

The nuclear deal with Iran: *Le moment suprême?*

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The agreement concluded by China, the EU, France, Germany, Russia, the UK and the US¹ with Iran to prevent the ‘weaponisation’ of the latter’s nuclear programme was two years in the making to resolve a 12-year dispute. It is a big deal. It dramatically lowers the possibility of war with Iran over the country’s ability to obtain a nuclear bomb.

The accord provides that “under no circumstances” will Iran “ever seek, develop or acquire any nuclear weapons.” Iran has agreed to limit its nuclear stockpile and production capabilities but it retains the right to produce peaceful nuclear energy under the Nuclear Non-Proliferation Treaty (NPT). In return, the UN, the EU and the US will gradually lift nuclear-related sanctions on Iran, including those that targeted its oil and financial sectors, but only once the International Atomic Energy Agency (IAEA) has verified implementation by Iran of key measures. If and when this happens, much-needed sanctions relief will be brought to Iran’s economy.

Hailed as ‘historic’ by negotiators, the Iran nuclear deal will thus only truly merit its place in history when it is implemented. The Joint Comprehensive Plan of Action and its annexes (JCPOA) – the official name of the agreement, constitutes a 159-page, complicated and hotly contested ‘to do’ list for the next decade. As such, the JCPOA heralds a potential tipping point in a long drawn out process which will be characterised by continuing friction and suspicion. But it is not the silver bullet to the normalisation of international relations. Europeans should wait for proof of implementation of the agreement before gradually re-engaging with Iran in non-nuclear domains.

The devil is in the detail

The JCPOA includes highly technical sections covering everything from:

- how many centrifuges Iran can have;
- the reduction of uranium stocks and fuels;
- the future of research and development of nuclear technologies;
- the export of excess heavy water that is beyond Iran's needs;

¹ Known as the ‘E3/EU+3’ or ‘P5+1’.

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- the shipment out of Iran of all spent fuel for all present and future reactors;
- the future of the plants at Arak and Fordow;
- the provisional application and ratification of the Additional Protocol to its Safeguards Agreement under the NPT (all in Annex I of the agreement);
- which sanctions the EU and the US will terminate and which national implementing legislation they will be required to amend (Annex II);
- the level of cooperation with Iran on civil nuclear issues (Annex III); and
- the composition, functions and voting procedures of the Joint Commission that will oversee the accord and will be coordinated by the EU's High Representative (Annex IV).

In parallel to the JCPOA, Iran and the IAEA signed a "Roadmap for Clarification of Past and Present Outstanding Issues". This Roadmap is designed to shed light on the "possible nuclear dimensions" of Iran's nuclear programme. In particular, the IAEA will cross-check 12 areas of concern noted in its Director General's report from 2011. The concerns relate to information that Iran had carried out activities relevant to the development of a nuclear explosive device. The information also indicated that, before the end of 2003, these activities took place under a structured programme, and that some might still be ongoing. It is in Iran's interest to offer clarity on these outstanding issues before the Director General reports back to the Board of Governors of the IAEA on December 15th, as failure to do so may hold up the JCPOA 'Implementation Plan'.

The sequence of the implementation of commitments specified in the JCPOA and Annexes I and II thereto is set out in Annex V and ranges from the 'Finalisation Day' (14 July 2015) to 'Adoption Day' (maximum 90 days after the endorsement of the JCPOA by a UN Security Council Resolution (UNSCR) - which is expected in the week of 20 July and will apparently also set the terms for lifting a UN arms embargo imposed on Iran in 2006). The 'Implementation Day' (upon the IAEA-verified implementation by Iran of the nuclear-related measures) and 'Transition Day' should follow on (eight years from Adoption Day or upon a report from the Director General of the IAEA stating that the IAEA has reached the broader conclusion that all nuclear material in Iran remains in peaceful activities), as should 'UNSCR Finalisation Day' (ten years from Adoption Day, provided that the provisions of previous resolutions have not been reinstated). So much for the deadlines.

Verification and 'snap back'

The success of the Iran nuclear deal thus hinges on IAEA verification. Whereas clear objectives, timetables and technical measures have been provided for, the JCPOA charts a long path that could well be strewn with obstacles. Critics have pointed at the capitulation of the US in the negotiations over the requested 24/7 access to declared and undeclared sites around this big country ("anytime, anywhere"). Instead, the JCPOA provides detailed procedures for "managed access" of the IAEA to inspect sensitive and often highly secured sites. Under the terms agreed, such access - which includes military locations - needs to be requested from Iran and "kept to the minimum necessary to effectively implement the verification responsibilities under this JCPOA" (Annex I, paras. 74-78). Critics have pointed out that this leaves the Iranian authorities enough leeway to cheat IAEA inspectors, and thus the international community, into oblivion.

In case of disputes over alleged violations of the JCPOA, the Joint Commission will play a key role in efforts to resolve them. If, however, a dispute is not resolved through the mechanisms and within the time limits set by the agreement, then one or more of the parties can ask the UN Security Council to vote on a resolution to continue lifting all sanctions resolutions under the deal. This means that if one or more permanent members want to re-impose sanctions on Iran, they could veto that resolution. This clever setup has been devised to prevent other P5

signatories of the Iran nuclear deal from vetoing any 'snap back' of the sanctions - which would be automatic within 30 days.

Continued containment?

Based on the above, it is clear that the JCPOA is the type of instrument that will give critics plenty of ammunition and opportunity to wreck it. In a relationship long dogged by mistrust, the nuclear deal first needs to be sold to overcome hard-line opposition in both the US Congress and among the Iranian clergy and military before it can be applied. Fears on the part of regional players like Israel and the Arab Gulf states that the deal will embolden and enrich an already dangerous Iran and its proxies in the region will also have to be assuaged.

Opposition from the Republican-dominated Congress is well known. Keen to preserve the trophy of the herculean diplomatic effort that led to the agreement in Vienna on July 14th, the US administration has projected a course beyond decision by Congress not to ratify the Iran nuclear deal. While the JCPOA looks, smells and feels like a treaty that is binding under international law, qualifying it as an 'executive agreement' that does not meet the same standard under US law would allow Obama to override rejection of the deal by a hostile Congress with a presidential veto. But that does not necessarily protect the agreement from future harm - for instance in the hands of a Republican successor intent on correcting a "mistake of historic proportions".

For Tehran's part, the future of the deal rests with the Supreme Leader, Ayatollah Ali Khamenei. The 75-year-old cleric, who is reportedly in frail health, is now among the most important arbiters of the deal's fate. So far, he has only told his reformist President Hassan Rouhani and cabinet members that he appreciated the nuclear team's honest, serious efforts and hard work. While Khamenei will have to consider the outpouring of Iranian joy around the country in the wake of the deal, the pact could still unravel if he believes that it might rob his regime of the country's revolutionary identity and if he succumbs to any of the competing power centres' moves to sabotage it. Such was the fate of a tentative agreement struck in 2009 to limit Iran's nuclear programme.

For the protagonists, the post-deal dynamic could thus play out in different ways. Reactions in EU member states and the European Parliament have been generally positive. This makes the EU one of the most solid guarantors of the Iran nuclear deal. Although Europe has been called upon to seize the moment and to shift to a relationship with Iran based on engagement, not containment, the EU and its member states would be better advised not to move beyond their nuclear focus too quickly, but rather to show a sense of duty and loyal cooperation with their international partners by supporting the effective execution of the accord. This is not to say that the EU should not plan ahead and map out a strategic and comprehensive policy approach towards a more cooperative Iran; one that projects the renewal of diplomatic, commercial and energy relations. But the implementation of such actions should be synchronised with progress on the implementation of the 'historic' nuclear deal.