process are aware of this. The US and the EU need to deal with autocratic states in international relations. Ostracising their lack of democratic conduct will do little in the short term to further the interests of the US and the EU, and has not yet been indicative to change behaviour by itself. Whilst the EU and the E3 do not approve of Iran’s behaviour, their lack of enthusiasm for the Warsaw Process indicates that they do not see the US approach to go about it as the most constructive. A key advantage, therefore, of the Warsaw Process thus far is that it serves as a platform for discussion for those most adamantly critical of Iran’s behaviour. Some of the Trump Administration’s convincement that Iran was discretely circumventing its terms of the JCPOA is also attributed persuasion from Israel and the UAE.

Hence, the Warsaw Process provides an opportunity to more clearly outline which regional actors of MENA maintain which common stances in a thematically coherent structure. Their approval is de facto necessary in any peace and security orientated architecture, and putting forward their assessments – alongside their political agendas – will ensure their views are considered seriously, at least in part. After all, one of the factors which contributing to undermining the JCPOA was stern disagreement of external parties.

The Warsaw Process, or any other similar undertaking, also could give a structured insight into the variety of aspects which the incumbent US Administration attaches to what it views as the JCPOA’s shortcomings. Addressing these shortcomings could be approached through supporting regional cooperation, and in a way, a Cold-War style containment policy of Iran. The Arab League, Organisation of Islamic Cooperation (OIC), as well as the Gulf Cooperation Council (GCC) are the core international platforms for dialogue in the MENA region, with which the Warsaw Process could cooperate with. It is worth highlighting that the Warsaw Process includes countries from every continent, giving it a more global angle.

The Warsaw Process’ advantages are that it serves as a parallel to the JCPOA, it addresses the JCPOA’s shortcomings in the view of those most sceptical of Iran’s intentions, and, as Poland is also a EU state, the Warsaw Process may have some potential to be coordinated with the different views of the E3 and the EU core. When it is better built up, it would have the means as a unified stance to address Iran, the E3 and the EU, as well as Russia and China, when renegotiating the JCPOA. Each of the actors have different leverage and sets of geopolitical interests. The disadvantage, if not managed well, is that involving too many different moving parts makes it too complicated to reach an agreement at all, which was the purpose of limiting the scope of the JCPOA in the first place.

Thus, despite having received mixed reactions internationally, this could be beneficial move in the longer run, given that the next steps are carried out accordingly. There is not much stopping it from adjusting and going in the right direction.

167 Poland in the Geopolitics of the Middle East and North Africa, The Warsaw Institute Review, 09.02.2020
168 Jan Smolenski, US-led Middle East conference in Warsaw: All you need to know, Al Jazeera, 13.02.2019
TWO-LEVEL GAME THEORY

Considering some theoretical framework for perspective regarding the potential next steps forward may bring some limited, but potentially useful standpoints. Such perspective may simplify some of the now even more convoluted geopolitical dynamics in play, hopefully, without oversimplifying their very real complexities.

As is well understood, domestic policies is likely to influence the foreign policies of a country. Its foreign policies also likely influence the country’s domestic policies. Both, to certain extents and in certain situations. This core assumption is generally acknowledged as true rather widely. At its core, the concept of “two-level game theory” strives to figure out when this is the case, for what reasons is it the case, and why does it happen to the extents that it does.\(^{169}\) The two-level game theory was conceptualised by Robert Putnam, a professor at Harvard and renown political scientist, who covered an example of multilateral negotiations in 1978 on a pending trade agreement, and how it became possible politically.

The theory puts forward the notion that on Level I, the international front, the government of a state negotiates as the ‘chief negotiator’. Chief negotiators engage in discussions with one another on the matter at hand. Between these chief negotiating sides they have a set amount of things they can offer one another at the current state and time, and a set amount of things they require in return. These sets of things that can be offered, or their extents, amounts, and various combinations together, is dependent on the game in Level II.

On Level II, the domestic front, the same chief negotiators must contend with opposing voices internally. This happens generally at the same time as their negotiations on Level I. Generally speaking, the domestic voices in opposition are critical for the item being negotiated as either too lenient or too harsh. Domestically, however, there is some interest in disallowing the Level I negotiations going through as it would generally be synonymous in the public eye as a victory for the chief negotiator. However, if the matter at hand is a joint endeavour, or bipartisan, this shapes the negotiations at Level II more acutely.

Naturally, the objectives set out in the international negotiation would have to be de facto compatible with the chief negotiator’s side interests domestically.\(^{171}\) Likewise, the compromises made on the domestic front would also not likely come to pass without the pressure of the international negotiation.\(^{172}\) There are situations where it could be argued that these compromises are likely to originally occur nonetheless, despite the links between Level I and Level II. However, it is not farfetched to argue then also that with more digitally capable communication with the public opinion,\(^ {173}\) the domestic and international pressures certainly attribute to increasing the pace and scope of the negotiations.

These sets are expressed in an ‘indifference curve’. It very roughly visualises a combination of elements in a negotiation which would be equally substitutable for one another. Naturally, this is an expression of a set of elements which are not possibly expressed on such a curve at the current stage of this theoretical

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169 On a separate note, arguably deserving of its own academic paper or report, is the notion that nowhere is the potential for exploring the two-level game theory in practice better than the EU, and specifically the European Parliament.


171 Ibid.

172 Ibid.

173 Corneliu Bjola, Ilan Manor, Revisiting Putnam’s two-level game theory in the digital age: domestic digital diplomacy and the Iran nuclear deal, Cambridge Review of International Affairs Volume 31, 2018 - Issue 1, 06.06.2018, pages 3-32
framework. It is, at present, near impossible to determine which combination of elements have equal weight. Any set of indifference curve represents a select of options in a specific place and time. It must also consider the geopolitical dynamics at that situation, the degree to which they are influencing or influenced by the elements being negotiated. Altogether, the potential of the alignment between Levels I and Levels II would in concept become clear. Accordingly, certain aspects of these elements did overlap upon the signing of the JCPOA, not just between the indifference curves of the predominant actors US and Iran, but also with the indifference curves of the other signatories in the P5+1.

Consider an ‘Edgeworth box analysis’ diagram type, where both A and B at opposite corners represent the two chief negotiators of two different countries, starting respectively at points Am and Bm. These points are the most optimal and most preferential for
chief negotiators A and B, where they get everything their way. Each ‘indifference curve’, i.e. the concave curves which go from points A1 to A2 and B1 to B2, are the sets of equally acceptable trade-offs, with A1 and B1 being on Level I, and A2 and B2 being on Level II. Whilst Putnam referred to the form of measure as vote-loss and vote-gain for the trade-off for ratification of the agreement, in practise it is not limited to this extent.

A first observation of Putnam was that the larger the win-set, and hence indifference curve, the larger the possibility of agreement on Level I. Naturally, for the agreement to come through it must also overlap with the win-set on Level II. Conversely, the smaller the indifference curves, i.e., the smaller the room for manoeuvrability, the less of a chance they will overlap, and as such the less of a chance the negotiations would produce an outcome at all.

A second observation Putnam depicted was that the size of the Level II win-sets will also affect the benefits for both the chief negotiator and the domestic opposition which were gained from the negotiation taking place at Level I. After all, enough of the opposition would only agree if it was something in it for them as well.

In this, the two-level game theory would suggest that it can be, beneficial that there is internal dispute\textsuperscript{174} to surprising extents in specific situations. This internal dispute creates pressure for the government of a country, i.e. the chief negotiator, to accept some compromise on the international front, which originally may not have been desirable.\textsuperscript{175}

From this, Putnam makes notable deductions. Firstly, the win-set’s size is important. It is determined by factors at Level II; namely, how power is distributed between the chief negotiators side and the opposition side. With this, trends and preferential leanings, as well as coalitions and political blocs are also important. The second observation, following on from this, is that the size of the Level II political institutions determine the size of the win-sets. In some countries, like Germany, the Federalism gives greater autonomy to each of the Länder. In others, such as France, the French President would have greater direct control over decision making. Finally, the win-set is determined by the strategies undertaken by the chief negotiators at Level I. With regard to the chief negotiator’s strategy to tackle problems on the Level II plane, it is mostly orbital around “side-payments”. These are concessions in other matters which may not be directly relevant to the matter at hand, but is more important for the opposition. On the two-level plane, its contribution is on the degree of how likely it is to secure a ratification of the international negotiation subject at Level I.

The opening of a plane connecting Level I and Level II brings about options which were previously unavailable at solely Level I or Level II. The curve is becoming steeper where a state is becoming more divisive internally, as is in both the US and Iran. Without internal divisions in a negotiating side, it is unlikely that the foreign demands would have the same malleability to be met. However, if these internal divisions are too steep, the indifference curves might not meet. Also, the pressure from the foreign side ensures that it is even more unlikely that the internal division would tilt to favour that same direction. This is what negotiating sides faced in diplomacy leading through the JPA and into the JCPOA.

At heart, the chief negotiator, or a powerful minority in the chief negotiator circles, actually favours the outcomes on the domestic front what is being asked for on the international front. In this instance, the centrist as well as reformist voices within Iran were in favour of having a strictly non-militarised nuclear programme, as shown in their advocating domestically when it was presented as a requirement from the international front.

When bridging an agreement between two states, the perception which this theoretical lens would hence suggest is that it is more difficult to overcome the internal friction in both of those states on whether to agree with the other state. However, this comes with additional opportunities. The negotiation on two levels adds value because the other level is able to provide things for which the other was originally not able to. Deeper exploration of the theory suggests that depending size of domestic institutions\textsuperscript{176}, the flexibility of the said indifference curve can vary.

\textsuperscript{174} Alexander Wielgos, V4 in Changeful Espionage, The Warsaw Institute Review, 29.10.2019
\textsuperscript{176} Eugénia da Conceição-Heldt, Patrick A. Mello, Two-Level Games in Foreign Policy Analysis, TUM School of Governance, Technical University of Munich, 26.06.2017
Furthermore, the two-level game theory has had the public diplomacy dimension expanded and intensified with the utilisation of digital communication\textsuperscript{177}, namely Twitter. A chief negotiator uses social media to increase support internally for its foreign policy. The Obama Administration even set up a Twitter account specifically for the JCPOA, giving updates right up until the completion of his term. Similarly, opponents of the JCPOA, namely Trump, were able to directly communicate negative messages regarding the JCPOA’s flaws.

The JCPOA signatories have an influence on each other, which can be imagined in a simultaneous game between each of the JCPOA signatories on the Level I plane. As per nature of the situation, the US-Iran game would be at the centre. Each country has their own Level II plane which are susceptible to limited influence by each of the other JCPOA signatories. A key point for these indifference curves are, therefore, both Switzerland and Oman, by facilitating the communication that these indifference curves still exist. However, the lobbying from opinion making entities such as think tanks, as well as the public media outlets may be influencing these indifference curves. If the public perception was overwhelmingly leaning in one way or the other, this extends or limits the room for manoeuvrability.\textsuperscript{178}

Naturally, this is drastically different in each country, where, for example, in China, as an arguably de facto totalitarian state, would not be as responsive to change in public opinion as it would not be easily revealed.

Putnam asserts that a large part of the time, the chief negotiator is not always doing well in analysing the domestic situation in another country when considering at Level II their strategies. In this, there are 2 ways the indifference curve shifts. Firstly, the direct pressures laid out by Level II opponents. For example, on 22.05.2015, Congress passed the bill for JCPOA oversight. The immediate period of intense lobbying before signing the JCPOA in Congress signalled to Iran urgency to be more accepting as approval was thin. Khamenei opening up the decision of accepting the JCPOA on 03.09.2015 to the Majles shifted the indifference curve as well. Secondly, the indifference curve shifts when the de facto leverage is changed. For instance, before negotiations began, the US and Israeli cyber operation dubbed ‘Operation Olympic Games’ was launched. In 2010 and 2011, a virus dubbed ‘STUXNET’ invaded computers controlling centrifuges in Iran, causing them to spin out of control and subsequently be damaged. Iran’s nuclear programme was slowed, thus changing the leverage it previously had.

\textsuperscript{177} Corneliu Bjola, Ilan Manor, Revisiting Putnam’s two-level game theory in the digital age: domestic digital diplomacy and the Iran nuclear deal, Cambridge Review of International Affairs Volume 31, 2018 - Issue 1, 06.062018, pages 3-32

\textsuperscript{178} Eugénia da Conceição-Heldt, Patrick A. Mello, Two-Level Games in Foreign Policy Analysis, TUM School of Governance, Technical University of Munich, 28.06.2017
One of the largest obstacles to a renewed agreement, some form of de-escalation, or something which contributes to a more genuine peace, is that there are some actors for whom tensions or conflict are more beneficial than the peace. The next step forward would need to take into account those for whom it is not the case, and will actively counteract it accordingly.

The chief negotiator almost always benefits from external boogeymen at Level I, at the international level, as it amplifies the importance of the role the chief negotiator plays. It solidifies the legitimacy of the chief negotiator as a defender of the country. For the opposition at Level II, where there exists competition against the chief negotiator, it can be beneficial to a certain extent to undermine the way the chief negotiator is handling the threat posed by the external actor on Level I. If the chief negotiator is reaching for an agreement at Level I, the domestic opposition may undermine the chief negotiator by emphasising how he or she is under-estimating the threat. Alternatively, the opposition at Level II could suggest that the threat posed by the external actor of Level I is being exaggerated, and the chief negotiator is exploiting the situation to inauthentically strengthen their own legitimacy. This one way of looking at the tug-of-war which takes place simultaneously in each state.

The ongoing tragic COVID-19 pandemic is indubitably revealing much about attitudes of these states, the way they handle crises, and their tendencies for authentic or inauthentic approaches. Ostensibly, much depends on the attitudes and actions of Iran and the US. Just as much, perhaps, depends on the EU and E3, and their management of relations with Iran and the US. However, the other P5+1, Oman, Switzerland, and perhaps some CEE states may too have a say.

At the time of writing this report, it is difficult to confidently state that the potential prospects of repairing and replacing the JCPOA against its complete abandonment have been weighed comprehensively in the public sphere by the international community. However, attempting to figure what might come next for the JCPOA whilst considering the abovementioned factors is imperative. Each scenario ought to be considered first, through what circumstances or means it could occur, and second, what the scenario may look like if it were to occur.

6.1 SCENARIO 1: ABANDONMENT

The first scenario is the complete abandonment JCPOA with nothing in its stead. It would have to be a conscious decision by each of the P5+1 signatories – including the US which has withdrawn – to not make a decision about intervening to change this course.

One of the factors attributing to an absence in changing this course is that there is something to self-fulfilling prophecies. The continual insisting that the JCPOA is dead as an attempt to prove the validity of the rhetoric, is likely to contribute in some way to the realisation of problems that could actually make it dead. Every time this rhetoric is repeated to policy-makers and opinion-shaping institutions, it raises the risk that it would become automatically accepted as the de facto state of affairs, given that considerable progress is not made otherwise.

A potential scenario where this could be manifested in plain sight is upon the exhaustion the DRM with the P4+1, which would reach Step 6. This means that the next few Joint Commission talks would break
down, potentially on the basis that conversations between the EU and Iran are not positive. In such a case, a platform of communication and negotiation ceases to function, wasting a unique opportunity to find compromises on which each of the P4+1 and Iran could agree. For the E3 which invoked the DRM, there is a limit to how far Iran can continue to make breaches. At the least, Iran would need to recognise that the EU would be owed some incremental reversals on the reversible breaches it has made declaratively, specifically with regard to enrichment and ballistic missile testing.

If the current trajectory is indeed towards JCPOA collapse, aspects which contribute to it are inherently circular. Staunch demands made by the US are unlikely to be acquiesced to without regime change in Iran. Yet, the current strategy is unlikely to result in regime change in Iran. Hence, as the US continues a stance lacking compromise, which leads Iran to continue its breaches. As demonstrated in the last year, Iran is capable of quickly producing LEU despite the sanctions, with now over 1000 kg, and numerous advanced centrifuges activated and running. Russia and China oppose a militarisation of Iran’s nuclear programme. That said, many of numerous steps still needed before a warhead is within reach can be used as additional leverage against the US but also the EU. In a situation where the DRM ‘snapback’ is sprung into effect, the JCPOA becomes de facto redundant – if not terminated formally otherwise. Iran even contends that the E3 triggered the DRM, stating that Iran did so in a letter on 06.11.2019, and that the E3 are not meeting their obligations with this.

In the event the JCPOA does fall apart, Iran’s missile programme will likely accelerate development. Iran would then strive to supply allies in the region and its proxies with some of these missiles. This would be a clear signal to the US that Iran is aiming to raise its leverage. A focus could be to secure the passageway from Iran through Iraq, Syria, and then into Lebanon, adding substantial threats to Israel. As such, support for Hamas and Hezbollah is likely to increase, increasing the probability for escalation with Israel. With this, Israel’s more hawkish politicians would gain momentum in Knesset debates, who have been arguing that war with Iran is inevitable, and so pre-emptive strikes make sense. Most particularly after Soleimani’s assassination, the US and NATO Allies in
the MENA region ought to be wary of asymmetric retaliation, most notably in Iraq. This would mean busy days for the Swiss Embassy in Tehran. However, China might not be too happy about seeing Chinese missiles fired by Houthis, as was the case previously with the anti-ship C-802 cruise missile\(^{179}\) fired at a UAE ship. How China and Iran discuss such actions, and other Iranian activity in the MENA region, remains uncertain.

In turn, the US may ramp up sanctions even more aggressively, building on from EO 13871, EO 13876, and EO 13902. In context of the ongoing COVID-19 pandemic, humanitarian organisations would continue to be reluctant to help Iran in fear of US retaliation, considering all the wide-ranging technicalities. At first, Iran will continue to suffer economically, but then slowly learn to diversify its economic ties. The situation is not the same in 2012, when the UN, EU, and the US each together had sanctions in place. This gives some indication that Iran’s more conservative politicians could assess that the situation in the near future would not be drastically different in withdrawing from the JCPOA than in staying. If Iran becomes considerably threatened by its geopolitical rivals or the Iranian government’s legitimacy is in danger, Iran’s more aggressive behaviour in the MENA region could destabilise the diplomatic efforts in the JCPOA. This does not mean Iran will pursue weaponization of its nuclear programme, but Iran’s actions would declaratively assert that it has some options.

With each of the UN sanctions from UNSC Resolution 2231 being re-instated, Iran will need support from Russia’s EAEU and China’s BRI, as well as a flow of conventional military hardware. In a situation without a JCPOA, the most important element would be bridging disagreements between the US and the E3 that Russia and China strive to take advantage of. How the E3 approach Russia and China, will be one of the factors determining the degree of polarisation on the global arena, and it is a key worry for CEE states, including Poland. Russia and China helping to secure Iran’s trading and energy sectors might be more determined by their relations with the US outside of the JCPOA. How arms sales to Iran will be complicated by the DRM ‘snapback’ is disputable, as it could mean a distinct arms embargo on Iran. This is important as Russia has expressed readiness to supply Iran with conventional weaponry from the expiry on 18.10.2020.

It is plausible that both the US and Iran would assume their negotiating leverage has increased should any negotiation be sought in the future. The situation would become even more reliant on Switzerland and Oman’s interlocutors. The E3’s efforts to keep the JCPOA afloat would have gone in vain, and send mixed signals at best to other potential partners in cooperation on the status quo. The outcome would hence depend on what the EU and E3 choose to do or not do. The deduction could therefore be that the situation is not beyond the control of the EU and E3.

### 6.2 SCENARIO 2: REPAIRING

Hence, in a second scenario, the JCPOA would be repaired before it has a chance to collapse. Assuming the polarisation between the US and Iran will not subdue, the focus would be on Switzerland and Oman, the EU and the E3, and potentially, some actors in the MENA region. With regard to timing, elections in both the US and Iran might be a window of opportunity, regardless of the winning candidates.

Shuttle diplomacy from Switzerland and Oman is a channel which ought to continue functioning. In the beginning in 2009, the back-channel via Oman revealed that negotiations on releasing hikers established the mechanism which would eventually be used to materialise the pre-JPA negotiations in Oman. Now it is possible to use those same Embassies, as well as US contact points with the P4+1 between Joint Commission meetings to negotiate the additional factors in US-Iranian tensions.

The majority within Iran’s Majles and other tight leadership circles support the idea that Iran being in the international community and member to the NPT is more beneficial for Iran’s security. However, this has undergone a shift, and the idea that Iran may be stronger by opting out of the JCPOA and NPT has made a return in the Majles. US sanctions, international isolation to a limited extent, and erosion...
in public trust which worsened with the response to the COVID-19 pandemic, are also felt in sectarian tensions across the MENA region. Hence, a window for rapprochement would be, therefore, through a humanitarian prism. At present, even humanitarian and non-sanctioned firms withdraw from activity with Iran as the technicalities cause fear of crossing into sanctioned activity. If the backchannels and humanitarian context do not suffice, the EU ought to help bridge these, as well as continuing EU efforts in the DRM and INSTEX. For instance, an EU-led humanitarian aid programme could include US NGOs as a trust building step that the scope of INSTEX can be adjusted.

There is also a window of opportunity with regard to timing. Regardless of which candidate wins the US elections in November 2020, it will be a turning point. The foreign policy of Trump in a second term or a Democrat in a first would look different than that at present. However, it is difficult to predict the foreign policy of Iran after the Presidential elections in 2021, which typically take place in late May or early June. Rouhani cannot run again and Zarif has stated he will not. That said, whoever does win will need to be convinced that the JCPOA is worth staying in. Electoral campaigns in the coming months will be indicative, and likely to be responsive to developments with the DRM. It is possible to buy enough time, despite the DRM countdown having already started, as it would require any of the P4+1 to assert Iran has become non-compliant, rather than just a problem being discussed. Rapprochement for the JCPOA would benefit from states which are closely aligned with the US, such as Poland, and its efforts in the Warsaw Process, to also contribute to shuttling.

Though, regardless of the communication means and timing, if the message from Iran to the US or from the US to Iran is not tempting, it would not make a difference. As such, a daunting task would be to communicate that that some parts are not renegotiable, others might be, and that meeting could be the way to determine which are which. With regard to US contact with the E3 in context of the DRM, an incentive for the US to lower preconditions with renegotiating a JCPOA is the observation of China’s and Russia’s opportunistic support to Iran. The EU and US could strive to arrange the repaired JCPOA in such a way that it would benefit the EU and US more than China. This would require a careful selection of US sanctions which could be reversed, and which are maintained. The US would have to consider which, if any, of EO 13902, EO 13876, EO 13871, and EO 13846, which withdrew the US in the first place, can potentially be subject to amendments in future EOs. An additional obstacle is Russia, which asserted the JCPOA is not up for renegotiation. It is likely that both the E3 and Iran would be needed to convince Russia to agree to return to the negotiating table.

There is vast different between disagreement with the US, and going rogue on the international arena, and Iran is likely taking this into their calculus. Indeed the uptick in Iran’s nuclear programme activity can be attributed to the 2005 to 2012 period of increased sanctions, both unilateral and internationally coherent, as well as those focused on the nuclear programme and those beyond it. When Iran was at its closest to acquiring militarisation of its nuclear programme with 20% or possibly up to 27% enrichment, Iran chose instead to enter negotiations and forfeit such an option. Policy-makers also contemplate whether Iran would be more or less included to rescind to such a nuclear policy direction upon the expirations in 2025 and 2030, and the prospects for an updated negotiation leading up to that period.

In an observing capacity, results from the Warsaw Process Working Groups could give some idea on some specific clauses to be added in a repaired version of the JCPOA. The policy-makers would then consider if it is feasible to even add non-binding clauses regarding Iran’s proxies to the JCPOA. It ought to be recognised that Iran does not necessarily have absolute control over each of the proxies it is affiliated with. This would be exploited by Iran’s rivals. However, Iran is responsible for empowering them, and in some cases directly instructing them. Hence, if the idea were to be explored, these are the groups and individuals that ought to be the subject of these clauses. Beyond proxy support, the other thematic Working Group focuses could also be explored.
As a trust building measure, a test arrangement could be made for one specific proxy group. Previous experience in the US and Iran coordinating to avoid each other in Iraq, for instance, could serve as some example. Iraq could benefit from less intervention from both Iran and the US. It is a delicate move, as realistically Iran would need to present it as an action that is not betraying its allies, regardless of whether it actually would be. A state which could be consulted is the UAE, which has pragmatically slightly improved relations with Iran, or Qatar – both of whom do not get along since the 05.06.2017 blockade.

By tying in the sanctions relief on the nuclear programme with the missile programme and proxy activities, Iran could be rewarded for enforcing limitations on those 3 areas. The economic rewards would need to be presented as a just alternative to the more sceptical members of US Congress. This would be accompanied by Iran slowly reintegrating into the international community, considering that in the MENA region, Iran is not isolated, but neither does it enjoy a very friendly neighbourhood. For the US, repairing the JCPOA could be considered a foreign policy success, which is needed to demonstrate it is a more competent leader on the world stage than China is.

Punishing Iran for allowing terrorist conduct from its proxies as part of a new JCPOA can work. However, it may need to be linked also to rewarding Iran actively striving to halt terrorist conduct from those proxies – something Iran should be doing anyway. Hence, the punishments need to be severe, and the rewards minimal. Together, it may change the tone of the relationship between Iran and groups like Hezbollah, Hashd, the Houthis, or Hamas. Figuring out the difference between terrorism and geopolitical competition is another factor. It would be extremely difficult to agree on even a non-binding mechanism on this in practise. It would also require each of the P5+1 to be as adamantly coherent as they were with sanctions in 2012, which is unlikely to be the case in many areas, such as Syria.

Bridging the disagreements between Russia and China on one side and the US on the other is something that the EU, the E3, and perhaps the Warsaw Process could do. Considering Iran’s ideological drive in its foreign policy, the P5+1 would need to assert that political support in lieu of material armament support is a better option for Iran. Iran is unlikely to halt political support for Hezbollah or Hamas at all.

Additionally, the question of ballistic and cruise missiles would need to be addressed more specifically, and to address new technologies in Iran’s space programme. A deal which could exchange offensive capabilities for purely defensive capabilities could be considered. It would not be the same as having civilian inspectors of a nuclear programme, and oversight would be far more restricted. Furthermore, a repaired JCPOA would also require Iran to clearly separate the civilian and military parts of its economy. Civilians would need to be protected from harm as a result of disagreements on foreign policy, such as in the time of the ongoing pandemic. Iran ought to recognise this does not work in limiting sanctions on it. This would require some agreement between the US and the EU on the INSTEX’s scope.

Finally, the new version of the JCPOA may require more thought-out back-ups, learning from the US withdrawal. For instance, Iran may be admitted to the SCO if the attitude for multilateral cooperation was there. However, that would leave dissuasion against militarising the nuclear programme up to China and Russia, which could use it as geopolitical leverage against the US and the EU. To prevent such a scenario, both the US and Iran would need to be convinced the JCPOA is a better alternative.

A return to negotiations for the JCPOA would need to be presentable as a victory for both the US and to Iran for their respective domestic audiences. It would also certainly be a needed win for the EU and E3 as well as Oman and Switzerland. At the end of the day, a return to diplomacy over open conflict is exactly that.
6.3 SCENARIO 3: REPLACEMENT

If the JCPOA cannot be repaired in a way so that it will stand, it would remain in a limbo into the foreseeable future. But the JCPOA in limbo is not the same as a repaired JCPOA. If the JCPOA does remain in limbo, or becomes de facto defunct, replacement agreement might be a way out – whether de facto or de jure.

The key question from Iran’s perspective that would remain is whether or not militarising its nuclear programme is in Iran’s interest of improving its position. The majority of decision-makers have long reiterated that an Iran with a nuclear weapon makes neither Iran safer, nor the MENA region more stable. Thus, Iran’s nuclear activity has really been leverage in negotiation which it desperately needs. Weighing its options, Iran’s leadership decided that the trade-off between international isolation with sanctions is not better than having a nuclear weapon, and opted for the JCPOA. If the JCPOA will not hold, the agreement that comes in its stead will face challenges from the irreversible shifts that could have taken place since its termination. Opportunities to recreate what would become the first draft of the JCPOA could also emerge.

If neither the upcoming Presidential elections in US nor Iran have an impact on the JCPOA, and if US-Iranian rapprochement efforts stagnate, policy-makers are forced to look for alternatives. What remains to be seen is whether a replacement agreement would be better off if the JCPOA in limbo remained, or whether it would be declared as redundant.

In a situation where the JCPOA remains in limbo, for example via the DRM, the EU and E3 need to buy time to keep it this way. Oman and Switzerland need to continue to work the backchannel to avoid escalation. Meanwhile, dialogue through a different platform would be necessary to bridge US and Iran. Over 07-08.01.2020, the Tehran Dialogue Forum took place, which featured a surprising high-level guest list from the MENA and South Central Asia regions. In it, Rouhani promoted his ‘Hormuz Peace Endeavour’ (HOPE) initiative, an idea hinted at since the UNGA in 2013, pertaining to non-interference and collective security. If the notion is genuine, considering Iranian malign influence is a source of contention, it may crucially signal some willingness to refrain from it, if other states do the same. If not, it could be just hypocrisy.

Beyond Iranian media, it was mute in international media due to Iran’s own extremely strict foreign correspondent restrictions. No media statement mentions any detailed conversation or concrete follow-up plans in the event. Notably, some countries had attended both the Tehran Dialogue Forum as well as the Warsaw Process Ministerial. Hence, together with longstanding regional platforms in the OIC, GCC, and Arab League, there are some options. For example, summits that take place one after another are generally a simple way to transfer messages across. However, if proposals regarding regional cooperation are linked to argument that the MENA region is better off without nuclear weapons, it would inevitably open the pandora’s box on the status of Israel’s controversial nuclear warhead arsenal. Other attempts to address the question of Iran’s place in the MENA region would be vulnerable to proactive measures in context of the Egypt-UAE-Saudi triangle and the Turkey-Qatar-Muslim Brotherhood triangle on the other side.

Nevertheless, there are options of an agreement to emerge from these aforementioned 5 different factors whilst the JCPOA remains. Some prospects pertaining to fixing the shortcomings of the JCPOA could be initiated with steps on an independent case-by-case basis. For instance, confidence building measures such as discussions on the territorial dispute between the UAE and Iran can be a starting point. This would have to be a small agreement with binding resolutions, the symbolism of which does build foundations for future agreements. Then, larger steps could be taken, such as discussing on what terms Iran would agree to persuading the Houthis to accept lesser political representation in a unified Yemeni government after the war is concluded.

At present, it is most likely up to Oman and Switzerland to keep the backchannel open. A separate agreement to the JCPOA would have to cover at least some of the parts which the JCPOA lacks.
That said, it would also have to cover some of the parts which it does not. A replacement JCPOA could be much more simpler and straightforward than the jargon in the present version. However, because of the succinct complexities, degree of deniability, many of these elements might be non-binding. Another factor which would need to be addressed is whether or not Russia and China need to be included in this new separate agreement, which opens the question of enshrining it through the UNSC or not. Whether an agreement by itself would be enough to compensate for the JCPOA’s shortcomings is disputable.

Using the example of the Warsaw Process, its Working Groups’ outcomes have made some thematically-arranged declarations about Iran without Iran. The effectiveness of these outcomes can give some insight into how non-binding resolutions improve regional cooperation, and to what extent it impacts the situation in the MENA region. If the Warsaw Process is able to present a coherent stance from those most critical of Iran, what its participants do next with it is important. If it continues to purposefully exclude Iran, then the message is conveyed indirectly. It is difficult to guess how clearly Iran understands this message. However, if the participants of the Warsaw Process chose to convey the message directly, it could decrease the number of potential misunderstandings of intent. In such a stage, the participants of the Warsaw Process ought to present to Iran requests for a change in policy. Facing with a large array of actors in a joint statement creates pressure.

If the direct approach is not preferable, existing mechanisms from the JCPOA can be used to convey the proposals. It would require the E3 and EU to know that their roles are not being replaced or diminished in such an arrangement – they are being assisted. Then, the means for Iran to create a counter-proposal, perhaps with something like the Tehran Dialogue Forum. The counter-proposal may likely be delivered in the same way as the proposal. Hence, direct negotiations between Iran and the US are preferable. But thus far Iran has refuted the idea of renegotiating the JCPOA, and so, if these indirect means are needed first, then it is important they occur. If negotiations begin, then the means to go for a replacement agreement also exist. It might even have parts that at one point have a clear mechanism for decision making, as the DRM does, and in the future become legally-binding decisions.

If the above options do prove fruitful, it would then need to be politically compatible with the Level II situations in both the US and Iran at a minimum. For it to be called the JCPOA 2, it would need each of the signatories of the original JCPOA in agreement, and to appeal for supporters of the JCPOA. If the name were to be different, it would appeal to critics of the JCPOA. To supporters of the JCPOA, they would need assurance that this is just a facelift, and most parts are still rather similar. With high tensions, it is difficult to comfortably state that time is on our side. With regard to the more distant potential turning points, the new Council of Experts will be elected and appointed in 2024, coinciding also with Presidential Elections in the US. If the Supreme Leader of Iran were to change in this time, it would also mark some turning point in Iran’s foreign policy.

As such, a replacement agreement may be a cosmetic remake of the JCPOA to make it more politically compatible with today’s situation, announcing its realisation at a carefully selected time. Most importantly, some technical aspects need to be sturdy enough so they will not be changed, and others need to be flexible enough to be changed at later stages. In this way, the replacement agreement could survive changes in leadership in both the US and in Iran. The technical aspects will likely cover both Iran’s nuclear and missile programme, and touch on elements laid out in the Warsaw Process such as proxy groups. However, it is also worth considering laying out an understanding for future technologies and situations that are not predictable at present. The risk is they must be defined well enough, and with means of comfortably readjusting them in the future. In the event a JCPOA 2 collapses, it is unlikely there would ever be a JCPOA 3.
6.4 SCENARIO 4: COMBINING

In a fourth scenario, policy-makers could pursue a clever combination of both repairing the JCPOA and replacing it. Though, it is also likely to be the most difficult option to construe and uphold. Because it includes both, the means of bridging conversation could be similar to those described in both repairing (Part 6.2) and replacing (Part 6.3) the JCPOA. What could be deducted from those, however, is that a combination where a repaired binding JCPOA is directly linked to a new accompanying non-binding agreement may be the best feasible option.

Firstly, between the US Presidential elections in November 2020 or Inauguration January 2021, and Iranian Presidential elections in May or June 2021, there is a window in which is key to make just enough progress. In this, prospects that it is possible to resolve the situation by this time need to be more promising. That said, there really is not much time left.

Secondly, as such, the DRM platform for the P4+1 to buy time needs leadership from the EU and E3. There is pressure for small, tangible results from INSTEX, STFI and the ‘credit line’, most likely in that order. Preferably, it would be done with some consultation with the US as not to harm relations, but firmly enough so that the EU asserts foreign policy independence. This is the signal needed to be seen by Russia and China.

Thirdly, the basis for the accompanying agreement needs to consolidate. For the sake of example, the US and Poland-led Warsaw Process might be in one of the better positions to take into consideration viewpoints on the spectrum of Iranian malign activities from the OIC, GCC, and Arab League members, as well as those who attended the Tehran Dialogue Forum. What is needed is a coherent stance that can be presented to Iran, receive counter-proposals, and exercise a decision-making mechanism. At this stage, it would be beneficial to create a list of proposals, which could then become a non-binding agreement. A core prospect of non-interference outlined in HOPE could be useful, or even crucial, given that there are means for it to be more than just pleasant remarks.

Fourthly, the Swiss and Omani backchannels are needed to intensify their shuttling, if it is not happening already anyway. Whether publicly or secretly, there needs to be some de facto signal of willingness to return to the negotiating table for the US and Iran. Because the messages between the US and Iran passed through the backchannel are more concrete and calm, the messages could go beyond only de-escalating, and into first steps for renegotiating.

Fifthly, perhaps most importantly, both the US and Iran need to accept that the future arrangement will have clauses which are unchangeable, and clauses which may be renegotiated in the future. The clauses which are unchangeable would need to survive changes in leadership in both the US and Iran. The clauses which are up for renegotiation in the future will allow the JCPOA to be updated without an escalation in tensions, and to be done in good-faith. The correct combination of immovable and flexible clauses will allow the JCPOA to survive changes in US and Iranian leadership in the midst of geopolitical competition. This also encourages to return to the negotiating table in the event of future disagreements, which will occur, rather than unilateral and destabilising actions that cost lives.

Sixthly, and building on from the backchannels, is the prospect taking into consideration the humanitarian angle, which actually has some precedent. On 26.12.2003, a massive earthquake hit Iran around Bam, tragically killing over 26 000 people. Whilst tensions were high between the US and Iran then as well, the US offered humanitarian assistance, which Iran accepted. Both sides accused one another of politicising the ordeal. Nevertheless, the experience with international humanitarian aid workers was a small step towards Iran agreeing to the idea of IAEA inspectors.

Unfortunately, it still remains to be seen if a similar feat could be achieved in the midst of the COVID-19 pandemic. Indeed, the mishandling of the crisis revealed that Iran needs the expertise it had squandered in favour for ideological loyalty.
The Iranian government’s response to halting flights with China has not only been slow, it has been outright deceptive, endangering many more civilians in Iran and the MENA region. The credibility of the Iranian government to Iranian citizens becomes increasingly shaky. This makes the government more likely to be more aggressive, not less. Acknowledgement of failures, as Iran did with the downed airliner, are difficult but necessary steps. It is also worth mentioning, that this in part also reflects Iran’s growing reliance on China.

Nevertheless, the EU and the US need to firstly lead by example by tackling the pandemic domestically with outright successes and learning from shortcomings. Then, reaching out in a time of crisis does remarkable amount of good with minimum or no costs of backlash domestically at Level II, most of the time. If the EU or the US could manage the crisis at home quicker, and then reach out with a humanitarian mission to Iran before China or Russia do, the message would be powerful.

Considering the above-mentioned 6 components, it ought to be highlight that these do not need to be immaculately perfect, they just need to be good enough. In such a combination, the elements of the repaired JCPOA listed in Part 6.2 do not need to be as extensive because of the existence of the accompanying agreement. The accompanying agreement, in turn, whose characteristics were laid out in Part 6.3, do not need to be so comprehensive.

In essence, the reparation of the JCPOA needs to be led by the EU, consulted closely with Iran through the DRM. Its objective would be to win the agreement of the US, who opted out of the JCPOA. The creation of the accompanying agreement, such as via the Warsaw Process, needs to be led by the US, and consulted closely with Iran’s geopolitical rivals, so that they are happy with it. Its objective would be to win the agreement of Iran, who thus far has refuted renegotiating the JCPOA. Put together, repairing the JCPOA is the main objective, and the Warsaw Process contribution is the auxiliary mechanism.

It would be best if the US re-joined the repaired version of the JCPOA. However, if this is not possible immediately, the US leadership in the Warsaw Process agreements would be the focal point of first steps in re-bridging. The members of the Warsaw Process would need to come up with a proposal, and put forward a set of demands to Iran, knowing that this will later be tied to the JCPOA in some way.

In turn, Iran would have to be offered a counter-argument, a counter-proposal, or alternatively to offer its own set of demands. It could be encouraged that this is done after consulting with other states in a follow-up to the Tehran Dialogue Forum. Some incremental progress needs to be made here. For a first instance, with a legally-binding solution to the UAE-Iran territorial dispute (perhaps via the ICJ), as trust-building measures. In a situation where Iran refutes considering such options would be unhelpful, but it would be indicative to the P4+1 of the need to ramp up their pressure coherently.

Whether the P4+1 and Iran reach out to the US first or vice versa does make a difference, but both are far better options than no one reaching out to anyone. Anticipating the demands, whether communicated directly or indirectly, from the Warsaw Process proposals, the P4+1 and Iran also need a coherent stance. The ‘regular’ Joint Commission meetings and those part of the DRM seem to be a reliable focal point for this. They would need to agree first, on what Iran would be willing to change in the JCPOA in itself, and second, on what could be agreeable in the notions from the Warsaw Process Working Groups.

With regard to Iran’s nuclear programme, it may be the case that changes are purely cosmetic, or different terms are set with sunset clauses. However, the clauses pertaining to Iran’s ballistic missile programme will have to be different and based on authentic compromise. The changes in the JCPOA would be binding, and the agreements in the Warsaw Process proposals could non-binding be in the form of a general understanding, but some smaller legally-binding trust-measures should be present. Both of these together will then address in some way at least parts of the contention, i.e. the nuclear programme, the ballistic missile programme, and the proxy support and other thematic malign activities.

Notably, previous experience between Iran and the US avoiding each other in Iraq would be crucial here as a precedent. If some the of the Warsaw Process proposals could be accepted by Iran, it ought to then
be directly linked to the JCPOA. When this happens, it could provide the means for the P4+1 to then welcome back the US, and resume functionality in the JCPOA as the P5+1 thereafter.

What is happening in this overly optimistic hypothetical situation is essentially a negotiation, but instead of a negotiation between 2 states, it has expanded into 2 wider sides. On one side, the P4+1 and Iran defending the JCPOA, and one the other side, the US and Iran’s geopolitical rivals defending the proposals that emerge from the Warsaw Process. On the Level I in this instance, the chief negotiators are less clearly defined, but it still is orbital around the US and Iran as the key parties that need to be convinced into agreement. Level II, in this instance, rather than their domestic opposition, regards to the other states in their respective circles. That is, for Iran it is the debates with the P4+1, and for the US, it is the debates with Iran’s geopolitical rivals.

The optimal end result from this hypothetical situation would be updated binding clauses in the repaired JCPOA, that would feature the P5+1 again, and an accompanying non-binding agreement, with small binding elements from the Warsaw Process, that helps keep the JCPOA in check. A key fragile point, but also potentially uniting point, is how both the Warsaw Process and the repaired JCPOA efforts approach Iran’s missile programme. If Iran can be convinced that it is in its interest to reduce the capriciousness of certain non-state actor allies, it might be just enough for a starting basis of this combination to work.

Evidently, there are a lot of unstable parts, and so deliberate attempts to sabotage the rapprochement should be recognised and exposed plainly. For the US to re-join the JCPOA, the rhetoric as a foreign policy win as well as retreat from the MENA region needs to survive the debates in Congress. For Iran, the rhetoric needs to vibe well in the Guardian Council and now more conservative Majles. Other options, such as considering bringing another MENA state into the JCPOA – for example, Qatar after hosting US-Taliban negotiations – would also have to carefully consider the its rivalries, as Qatar has with the UAE and Saudi Arabia.

These more complicated sets of ideas tackle the traditional, simple problem of preventing Iran from obtaining nuclear weapons and how to go about it. The traditional debate argues that if the US conducted a military strike on Iran’s nuclear facilities, it would hinder their progress. Then, alternative hidden facilities in Iran could be used which could militarise its nuclear programme. Iran’s government would then seek to retaliate in a far more aggressive and unpredictable manner. If the relations between the EU and Iran deteriorate, Iran’s deterrence might even at some point include the threat of obtaining nuclear weapons, given that Russia and China do not strive to stop Iran from doing so. The other way to impede Iran’s militarisation of its nuclear programme was to permit civilian use of the nuclear programme with the agreement of the Iranian government, whilst maintaining oversight of the UN and IAEA. Even if this does not fully stop Iran from using secret facilities elsewhere - which it should – it could arguably make it harder for Iran to use those secret facilities without revealing activity there. US sanctions alone are not altering Iran’s calculus enough. Iran is more proactive in the MENA region, not less. At the same time, it is worth noting, several of the elements giving Iran added leverage had been attained through clandestine operationality, supporting groups that conduct terrorist activities – things that Iran should not be doing in the first place.

At present, in light of the pandemic crisis, and in the near future between both Presidential elections, could also be the right time for rapprochement. Iran would be less rigid in its demands. After all, another element which was likely to persuade Iran to the backchannel negotiations was STUXNET. It showed that its nuclear programme would be targeted, either through diplomacy or through sabotage. Also, the US included Israel in the STUXNET operation as to dissuade it from launching an airstrike on Iran’s nuclear facilities. Indeed, Obama ramped up sanctions and pressure with the support of international cohesion – and EU sanctions – even before his second term, when the backchannel began.
Alternatively, other ideas include that, as the US seeks to withdraw from Afghanistan, and Iran seeks to remain in the JCPOA, separate side agreements on specific measures on keeping the Taliban in check could be made. Of course, it would need to be done with the agreement of the Afghan government. However, it is worth noting caution is needed, as Iran has used Afghan refugees to recruit in Shia paramilitary groups fighting in Syria and Iraq. Negotiations to address this problem could be facilitated by the JCPOA renegotiations. Absent discussions in good faith, Iran is likely to deny the extent of its material support for these proxy groups. This would substantially impede progress in the discussions.

At the end of the day, it would certainly be optimal if the EU came with the proactive approach in formulating a repaired JCPOA and accompanying agreement. Moreover, it would exacerbate differences between Iran and Russia in the MENA region. Finally, the repaired JCPOA would continue to focus on Iran’s nuclear and missile programmes. The Warsaw Process agreement would focus on Iran’s missile programme, proxy network, and other clandestine activity in the MENA region. Ensuring the missile programme is on both is paramount. The success of this arrangement could be determined by the ability to carefully designate rigid and flexible clauses, as well as linking binding and non-binding clauses.
CONCLUSION

What comes next for the JCPOA has global repercussions on the geopolitical status quo on the international arena. It is also a grand opportunity – even in the condition in which it is today – to showcase tangible positive outcomes that come with cooperation rather than hostility.

There are 4 possible next scenarios for the JCPOA. Firstly, in its abandonment, it is not farfetched to argue that mitigating upticks in hostilities between the US and Iran in the MENA region will be solely reliant on the Omani and Swiss backchannels to avoid conflict. The opportunism of China and Russia would in essence create 2 blocs in the post-JCPOA order. China and Russia may be tempted to use their influence over Iran’s policies as leverage against the US and EU. The JCPOA would be abandoned should all Steps of the DRM procedure be exhausted, resulting in Iran being referred to the UNSC and triggering the ‘snapback’ of sanctions.

Secondly, a reparation of the JCPOA would be more comprehensive and complicated than its original draft. There is a window of opportunity between the US presidential elections and the Iranian presidential elections to make enough progress to keep the JCPOA alive. Changes to the nuclear dimension are likely to be minor, though the missile programme would need some legally-binding and some non-binding aspects. It could also benefit from a reward or punish system for Iran curbing proxies it does factually have links to, without this being exploited by rebranded groups or by geopolitical rivals.

Thirdly, striving to replace the JCPOA with a new agreement in the event that the JCPOA either remains in limbo or becomes defunct, would reveal that building alternatives quickly can prove to be difficult. Regional initiatives that are more critical of Iran, such as the Warsaw Process, may build fundamental blocks that could develop into a decision making platform – with or without Iran. It would also need to be consulted with the OIC, GCC, and Arab League. Iran’s HOPE initiative would also need to demonstrate weight behind the idea. In this situation, some means for coming to an agreement exist. That said, if the JCPOA were to be replaced by a JCPOA 2, it would need support of each of the original P5+1 signatories.

Fourthly, and finally, it would seem that a scenario in which the JCPOA is repaired and is linked to an accompanying agreement has considerable potential. It would also be option the most vulnerable to sabotage with that many moving parts. The repaired JCPOA could be bridged with proposals put forward from the Warsaw Process. The JCPOA would remain a legally-binding agreement, amended with some binding parts regarding the missile programme, and a reference to the hypothetical agreement made with the Warsaw Process signatories. The proposals and Iran’s counter-proposals would pertain to the Working Group themes – including Iran’s support for proxies. The hypothetical Warsaw Process agreement could be a general non-binding understanding, with small, good-faith, binding elements. In a favourable outcome, the US re-joins the JCPOA and the P5+1 continue functionality. There is a need for backup measures in this arrangement. These backup measures need rigidity so that some aspects cannot be changed in in the near future. Other aspects need to be flexible enough so that they can be renegotiated in the near future without sour feelings. This way, the arrangement can survive changes in leadership in both Iran and the US.

A complex solution with many unstable parts will be necessary if a simpler solution cannot be found or materialised. Whether this is done by successfully repairing the JCPOA, formulating a replacement agreement, or a clever combination of updating the JCPOA and tying it to a separate accompanying agreement, depends largely on the political will of the P5+1 and other aforementioned parties.
The ‘two-level game theory’ illuminated some dimensions of the negotiations, and why they are so difficult in not only reaching, but also maintaining. On both sides, the ‘chief negotiator’ debates with the other chief negotiator internationally, on Level I, as discussions between state representatives. Both chief negotiators simultaneously also contend with their domestic opposition, on Level II. The dynamics of Level I and Level II impact each other in various ways and to various extents, and the applicability of this was seen acutely throughout the JCPOA’s inception and following debacles. Furthermore, the JCPOA signatories had invaluable help in the early stages of what became the JPA and then JCPOA, namely by means of reliable backchannels initiated and facilitated by Oman and Switzerland. These were also instrumental in de-escalation after the most recent uptick in tensions. The Warsaw Process Working Group themes – countering terrorism and illicit finance, missile non-proliferation, maritime and aviation security, cybersecurity, energy security, humanitarian issues and refugees, and human rights – provide ample opportunity for asserting a coherent stance.

The JCPOA’s viability and relevant geopolitical interests of its signatories had aligned the because a sufficient proportion of factors in diplomacy and foreign policy for the parties involved. Examining the geopolitical convergencies between Iran and the other signatories alongside the JCPOA, it is evident that their interests are no longer entirely separable from the future of the JCPOA. There is little indication that political winds are returning to the idea that the JCPOA should be distinctly focused on Iran’s nuclear programme and corresponding sanctions relief from anything else is viable.

The DRM’s activation has triggered the countdown for what will happen next for the JCPOA. At its heart, the JCPOA has been constituted of making small incremental steps which then buy time. The abrupt geopolitical changes have demonstrated that the sunset clauses may need to be better thought through. It is disputable whether this was possible in the lead-up to the JCPOA, but it may be more negotiable at the current situation. In this, the ability of the EU and E3 to keep buying time, whilst Switzerland and Oman the backchannel remains operational, is imperative.

Iran’s breaches of the JCPOA in the nuclear programme are reversible and declarative. The E3, where France and Germany have experienced some distancing to the US recently, also have a huge responsibility in keeping Iran in the JCPOA. Russia and China will only do what is opportunistically best for their pursuits in spoiling or competing geopolitically against the US. Some policies from France and Germany have been considered as more friendly towards Russia and China. It means also, that they have a better platform to negotiate with Russia and China with regard to the JCPOA.
Bridging the gap, however, would be some states that are more friendly with the US than the EU2, and this is where CEE states such as Poland can come into play. This is a particularly important time, also, as the EU needs to maintain a position of strength as well as positive ties with the UK in the post-Brexit environment. US sanctions alone had not significantly changed Iran’s behaviour in its foreign policy direction; the shift came in adding the EU’s restrictions amidst the backchannel workings. It was when the EU joined in after having dialogue before the backchannel that was a first tipping point on the international arena, before the cohesion that was exerted on Iran from 2012, when the negotiations would begin. Unitary stances within the JCPOA from the E3 and EU would send powerful signals to both Russia and China about the de facto status quo on the international arena.

Iran’s negotiating team took some risk with the sunset clauses which have been, in their view, underappreciated. The logic behind 2025 and 2030 is that the individuals associated with 1979’s turmoil will no longer be politically active, or would have made way for the next generation. This is a de facto acknowledgement that negotiating with Iran’s most conservative hardliners is futile. The US withdrawal from the JCPOA and re-instated sanctions have so far made Iran more aggressive and proactive in the MENA region, as well as conducted distinct breaches of the JCPOA in Iran’s nuclear programme. Observing the lead up to the JCPOA and the tensions after the US withdrawal would suggest that Iran’s malign activity – in the nuclear programme, the missile programme, the proxy networks or clandestine operationality – is more likely to stop with agreement from Iran. That said, coercion has proved to be instrumental in attaining this agreement, when it is applied surgically, rather than with a machete. Making Iran genuinely accountable is a reasonable step forward. Where the US and Iran are polarised in their views on these terms, the roles of the EU, the E3, Oman and Switzerland, and potentially other actors, such as Poland, or even Qatar and the UAE, amongst others, could help bridge some understanding.

There is a long history of the lead up to the JCPOA. It may be time to address at least some of that history that still affects the JCPOA today. This may include the 1953 coup, as well as Iran’s recognition that the Hostage Crisis in 1979 is not something to be proud of. It includes addressing the downing of passenger airliners, the terrorist attacks, the prisoner swaps, and each of the elements mentioned in the sanctions listed in this report and those beyond it. Some regard Iran’s hostile government as the by-product of historical US interference in Iran. However, Iran’s government should not be only the product of backlash, but demonstrate it has moved beyond this through rational decision-making. Moreover, rapprochement in pursuing a solution to the JCPOA’s situation requires acknowledging the immense sheer time, risks, and effort that went into making it. From absolute hostility, to international coherent stances, to slow secret messages and talks, to formal negotiations – an agreement was made through diplomacy. The signing of the JCPOA, in all its attributes and flaws, was a historic moment. The subsequent efforts that have been taken to prevent future de-escalations, and in effect, prevent conflict, should also not be under-estimated.

If the current trajectory does not change course, enough time might not be bought to make incremental steps forward. Accepting that tensions are excessive and disagreements are irreconcilable would mean that no option beyond the abandonment of the JCPOA is possible. Hence, what ought to be next for the JCPOA is a clever combination of a repaired JCPOA and an accompanying agreement or arrangement to address the wider scope of contention points. The situation may not be ready for Israel to join the JCPOA with Iran with direct conversation just yet. However, Oman having begun making steps towards normalising relations with Israel gives hope that one day this could be feasible. In the meantime, shuttle diplomacy needs to do its work to full effect. Some of these ideas give hope that indirect talks could yield authentically positive steps forward.

At the end of the day, what comes next for the JCPOA will reflect the balance of power on the global geopolitical arena. It will show which actors respond well, and which are proactive. Even more importantly, the ability to resolve such disagreements will convey humanity’s willingness and capabilities in resolving conflicts to each other country, non-state actor, and contentious geopolitical situation – it is a part of authentic geopolitical strength, rather than weakness. It is a part authentically striving for a better world that the good of humanity can bring.