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Iran: The Lost Chance for
European Diplomacy?

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Iran: The Lost Chance for European Diplomacy?

Abstract:

The Joint Comprehensive Action Plan reached in 2015 that limited Iranian nuclear ambitions was the result of twelve years in which European mediation achieved an agreement that ended important discrepancies, especially between the United States (US) and Iran. This pact also granted several European Union (EU) states a status of primus inter pares among the great world powers and opened an attractive market for their companies. However, the US withdrawal from the agreement in 2018 shattered European ambitions. After not obtaining the benefits derived from it, Iran has begun to breach parts of the agreement and its survival hangs in the balance. As a mediating actor between Washington and Tehran since the signing of the agreement, Europe has to take a strategy to compensate the US sanctions and recover the lost importance.

Keywords:

Iran, European Union, United States, nuclear, proliferation, JCPOA.

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Irán: ¿una oportunidad perdida para la diplomacia europea?

Resumen:

El Plan de Acción Integral Conjunto alcanzado en 2015 que limitaba las ambiciones nucleares iraníes fue el resultado de 12 años en los que la mediación europea consiguió un acuerdo que ponía fin a importantes discrepancias, sobre todo entre Estados Unidos e Irán. Dicho pacto también otorgaba a varios Estados de la Unión Europea un estatus de *primus inter pares* entre las grandes potencias mundiales y abría a sus empresas un atractivo mercado.

Sin embargo, la salida estadounidense del acuerdo en 2018 truncó las ambiciones europeas. Tras no obtener los beneficios derivados de este, Irán ha comenzado a incumplir partes del acuerdo y su supervivencia pende de un hilo.

Como actor mediador entre Washington y Teherán desde la firma del acuerdo, Europa ha de tomar una estrategia para compensar las sanciones estadounidenses y recuperar el protagonismo perdido.

Palabras clave:

Irán, Unión Europea, Estados Unidos, nuclear, proliferación, PAIC.

Introduction

On July 14, 2015, the Joint Comprehensive Plan of Action (JCPOA) was signed in Vienna after nearly 12 years of negotiations between Iran and the E3/EU+3 group, also known as the P5+1, which was comprised of the United States, Russia, China, France, Germany and the United Kingdom. Within the latter, the E3/EU group, that is, the EU along with the three European states, played a key mediating role.

The objective of the nuclear agreement was none other than to extend from three months to one year the time it would take Iran to produce enough fissile material for a bomb, so a series of restrictions were agreed upon. Firstly, for the next 15 years, Iran would be allowed to enrich uranium only up to a concentration of 3.67%, would eliminate 98% of its enriched uranium stockpile in order to reduce it to 300 kg, and would restrict its uranium enrichment activities to its Natanz facility. In addition, for the next 10 years, it would not be able to install more than 5,060 IR-1 centrifuges to enrich uranium, an old and inefficient model. Finally, International Atomic Energy Agency (IAEA) inspectors would be responsible for ensuring that Iran complied with the terms of the agreement and did not develop a covert nuclear program over the next 15 years¹.

In exchange, the sanctions imposed on Iran by the US, the EU and the UN in relation to its nuclear program would be lifted. Nevertheless, this did not imply the lifting of other types of sanctions. Therefore, in the case of the EU, the restrictive measures against those persons and entities responsible for human rights violations would remain in place, as well as the embargo on arms and ballistic missiles to Iran for 5 and 8 years, respectively². In turn, the US lifted only its "secondary sanctions," that is, those adopted as of 2010. This meant that the US "primary sanctions" that have been in force since the days of the Iranian Revolution remained intact³.

¹ CRONBERG, Tarja, "The Great Balancing Act: EU Policy Choices during the Implementation of the Iran Deal", EU Non-Proliferation and Disarmament Consortium, 27 April 2016, available at: <https://www.nonproliferation.eu/the-great-balancing-act-eu-policy-choices-during-the-implementation-of-the-iran-deal/> Accessed: 23.02.2020

² European Union External Action, "Information Note on EU sanctions to be lifted under the Joint Comprehensive Plan of Action (JCPOA)", 23 January 2016, available at: http://eeas.europa.eu/archives/docs/top_stories/pdf/iran_implementation/information_note_eu_sanctions_jcpoa_en.pdf Accessed: 12.01.2020

³ BLOCKMANS, Steven & VIAUD, Astrid, "EU Diplomacy and the Iran Nuclear Deal: Staying power?", CEPS, 14 July 2017, available at: <https://www.ceps.eu/ceps-publications/eu-diplomacy-and-iran-nuclear->

To supervise the implementation of the agreement, a Joint Commission was created, comprising Iran and the other JCPOA signatories, which was to meet every three months in Vienna, Geneva, or New York. In recognition of the mediation effort made by the EU during the negotiation of the agreement, the High Representative of the Union for Foreign Affairs and Security Policy was appointed coordinator of the Joint Commission and entrusted with the task of chairing the meetings. In addition to the Joint Commission, the High Representative of the Union, or his designated representative, is also responsible for coordinating two other working groups in which the States of the Joint Commission also participate. As set forth in Articles 6 and 7 of Annex IV of the JCPOA, these two working groups are: the Procurement Working Group, which is designed to oversee the supply, sale and transfer of nuclear goods and technologies to Iran, and the Working Group on Implementation of Sanctions Lifting⁴.

In order to ensure strict compliance by all participants, the JCPOA includes a dispute resolution mechanism in Articles 36 and 37. This instrument can be invoked in the Joint Commission by both Iran and any of the E3/EU+3 states in the event that one of the parties does not meet its commitments⁵. Therefore, the JCPOA places the High Representative of the Union, as coordinator of the Joint Commission, in a position of responsibility regarding the monitoring of the pact that allows him to act as a leader as well as a mediator among the rest of the parties.

Europe's interests in Iran

The Islamic Republic of Iran is located at a strategic crossroads in the Middle East: it shares a border with seven countries in the region and about a third of all world exports of natural gas and almost 25% of oil pass through the Strait of Hormuz⁶. This privileged

[deal-staying-power/](#) Accessed: 18.01.2020

⁴ E3/EU+3 & Iran, "Joint Comprehensive Plan of Action (JCPOA) Annex IV, art. 6-7", European Parliament, 14 July 2015, available at: <https://www.europarl.europa.eu/cmsdata/122460/full-text-of-the-iran-nuclear-deal.pdf> Accessed: 9.01.2020

⁵ E3/EU+3 & Iran, "Joint Comprehensive Plan of Action (JCPOA) art. 36-37", European Parliament, 14 July 2015, available at: <https://www.europarl.europa.eu/cmsdata/122460/full-text-of-the-iran-nuclear-deal.pdf> Accessed: 9.01.2020

⁶ PARSI, Rouzbeh, ESFANDIARY, Dina y GARCÉS DE LOS FAYOS, Fernando, "An EU strategy for relations with Iran after the nuclear deal", European Parliament, 23 June 2016, available at: <https://www.europarl.europa.eu/thinktank/en/home.html> Accessed: 8.02.2020

strategic location makes the country a bridge between East and West. The nuclear agreement presented Europe with an opportunity to reduce its energy dependence on Russia by increasing energy imports from Iran⁷.

As evidenced by the Arab Spring, stability in the Middle East is of paramount importance for Europe. Political instability in the region translates into waves of refugees, war and religious extremism that are felt in Europe due to reasons such as geographical proximity, economic ties and the existence of a large Muslim minority⁸. Since both European states and the EU perceive Iran as too important to be ignored regarding its influence on regional dynamics, its nuclear program is a source of particular concern due to the risk of complicating an already delicate regional situation. On the one hand, the acquisition of a nuclear weapon by Iran could lead to a nuclear race in the region with Saudi Arabia. We should bear in mind that Riyadh economically supported Pakistan's pursuit of a nuclear arsenal in the 1970s and could claim its due should it be threatened by a hypothetical Iran with nuclear capability. On the other hand, Israel, the only nuclear power in the region, may fear for its very survival, which is likely to trigger a pre-emptive Israeli attack on Iranian soil in order to prevent Iran from getting nuclear weapons as it did with Iraq and Syria in the past⁹.

Moreover, regardless of the economic sanctions, Iran is an interesting market for European companies as it has a population of more than 80 million people and is in need of foreign direct investment to modernize its obsolete energy infrastructure. Until 2008, the EU was its most important trading partner, when trade volume plummeted due to UN, US and EU sanctions¹⁰. It should be noted that, in addition to the sanctions, the EU in 2012 imposed an oil embargo on Iran in the hope of getting them seated at the negotiating table despite the fact that countries like Greece, Spain and

⁷ CASTRO TORRES, José Ignacio. *El riesgo de la proliferación nuclear en el Oriente Medio y el auge de las potencias regionales*. Opinion Paper IEEE 15/2019.

http://www.ieee.es/Galerias/fichero/docs_analisis/2019/DIEEEA15_2019CASTRO-nuclear_medio_oriente.pdf (accessed on the web 30/08/2020)

⁸ JONSSON, Jonas, "Irán, potencia emergente en Oriente Medio. Implicaciones en la estabilidad del Mediterráneo" pp. 165-193, IEEE, Madrid, 2007.

⁹ CASTRO TORRES, José Ignacio. *El riesgo de la proliferación nuclear en el Oriente Medio*, op. cit.

¹⁰ European Commission, "Iran", Countries and regions, 23 April 2020, available at: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/iran/> Accessed: 25.04.2020

Italy were largely dependent on Iranian oil imports, which accounted for 34.2%, 14.9% and 12.4% of their total oil imports, respectively¹¹.

The agreement reached in 2015 had positive effects on EU-Iran trade. The 2016 tour of Italy and France by Hassan Rohani, the President of the Islamic Republic, in search of European investment opened the door for a period of economic cooperation during which important agreements were signed with European multinationals such as Total, Peugeot and Siemens¹².

Consequently, 16 months after the entry into force of the agreement, bilateral trade increased by 79% compared to 2015 and Iranian exports to the EU rose by 450%. As for oil exports, they returned to pre-sanction levels since 40% of these were destined for European countries such as France, the United Kingdom, Italy, Greece, Spain and Hungary¹³.

Besides European economic and security policies, the EU's interest in Iran also stems from other factors, such as the fight against drugs and human rights¹⁴. Most of the drugs destined for Europe from Afghanistan pass through Iran, where their sale and consumption is punishable by death. Furthermore, Iran currently holds the highest number of executions per capita in the world, most of which are imposed on drug traffickers, including minors. The EU is seeking to strengthen anti-drug cooperation while convincing Tehran of the need to abolish the death penalty for minors under the age of 18, which would greatly reduce the total number of executions¹⁵.

¹¹ ESFANDIARY, Dina, "Assessing the European Union's Sanctions Policy: Iran as a Case Study", SIPRI, December 2013.

¹² BOTTA, Paulo. *El impacto del abandono del acuerdo nuclear con Irán en el ámbito de la seguridad internacional*. Opinion Paper IEEE. http://www.ieee.es/Galerias/fichero/docs_opinion/2018/DIEEEO69-2018_Abandono_Acuerdo_Nuclear_Repercusiones_PauloBotta.pdf (accessed on the web 22/09/2020)

¹³ BLOCKMANS, Steven & VIAUD, Astrid, "EU Diplomacy and the Iran Nuclear Deal: Staying power?", CEPS, 14 July 2017, available at: <https://www.ceps.eu/ceps-publications/eu-diplomacy-and-iran-nuclear-deal-staying-power/> Accessed: 18.01.2020

¹⁴ PARSI, Rouzbeh, ESFANDIARY, Dina & GARCÉS DE LOS FAYOS, Fernando, "An EU strategy for relations with Iran after the nuclear deal", European Parliament, 23 June 2016, available at: <https://www.europarl.europa.eu/thinktank/en/home.html> Accessed: 8.02.2020

¹⁵ *Ibid.*

Europe's efforts to save the JCPOA

Donald Trump was victorious in the 2016 presidential elections, after a campaign in which he had promised to pull the U.S. out of the nuclear deal, since it did not address issues such as Iran's ballistic missile program; did not limit its regional actions; set a time limit of 10 years, instead of having an indefinite character; and established an IAEA inspection regime that he felt was too lax. In early 2018, Trump threatened to withdraw the US from the JCPOA unless its European allies opened negotiations to include these aspects in the agreement¹⁶.

Against this background, the E3/EU began negotiations in January 2018 on a supplemental agreement that would resolve the JCPOA's limitations. Despite having reached an understanding on most issues, the agreement was not possible due to the US demand that the supplemental agreement be of indefinite duration¹⁷.

Given the failure of negotiations, on May 8, 2018, President Trump fulfilled his election promise by leaving the JCPOA and re-imposing those sanctions that had been lifted under the agreement¹⁸. While Israel and Saudi Arabia, Iran's main rivals in the region, welcomed this move by the US, European companies that had signed trade agreements in Iran saw their trade ambitions in the Islamic Republic go up in smoke. But more importantly, this was a blow to the agreement itself because it compromised Iran's compliance, which depended on the economic benefits it could gain through the lifting of sanctions.

Following the US withdrawal, French President Emmanuel Macron, German Chancellor Angela Merkel and British Prime Minister Theresa May issued a joint statement on May 8 regretting Trump's decision and calling on Washington to avoid "adopting

¹⁶ CASTRO TORRES, José Ignacio. *Las negociaciones con Irán después del 4 de noviembre: Nuevas cartas para una vieja partida*. Opinion Paper IEEE 36/2018.

http://www.ieeee.es/Galerias/fichero/docs_analisis/2018/DIEEEA36-2018_Negociar_con_Iran_despues_del_04NOV_JICT.pdf (accessed on the web 06/11/2020)

¹⁷ VAKIL, Sanam, & QUILLIAN, Neil, "Getting to a New Iran Deal: A Guide for Trump, Washington, Tehran, Europe and the Middle East", Chatham House, 22 October 2019, available at: <https://www.chathamhouse.org/sites/default/files/2019-10-22-GettingToANewIranDeal2.pdf> Accessed: 10.09.2020

¹⁸ GERANMAYEH, Ellie, "Trump's Iran sanctions: an explainer on their impact for Europe", European Council on Foreign Relations (ECFR), 12 September 2018, available at: https://www.ecfr.eu/article/commentary_trumps_iran_sanctions_an_explainer_on_their_impact_for_europe Accessed: 12.09.2018

measures that would hinder the full implementation of the IPPA by other parties”¹⁹. The next day, EU High Representative Federica Mogherini issued a statement on behalf of the EU stating that, according to more than 10 quarterly IAEA reports, the JCPOA was working well and that there was no need to revise it²⁰. In short, as long as Iran continued to respect the nuclear agreement, Europe would remain firm in its commitments.

Europe was determined to save the JCPOA and took action to appease Iran. In May 2018, the EU Member States approved, on the initiative of the European Commission and the High Representative, a series of measures aimed at protecting trade with Iran and minimizing the impact of sanctions²¹.

The blocking statute

In order to protect European interests, the blocking statute in force since August 2018 prohibits European companies from complying with US extraterritorial sanctions, unless the Commission authorizes them to do so if their non-compliance would be detrimental to EU interests or those of the companies²². It also allows European operators to claim compensation for damages arising from those responsible for the sanctions and it

¹⁹ “JCPOA - Joint Statement by France, the United Kingdom and Germany (8 May 2018)”, Ministère de l'Europe et des Affaires étrangères, 8 May 2018, available at: <https://www.diplomatie.gouv.fr/en/french-foreign-policy/security-disarmament-and-non-proliferation/news/news-about-disarmament-and-non-proliferation/article/jcpoa-joint-statement-by-france-the-united-kingdom-and-germany-08-05-18> Accessed: 01.03.2020

²⁰ MOGHERINI, Francesca, “Declaration by the High Representative on behalf of the EU following US President Trump's announcement on the Iran nuclear deal (JCPOA)”, Council of the European Union, 9 May 2018, available at: <https://www.consilium.europa.eu/en/press/press-releases/2018/05/09/declaration-by-the-high-representative-on-behalf-of-the-eu-following-us-president-trump-s-announcement-on-the-iran-nuclear-deal-jcpoa/> Accessed: 03.03.2020

²¹ “European Commission acts to protect the interests of EU companies investing in Iran as part of the EU's continued commitment to the Joint Comprehensive Plan of Action”, European Commission, 18 May 2018, available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_18_3861 Accessed: 16.02.2020

²² HELLMAN, Axel, “Safeguarding the Iran Nuclear Deal: A Blueprint for Europe”, European Leadership Network (ELN), April 2018, available at: https://www.europeanleadershipnetwork.org/wp-content/uploads/2018/04/180604-Safeguarding-the-Iran-Nuclear-Deal_Axel-Hellman.pdf Accessed: 08.02.2020

cancels the effect in the Union of any foreign decision based on the legislation of a third country²³.

Nevertheless, the blocking statute has more of a symbolic weight than an effective one. It is unlikely that the big European economic operators are willing to risk their access to the US financial system, so they would rather comply with Washington's conditions, even if it means being penalized by the EU. Therefore, the blocking statute seems more suitable for those medium-sized companies without a strong presence in the US financial system²⁴.

This was evidenced by the fact that many of the European multinationals that had signed trade agreements in Iran before the U.S. withdrawal from the JCPOA have withdrawn from these²⁵. Moreover, to date, European courts have only applied blockade regulations to restore trade with Iran in a few cases and their application remains rare and inconsistent²⁶.

Financial support

In its Delegated Decision 2018/1102, the Commission encouraged the European Investment Bank to finance European companies' projects in Iran. However, Werner Hoyer, the president of said institution, refused to do so despite expressing his support for the nuclear agreement and European efforts. If the EIB were to lend money to Teheran, it would jeopardize its access to the US capital markets and could even become subject to sanctions since almost a third of its loans are in dollars²⁷.

²³ "Blocking Statute", European Commission, available at: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/blocking-statute_en Accessed: 08.03.2020

²⁴ THOMSON, Sir Adam, & SHAH, Sahil, "Europe, Iran and the United States: A Roadmap for 2020", European Leadership Network (ELN), January 2020, available at: https://www.europeanleadershipnetwork.org/wp-content/uploads/2020/01/27012020_ELN-Iran-2020-Roadmap-Meeting-Report-1.pdf Accessed: 08.02.2020

²⁵ WALD, Ellen R., "10 Companies Leaving Iran As Trump's Sanctions Close In", Forbes, 6 June 2018, <https://www.forbes.com/sites/ellenwald/2018/06/06/10-companies-leaving-iran-as-trumps-sanctions-close-in/>

²⁶ VAEZ, Ali, "Europe is Running Out of Time to Save the Iran Deal", Foreign Policy", 16 January 2020, <https://foreignpolicy.com/2020/01/16/europe-is-running-out-of-time-to-save-the-iran-deal/>

²⁷ EMMOTT, Robin & DE CARBONNEL, Alissa, "European Investment Bank casts doubt on EU plan to salvage nuclear deal", Reuters, 18 July 2018, <https://es.reuters.com/article/idINKBN1K81IW>

In the summer of 2018, the governments of France, Germany and the United Kingdom considered the possibility of creating new lines of credit with Iran between their national central banks and the Central Bank of Iran. As with the EIB, central banks opposed it because of Iran's failure to implement the Financial Action Task Force's rules on money laundering and for fear of US retaliation²⁸.

Nonetheless, that same year, the EU allocated a package of 50 million euros in aid to Iran until 2020 through the Development Cooperation Instrument. This money was earmarked to support the social and economic development of the country, to assist the private sector and to reduce the harm caused by drugs²⁹.

More recently, Iran has been the most affected country in the region by the COVID-19 pandemic. In March 2020, in order to alleviate its economic effects, Tehran requested a \$5 billion loan from the International Monetary Fund that was blocked by Washington³⁰. In compensation, the current High Representative, Josep Borrell, announced the sending of 20 million euros in humanitarian aid to Iran³¹. Despite the political good will, such figures are a far cry from the 20 billion in trade volume that was recorded in 2017 between the Islamic Republic and the EU³².

To facilitate trade with Iran, the Instrument in Support of Trade Exchanges, known by its acronym INTEX, was created in January 2019³³. The objective of this mechanism is to facilitate trade between Iran and the EU through non-dollar barter transactions³⁴.

²⁸ BATMANGHELIDJ, Esfandyar, "Here's What the French Proposal for Trump and Iran Actually Entails", *Bourse & Bazaar*, 12 September 2019, <https://www.bourseandbazaar.com/articles/2019/9/12/heres-what-the-french-proposal-for-trump-and-iran-actually-entails>

²⁹ European Commission, "European Commission adopts support package for Iran, with a focus on the private sector", 23 August 2018, available at: https://ec.europa.eu/commission/presscorner/detail/es/IP_18_5103 Accessed: 09.03.2020

³⁰ VAHEDI, Kamran. *Points of Coincidence between Iran and Europe: a perspective for 2020*. Opinion Paper IEEE 109/2020 http://www.ieeee.es/Galerias/fichero/docs_opinion/2020/DIEEEO109_2020KAMVAH_IranENG.pdf

³¹ EMMOTT, Robin, "EU to provide 20 mln euros in humanitarian aid to Iran", *Reuters*, 23 March 2020, <https://www.reuters.com/article/health-coronavirus-eu-iran-idUSL8N2BG6OK>

³² European Commission, "Irán", *Countries and regions*, 23 April 2020, available at: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/iran/> Accessed: 25.04.2020

³³ BATMANGHELIDJ, Esfandyar, & SHAH, Sahil, "Protecting Europe-Iran Trade to Prevent War: A Provisional Assessment of INSTEX", *de European Leadership Network (ELN)*, June 2019, available at: <https://www.europeanleadershipnetwork.org/wp-content/uploads/2019/06/ELNBB-INSTEX-June-27-2019-ADVANCE-COPY.pdf> Accessed: 08.02.2020

This special payment channel is only used to trade humanitarian goods that cannot be sanctioned, such as medical equipment, foodstuffs and medicines³⁵. Therefore, it does not include transactions for oil payments, which is a key sector of the Iranian economy and the one that is suffering most through the sanctions. It is estimated that as a result of the sanctions, the number of barrels of oil exported per day has fallen from 2.5 million in April 2018 to 100,000 in May 2020³⁶. Since its creation in January 2019, INSTEX has only made one transaction, a shipment of medical equipment worth approximately €500,000 from a German operator to Iran³⁷.

To this date, it seems unlikely that INSTEX will meet Iranian expectations, as it seems more appropriate for those medium and small businesses with few financial links to the US than for large European multinationals, even though the latter have expressed some interest in the mechanism.

The last great effort to save the JCPOA: Shuttle diplomacy

After pulling out of the JCPO, the US has sought to economically strangle Iran to the point that it forces its government to negotiate a new agreement with Washington out of desperation. In order to do this, it increased sanctions on Iran and put an end to the waivers it had granted to eight countries to import Iranian crude in April 2019³⁸. Although oil exports fell by almost 60%, inflation increased by 40% and the country entered into recession³⁹, it has not been enough to change the course of Iranian foreign policy. On the contrary, it has resulted in an escalation of tension at the regional level.

³⁴ COPPOLA, Frances, "Europe Circumvents U.S. Sanctions On Iran", Forbes, 30 June 2019, <https://www.forbes.com/sites/francescoppola/2019/06/30/europe-circumvents-u-s-sanctions-on-iran/>

³⁵ VAEZ, Ali, "Europe is Running Out of Time to Save the Iran Deal", Foreign Policy, 16 January 2020, <https://foreignpolicy.com/2020/01/16/europe-is-running-out-of-time-to-save-the-iran-deal/>

³⁶ SHARAFEDIN, Bozorgmehr & SAUL, Jonathan, "Iran's oil storage almost full as sanctions and pandemic weigh", Reuters, 7 July 2020, <https://www.reuters.com/article/us-iran-oil-storage-idUSKBN2481M3>

³⁷ "Long-Awaited INSTEX Transaction Insufficient", Financial Tribune, 5 April 2020, <https://financialtribune.com/articles/national/102692/long-awaited-instex-transaction-insufficient>

³⁸ "Iran oil: US to end sanctions exemptions for major importers", BBC News, 22 April 2019 <https://www.bbc.com/news/world-middle-east-48011496>

³⁹ KERR, Simeon, ENGLAND, Andrew & BOZORGMEHR, Najmeh, "Iran's economy slumps as US sanctions pile on the pain", Financial Times, 29 April 2019, <https://www.ft.com/content/ac599cf4-6a72-11e9-80c7-60ee53e6681d>

During the spring and summer of 2019, the Revolutionary Guard attacked and seized several oil tankers in the waters of the Iranian Gulf, the US shot down an Iranian drone weeks after the Revolutionary Guard shot down one of their drones⁴⁰, and two of the main Saudi refineries were attacked by drones and missiles under unclear circumstances⁴¹.

To defuse tensions, French President Macron emerged as a mediator between Washington and Tehran on numerous occasions. Mention should be made, in this regard, of the surprise invitation to the Iranian Foreign Minister to the G7 summit in Biarritz in August 2019 to facilitate an encounter with President Trump.⁴²

In early September 2019, Macron put a new proposal on the table, whereby France would grant Iran a \$15 billion credit line for a four-month period as payment for future oil exports. In exchange, Iran would return to full compliance of the nuclear agreement, guarantee security in the Persian Gulf and participate in a broader debate on the future of the JCPOA and on stability in the region⁴³. Notwithstanding, making this possible would require getting the US to grant Europe certain waivers to its sanctions.

The annual meeting of the UN General Assembly provided Macron with an ideal framework for mediating between Trump and Rouhani by getting the two leaders to agree on a four-point framework document that included the following conditions: Iran would never acquire nuclear weapons, would fulfil all its nuclear commitments, would agree to engage in negotiations over its nuclear activities and ballistic missile program in the long term, would refrain from any aggression, and would seek peace in the region. For its part, the United States would lift all the sanctions that it had imposed since 2017 and would allow Iran to export its crude oil and to use the revenues

⁴⁰ WAGNER, Meg, HAYES, Mike, HAMMOND, Elise & BERLINGER, Joshua, "Tensions soar after Iran seizes tanker", CNN, 24 July 2019, https://edition.cnn.com/middleeast/live-news/iran-british-tanker-july-2019/h_62ae8f1a78b0d34b7d078bb596d498e9

⁴¹ HUBBARD, Ben, KARASZ, Palko & REED, Stanley, "Two Major Saudi Oil Installations Hit by Drone Strike, and U.S. Blames Iran", The New York Times, 15 September 2019, <https://www.nytimes.com/2019/09/14/world/middleeast/saudi-arabia-refineries-drone-attack.html>

⁴² VAL, E., "Macron sorprende al G7 con la llegada inesperada del ministro de Exteriores iraní", La Vanguardia, 25 August 2019, <https://www.lavanguardia.com/internacional/20190825/464253613249/iran-cumbre-g7-biarritz-trump.html>

⁴³ SANGER, David E., ERLANGER, Steven & NOSSITER, Adam, "France Dangles \$15 Billion Bailout for Iran in Effort to Save Nuclear Deal", The New York Times, 2 September 2019, <https://www.nytimes.com/2019/09/02/world/middleeast/iran-france-nuclear-deal.html>

obtained. In the end, this would remain a dead letter since the long-awaited telephone conversation that Macron had orchestrated between the two leaders would never take place. At the last minute, Rouhani laid the condition that before accepting the call from his American counterpart, President Trump had to announce the lifting of US sanctions⁴⁴.

The dispute resolution mechanism

Not having obtained the economic benefits promised by the JCPOA, Iran began to fail to meet its nuclear obligations in July 2019 by exceeding the 300 kg limit of enriched uranium⁴⁵. So far, Iran has resumed uranium enrichment at the Fordo facility, exceeded the heavy water limit, blocked access to two nuclear sites to IAEA inspectors, and its uranium enrichment stockpile is ten times higher than the limit set by the JCPOA, according to IAEA data⁴⁶.

After Tehran issued a statement on 5 January 2020 in which it announced that from then on it would ignore the limits on the number of operational centrifuges, on 10 January an extraordinary meeting of the Foreign Affairs Council of the European Union took place in order to discuss the course of events in Iran⁴⁷. Four days later, France, Germany and the United Kingdom activated the JCPOA dispute resolution mechanism (DRM) in the hope of opening a period of negotiations aimed at saving the agreement and resolving the diplomatic impasse⁴⁸.

⁴⁴ MOMTAZ, Rym, "Trump, Rouhani agreed 4-point plan before Iran balked: French officials", POLITICO, 1 October 2019, <https://www.politico.eu/article/trump-rouhani-agreed-4-point-plan-before-iran-balked-french-officials/>

⁴⁵ BATMANGHELIDJ, Esfandiyar, & SHAH, Sahil, "Europe still needs INSTEX to help solve the Iran crisis", European Leadership Network (ELN), 25 February 2020, available at: <https://www.europeanleadershipnetwork.org/commentary/europe-still-needs-instex-to-help-solve-the-iran-crisis/> Accessed: 17.03.2020

⁴⁶ "Iran's enriched uranium stockpile '10 times limit", BBC News, 5 September 2019, <https://www.bbc.com/news/world-middle-east-54033441>

⁴⁷ OSIEWICZ, Przemysław, "The EU and the ongoing US-Iran crisis", Middle East Institute (MEI), 20 January 2020, <https://www.mei.edu/publications/eu-and-ongoing-us-iran-crisis>

⁴⁸ VAEZ, Ali, "Europe is Running Out of Time to Save the Iran Deal", Foreign Policy, 16 January 2020, <https://foreignpolicy.com/2020/01/16/europe-is-running-out-of-time-to-save-the-iran-deal/>

Although the DRM is a mechanism designed to deal with a possible breach by Iran, it is unclear whether activating it will solve the political crisis with Tehran since the latter also accuses the other parties, and especially Europe, of failing to meet their commitments in the agreement. Iran's reduction of its compliance is part of its strategy of pressuring the rest of the parties so that they double their efforts and compensate for the economic losses derived from US sanctions⁴⁹.

Tehran argues that despite having kept its side of the agreement, Europe has not and that the US withdrawal along with the re-imposition of sanctions could be described as what Article 36 of the JCPOA defines as a "significant non-performance", which would in turn allow Iran to "to cease performing its commitments under this JCPOA in whole or in part"⁵⁰. From the Iranian perspective, fewer economic benefits deserve a less stringent compliance. On the contrary, the Europeans claim that Iran does not have the right to reduce its compliance since it has never sought to resolve its complaints through the official JCPOA channels⁵¹.

The activation of the DRM by European states was not well received by Tehran. In the event that the JCPOA participants were unable to agree, the issue could escalate to the UN Security Council, of which the US is a permanent member, and culminate in the re-imposition of sanctions. While the Europeans do not seem willing to allow the process to end up in the hands of the Security Council, Iran has already warned that if this were to happen they would abandon not only the JCPOA but also the Nuclear Non-Proliferation Treaty, which it ratified in 1970⁵².

⁴⁹ VAEZ, Ali, "Europe needs to build on the Iran nuclear deal, not jettison it", The Guardian, 15 January 2020, <https://www.theguardian.com/commentisfree/2020/jan/15/europe-iran-nuclear-deal-dispute-resolution-process>

⁵⁰ E3/EU+3 & Iran, "Joint Comprehensive Plan of Action (JCPOA) art. 36", European Parliament, 14 July 2015, available at: <https://www.europarl.europa.eu/cmsdata/122460/full-text-of-the-iran-nuclear-deal.pdf> Accessed: 9.01.2020

⁵¹ "Joint statement by the Foreign Ministers of France, Germany and the United Kingdom on the Joint Comprehensive Plan of Action (14 January 2020)", Ministère de l'Europe et des Affaires étrangères, 14 January 2020, available at: <https://nz.ambafrance.org/Joint-statement-by-the-Foreign-Ministers-of-France-Germany-and-the-United> Accessed: 07.07.2020

⁵² PAN, Esther, "IRAN: Curtailing the Nuclear Program", Council on Foreign Relations, 16 February 2005, <https://www.cfr.org/background/iran-curtailing-nuclear-program>

In response, Iran also activated the dispute resolution mechanism in July 2020 because of what it considers to be a breach of the agreement by the three European states. This leaves the Joint Commission more divided than ever: of the original parties, the US has abandoned the agreement and Iran and the three European states accuse each other of non-compliance. In this situation, action must be taken to save the agreement. A collapse of the JCPOA would lead to an uncontrolled Iranian nuclear program, a re-imposition of European and UN sanctions and a definitive loss of confidence between Iranian and European negotiators⁵³.

Conclusion

For Europe, saving the agreement with Iran was not just about certain economic losses but also about its place in the international system. If Europe demonstrated its inability to cope with US sanctions, it might set a dangerous precedent for subordinating its foreign and trade policy to the whims of future US administrations.

In the case at hand, the E3/EU group has been unable to present itself as an alternative to the US, so the decline of the JCPOA has been unavoidable. Iran's frustration at seeing that the reality did not correspond to its economic expectations has led to the slow dismantling of the agreement, which will not stop until all its expectations are met.

However, this does not mean that in the current situation Europe is irrelevant, but quite the opposite. The E3/EU group must concentrate its diplomatic efforts on a multi-party negotiation.

First of all, Europe must reach out to Tehran with a view to negotiating, but at the same time it must make it clear that it is not willing to let itself be coerced and it must also step up the pressure on its Iranian counterparts so that they respect the agreement. If Europe were to adhere to the hard-line approach of the current US administration, Iran would undoubtedly regret the consequences, especially in terms of sanctions.

⁵³ LINDERMAN, Michelle et al., "Iran Triggers Dispute Resolution Mechanism Under JCPOA", Crowell & Moring, 8 July 2020, <https://www.cmtradelaw.com/2020/07/iran-triggers-dispute-resolution-mechanism-under-jcpoa/>

Secondly, Europeans must be prepared for the evolution of American policy in this area. In the case of continuing with the current policy, it is clearly unlikely that the United States will attempt to re-join the nuclear agreement, so Europe should continue to mediate where Macron left off. On the one hand, it should persuade Congress that its "maximum pressure" campaign has neither crippled the Iranian economy enough nor weakened its regime. On the other hand, it could negotiate with Iran a minimum agreement that preserves the structure of the original agreement and in which Iran commits not to further reduce its compliance in exchange for a realistic economic package. Among the new economic relief measures, Europe could buy crude oil from Iran in exchange for a payment that would be delivered to it once the US had eased its sanctions, or it could mediate so that the US withdraws its veto on the IMF loan, or grant Iran access to some of its foreign currency reserves. Nevertheless, given the impact of the US sanctions, the success of this new approach would still depend on Washington's connivance.

If the US administration were otherwise to pursue a policy of engagement with the agreement, the ideal would be for Europe to mediate between the two sides so that Iran would commit to freezing and reversing its breaches in exchange for the US returning to the agreement.

Whatever happens, Europe must act if it does not want to lose even more influence in Iran and spoil its diplomatic success of 2015. The Islamic Republic is already looking for alternatives to Europe following the strategic agreement signed between Tehran and Beijing last August. The consolidation of this shift toward the East would bolster China's great project of the New Silk Road in exchange for benefits to the Iranian economy, at the cost of European influence in Tehran.

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