

PEACE AND SECURITY

# A RETURN TO DIPLOMACY

The Iran Nuclear Deal and a Democratic White House

**David Jalilvand** and **Achim Vogt** (eds.)  
With a foreword by **Sigmar Gabriel**

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A Joe Biden administration would likely make an early diplomatic push to ease tensions with Iran. Biden has said he favors the United States rejoining the nuclear deal if Iran also returns to full compliance. In that case, Tehran demands reliable sanctions relief and compensation for the economic fall-out of U.S. sanctions.



During the U.S. transition, Europe would need to shift quickly from trying to save the nuclear deal to forging a new transatlantic approach to Tehran, helping kickstart U.S.-Iranian negotiations.



To immediately de-escalate tensions, Iran and the United States could pursue a phased approach, pushing more complex issues to a later date.



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# Foreword

*Sigmar Gabriel*

Few foreign policy issues have caused us Europeans so many headaches in recent years as securing the continuation of the Joint Comprehensive Plan of Action, the Iran nuclear agreement concluded in 2015 after laborious and protracted negotiations. If Iran cannot be prevented from acquiring a nuclear weapons capability, it will be virtually impossible to stop a nuclear arms race in our neighborhood.

In 2018 President Donald Trump unilaterally withdrew the United States from the agreement with Iran and since then has pursued a policy of »maximum pressure« toward the country. In parallel, he has carried out a military withdrawal from the Middle East with increasing speed, making good on a central campaign promise »to end America's endless wars.« The United States had already significantly reduced its presence in the region under Trump's predecessor, Barack Obama. In contrast to Trump, however, Obama was aware that the vacuum the United States left behind had to be filled, for example, by the treaty with Iran, which was not only intended to halt that country's nuclear program, but above all was an important first step toward being able to launch negotiations on the many other conflicts related to Iran's interventionist policies around the Persian Gulf and in the Levant. In this respect, the nuclear agreement represented an intermediate step toward a broader strategic goal of not allowing a power vacuum to arise in the region as the United States reduced its presence. Thus, Trump's termination of the agreement not only entailed the danger of a resumption of the Iranian nuclear program and the strengthening in Iran of those domestic political factions opposed to any kind of opening toward the West, but also created precisely the type of vacuum that other powers, such as Russia, have long dreamed of exploiting.

The European signatory states to the nuclear agreement continue to adhere to the deal as a whole, but they have not been able to prevent Iran from violating some of its obligations under the accord. Iran's actions stemmed from the Trump administration's policy of maximum pressure, which also inherently threatened European companies with extraterritorial sanctions for doing business with Iran. Thus, U.S. policy put the European Union in a position where it was not, and is still not, able to fulfill its promise of providing effective economic aid to Iran in return for its renunciation of the right to develop nuclear weapons. Regardless of whether the European Union considers the

economic sanctions imposed by the United States on Iran to be contrary to international law, European companies and banks are too concerned about the possible consequences of sanctions to risk doing business with Iran.

Thus, the Iran agreement has increasingly become a magnifying glass through which the tensions in the transatlantic relationship and the eurozone's lack of economic sovereignty vis-à-vis the dollar loom even larger. What had begun as a jointly supported initiative became, under Trump, a rift between the United States and Europe, a trend that will continue if Trump is reelected in November.

It remains unclear how U.S. policy toward Iran and Europe will develop if Joe Biden, Trump's Democratic challenger, wins the election, but one thing seems certain: Even a Democratic White House will not want or be able to simply return to »before Trump« policies.

Even under a Democratic president, the U.S. military footprint in the Middle East will shrink dramatically. Such a policy is in keeping with the isolationist zeitgeist of the United States as well as the need to stabilize the country economically and socially. A Democratic president will also have to make concessions to Republicans increasingly inclined to turn away from Trump. They may not be the »presidentmakers,« but they will play a decisive role in determining a Democratic executive's scope for action.

The question for us Europeans is whether and how, in the event of a Biden victory, it will be possible to return to a joint approach. The most important element will be that Europe develops a credible concept of its own and is prepared to implement it in the Middle East, including in regard to Iran and the Gulf states as well as a new U.S. government. Europe must learn to stand on its own, without vacillating over the lifeline crossing the Atlantic.

Considering that this appears to be the most significant U.S. presidential election ever, this report is all the more important. Not only does it take a clear view of the realities facing a possible Democratic president, it also provides points of reference for how Europe, and Germany, can shape policy under those circumstances to save the nuclear deal with Iran and thus prevent a nuclear arms race in Europe's neighborhood. One thing is certain: Lip service will not be enough.

# Introduction

*David Jalilvand & Achim Vogt*

January 16, 2021, marks the fifth anniversary of the Iran nuclear deal's implementation. It remains far from certain, however, whether the Joint Comprehensive Plan of Action (JCPOA), as the deal is formally known, will still exist by that time. Even before assuming office in 2017, U.S. president Donald Trump rejected the deal entered into by the Barack Obama administration as the »worst ever signed.«<sup>1</sup> Trump's government then waged an all-out campaign against the agreement, leaving no stone unturned. After the unilateral withdrawal from the JCPOA in 2018, the US reimposed previous sanctions and introduced new sanctions. In the fall of 2020, then, the United States sought to dismantle the deal outright at the UN Security Council through a controversial legal move that was rejected almost unanimously.<sup>2</sup>

Four years of the Trump presidency have not only left the JCPOA in tatters, but have also profoundly damaged the very principles and foundations of multilateralism and international law. His administration's blatant maneuvering against the JCPOA has in particular undermined the integrity of the Security Council. Its actions alarmed the Europeans to the extent that France, Germany, and the United Kingdom felt obliged to emphasize in a formal statement that they remained »committed to preserving the processes and institutions which constitute the foundation of multilateralism.«<sup>3</sup>

The geopolitical fallout from the Trump administration, as seen from Europe, also extends to relations with China and Russia, the other parties to the JCPOA. Both countries, rather than meaningfully taking steps to protect the JCPOA, appeared to have largely followed Napoleon Bonaparte's credo to never interrupt an enemy committing a mistake. Their strategy paid off, with Iran being pushed into the arms of Beijing and Moscow politically and in part economically. By fall 2020, the United States had isolated itself to the point where Europe effectively sided with Moscow and Beijing in opposing Washington's moves against the JCPOA at the Security Council.

Meanwhile on the ground, both Iran's nuclear activities and regional policies became significantly more assertive after the United States reneged on the nuclear deal. In 2019, after remaining in full compliance with the JCPOA, and hoping that Europe would take steps to mitigate the economic damage from Washington's sanctions, Iran upped the ante, in part to gain leverage against the West. Tehran began to gradually violate key provisions of the JCPOA that effectively shortened its breakout time from more than a year to several months.<sup>4</sup> In parallel, Iran also pursued more assertive tactics in the Middle East, including strikes against tankers and oil infrastructure as well as attacks against U.S. troops in Iraq. Domestically, the Islamic Republic's more hardline factions strengthened their position at the expense of supporters of diplomacy abroad and reform at home. In addition, this resulted in a further deterioration of Iran's human rights record, with authorities violently clamping down on demonstrators protesting dire economic and political conditions and the number of political prisoners and executions rising.

## A RETURN TO FULL COMPLIANCE IS COMPLICATED

In light of the Trump administration's assault on the JCPOA, proponents of the deal have pinned their hopes on a change in the White House following U.S. presidential elections in early November. Joe Biden, while vice president under Barack Obama, had been a staunch supporter of the JCPOA, leading the administration's defense of the accord in 2015 in the face of a highly critical Congress.<sup>5</sup> Now, as the Democratic presidential nominee, Biden has vowed to return the United States to the deal, provided that for its part Iran is in full compliance.<sup>6</sup>

In Europe, the prospect of a Biden presidency is also accompanied by a desire to revive the transatlantic partnership. Notwithstanding differences pertaining less to objectives and more to means, the Europeans are largely convinced that policy toward Iran can only be effective

<sup>1</sup> Lowe and Gaffey 2016.

<sup>2</sup> Using the so-called »snapback« mechanism, the United States sought to end the nuclear deal and reinstate UN sanctions against Iran, see Geranmayeh and Goldenberg in this volume.

<sup>3</sup> E3 Foreign Ministers 2020.

<sup>4</sup> Breakout time refers to the amount of time required for a country to amass enough uranium for a nuclear bomb.

<sup>5</sup> Mimms 2015.

<sup>6</sup> Biden 2019.

when Europe and the United States act in tandem, as demonstrated by their working together to conclude the JCPOA.

At any rate, in January 2021, the JCPOA will continue to provide a framework and reference point for transatlantic (and global) policy toward Iran. This will be the case regardless of whether the agreement remains formally in place. After all, the JCPOA entails the key formula for addressing the international community's central concerns about Iranian nuclear activity: limitation and, crucially, verification.

A plethora of challenges stand in the way of reviving the nuclear deal, making a return to the JCPOA by a Biden administration far from a simple and straightforward policy shift. Before returning to full compliance, Tehran is already demanding compensation for the economic harm it has suffered at the hands of Washington's sanctions. It also expects guarantees of effective sanctions relief going forward. Meanwhile, it is unclear whether there will be enough political momentum in the United States to lift the extensive sanctions regime, as several important limitations on Iran's nuclear program set out in sunset clauses will begin to expire in 2023.<sup>7</sup> All this means that a Biden administration would likely be confronted with major challenges involving Iran's nuclear program soon after assuming the presidency.

A revival of the JCPOA is also complicated by factors beyond the provisions of the agreement itself, namely, the situation in the broader Middle East. With Iran's role in the region already deemed problematic by Europe and the United States, Iran's shift toward a more assertive strategy substantially exacerbated the situation. Although the parties to the JCPOA decoupled nuclear issues from regional affairs, the two dossiers are obviously linked. Given this, geopolitical tensions in the region stand to severely complicate any effort at reviving the nuclear agreement.

## ABOUT THIS REPORT

Against the backdrop described above, our report seeks to address the challenges at stake should a change in U.S. administrations create room for diplomacy and revive the prospects of the JCPOA succeeding. The approach here presents a range of relevant perspectives by experts from Europe, Iran, and the United States: *Ilan Goldenberg* and *Hassan Ahmadian* examine the political situations in Washington and Tehran, respectively. *Ellie Geranmayeh* outlines the contours of a road map for reviving the JCPOA, and *Cornelius Adebahr* looks at Europe's broader strategic picture. Their analyses illustrate the numerous challenges ahead for policy makers around the world in a position to use the window of opportunity that a Biden presidency would provide for the nuclear accord and present ideas on how these hurdles can be approached in a constructive manner.

<sup>7</sup> Inter alia, these include limitations on the level of enrichment (2023), the number of (first-generation) centrifuges and research on more advanced centrifuges (2025), total enrichment capacity (2028), and stockpiling of low-enriched uranium (2030).

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## 1

# RETURNING TO THE DEAL: THE VIEW FROM WASHINGTON

*Ilan Goldenberg*

During the 2020 presidential campaign, former vice president Joe Biden has expressed a desire to return the United States to the Joint Comprehensive Plan of Action (JCPOA) if Iran also comes back into compliance.<sup>1</sup> In addition, he has talked about the importance of diplomacy and the need for the United States to rebuild its relationships with its closest and most important allies in Europe, many of whom view its withdrawal from the JCPOA as one of the biggest points of contention with the Donald Trump administration. Biden has stated that beyond returning to the JCPOA, he would also seek to use hard-nosed diplomacy to strengthen and expand the agreement. This likely means building on the JCPOA with additional agreements to address outstanding challenges, including Iran's ballistic missile program, its support for various proxy groups in the region, and concerns that some of the restrictions on its nuclear program sunset after a number of years. Biden has also spoken of joining with Middle Eastern partners to push back against Iran's destabilizing activities in the region. Achieving these objectives should be feasible, but it will not be easy and will require skillful strategy and deft diplomacy.

## CHALLENGES IN EARLY 2021

A Biden administration will face a number of challenges as it considers how to reengage diplomatically with Iran, including an incredibly full domestic and international agenda; a group of global and regional partners with conflicting views on the best way forward; domestic political pressures; and U.S. national interests pertaining to its Middle East policies and Iran's nuclear program.

Biden's commitment to rejoin the JCPOA is based on a near consensus among Democratic foreign policy experts and members of Congress that walking away from the JCPOA was a mistake. Indeed, the JCPOA is in many ways a proxy for the broader point Democrats make about the importance and effectiveness of diplomacy as a tool, in sharp contrast to the use of military force, for addressing international problems.

The broader security environment may also encourage a Biden administration to try to immediately return to the JCPOA or at a minimum seek a less confrontational *modus vivendi* with Iran. An incoming administration's top priorities will be addressing the dual public health and economic crises associated with COVID-19. Beyond that, the foreign policy challenges posed by the increasing competition with China and the importance of rebuilding relations with key allies in Europe and Asia will take priority over the Middle East. With these complex issues on the table, a Biden administration is unlikely to want to focus much of its early term or effort on Iran. Left unaddressed, however, the Iran issue has the potential to become a major distraction if Tehran continues to build out the country's nuclear program in violation of the JCPOA or if regional tensions flare up in Iraq or around the Persian Gulf.

In the above context, a diplomatic deal that significantly reduces the likelihood of an early crisis with Iran would look highly appealing. A new administration could then initially focus on addressing more pressing challenges and fully staff its team before turning to longer-term U.S.-Iranian challenges in the second half of 2021, after Iran elects a new president in June.

## Washington Politics

The political environment in Washington will play a central role in how a Biden administration manages the JCPOA. A president Biden should have more space to work with than President Barack Obama did, at least within the Democratic Party. In the aftermath of four years of Trump, most Democrats, even conservative ones, are likely to give Biden the benefit of the doubt and not oppose an early return to the JCPOA. Even Democratic opponents of the initial agreement disagreed with Trump's unilateral withdrawal.<sup>2</sup> Indeed, for most Democratic lawmakers, support for the JCPOA makes for good politics; the agreement is a centerpiece of Obama's foreign policy legacy, and Obama remains a very popular former president.<sup>3</sup> Still, a unilateral return to the deal by the United States without reciprocal Iranian actions to return to full compliance or with steps

<sup>1</sup> Biden Harris 2019; Biden 2020.

<sup>2</sup> Bob Menendez for New Jersey 2018; Lima 2018.

<sup>3</sup> YouGov August 2019–August 2020.

that are seen as »compensation« to Iran for previous U.S. violations of the agreement may run into Democratic opposition. Most Democrats will want to hear that the Biden administration has a plan for a follow-on agreement to address nuclear sunsets in the JCPOA, Iran's ballistic missile program, and its policies in the Middle East that run contrary to U.S. interests.

It remains an open question whether a Biden administration can attract Republican support for its Iran strategy. This is tremendously important as strong Republican opposition to the JCPOA played a significant role in Trump's decision to withdraw from the agreement. A Biden administration may try to frame any deal with Iran as a necessary step aimed at reorienting U.S. foreign policy toward reducing U.S. military investment in the Middle East and putting greater energy towards countering China, which could appeal to some Republicans. If a mutual U.S.-Iranian return to the JCPOA fails, however, a Biden administration may find more domestic support for a similar deal absent the JCPOA label and all of the political baggage that comes with it. In the end, there is a much higher likelihood that the Iran issue will remain deeply polarizing and that a Biden administration gets zero Republican support for a policy to reengage Iran.

## International Politics

A Biden administration will have to take into account the views of other international actors, including Israel, the Gulf states, its fellow states comprising the P5+1 – the five permanent members of the UN Security Council plus Germany – and of course Iran. The P5+1 members, especially the United States' closest European allies, would applaud its rejoining the JCPOA. Indeed, a U.S. return could also be viewed as a central component in an effort to rebuild trust with Europe, no doubt a major priority for a Biden administration. In the Middle East, however, the United States rejoining the JCPOA would face strong objections.

Israeli prime minister Benjamin Netanyahu is likely to still be in power in 2021. He has been a strong opponent of nuclear diplomacy as well as a supporter of the Trump administration's »maximum pressure« campaign against Iran. In Netanyahu's view, any agreement with Tehran must result in zero uranium enrichment inside Iran and also address Iranian support for proxy groups across the Middle East, most importantly in Lebanon and Syria.<sup>4</sup> Netanyahu may choose not to pick a public fight with a new president and instead raise his concerns privately in an effort to influence U.S. policy. It would create unwanted tensions in the U.S.-Israeli relationship and reduce the likelihood of bipartisan cooperation on Iran if Netanyahu openly confronted a Biden administration like he challenged Obama's in 2015, when he went directly to Congress and delivered a speech denouncing the nuclear deal. At the same time, despite bipartisan agreement on the importance of a strong U.S.-Israeli relationship, Netanyahu's standing with con-

gressional Democrats remains quite low in the aftermath of his confrontational relationship with Obama and his embrace of Trump. Although U.S.-Israeli disagreement on Iran might be undesirable, ultimately it would not create the kind of resistance capable of undermining an early return to engaging Iran.

The Gulf states, especially Saudi Arabia and the United Arab Emirates will be deeply concerned about a new diplomatic initiative with Iran. Their biggest fear is that the United States will relinquish sanctions-related leverage for concessions on the nuclear issue while ignoring regional concerns, most notably Iran's support for its proxies. Still, the Gulf states, especially the UAE, began in the past year to take a more pragmatic approach to negotiating with Iran in the wake of rising tensions, including attacks on shipping interests and Saudi oil facilities, and may welcome a new diplomatic initiative as long as they believe their interests are also being addressed. They are likely to prefer to express any objections privately, creating more space for dialogue.

While contending with these various constraints, a Biden administration will have to reach an agreement acceptable to Iran and deal with the legacy of the past few years, including Tehran's deep distrust of the United States in the aftermath of its withdrawal from the JCPOA, its demands for compensation for U.S. non-compliance, and intensified Iranian domestic politics surrounding the June presidential election.<sup>5</sup>

## POSSIBLE EARLY STEPS ON NUCLEAR DIPLOMACY

Given the dynamics discussed above, a Biden administration is likely to take an early step to reengage diplomatically with Iran. There are a number of options for such a move, which naturally entails a variety of pros and cons from the U.S. perspective.

Upon taking office, a president Biden might commit to two early steps. The first step would be the elimination of the discriminatory travel ban, which has impacted Iranians possibly more than any other population given the previous level of travel between Iran and the United States.<sup>6</sup> The second step would be a commitment to provide immediate sanctions relief related to combating COVID-19, arguing for »issuing broad licenses to pharmaceutical and medical device companies; creating a dedicated channel for international banks, transportation companies, insurers, and other service firms to help Iranians access life-saving medical treatment; issuing new sanctions guidance to these groups and international aid organizations to make it clear how they can immediately, directly, and legally respond to the tragedy in Iran, without fear of penalty; and, for entities already conducting enhanced due diligence, it should

4 Kornbluh 2019.

5 See Ahmadian in this volume.

6 Manchester 2020; Jalili and Alaei 2020.



issue comfort letters to reassure them that they will not be subject to U.S. sanctions if they engage in humanitarian trade with Iran to support its COVID-19 response.<sup>7</sup> Although the technical details of the steps a Biden administration may take remains unclear, the most important factor is its public posture in encouraging or at the very least not standing in the way of these types of transactions and having the Office of Foreign Asset Control provide clear guidance that gives the private sector confidence to move forward and deal with Iran.

Any initial diplomatic step should also include an arrangement on «calm for calm» in the region to deescalate tensions in the aftermath of events over the past year. Such an arrangement need not be spelled out in detail, but Iran would have to refrain from attacks on oil infrastructure in the Gulf and proxy operations against U.S. personnel in Iraq. Meanwhile, the United States would tone down its rhetoric, including public threats of military action against Iran, and agree not to undertake operations like the killing of Qasem Soleimani, who oversaw Iranian military operations in the region as commander of the Islamic Revolutionary Guard Corps' Al-Quds Force. The United States would need to inform its regional partners that as part of this informal arrangement, they too should expect to show restraint, especially with regard to taking actions inside Iran.

As for the nuclear file, a new U.S. administration would have a number of options. The first is a mutual return to the JCPOA compliance by both the United States and Iran. This step would most dramatically roll back Iran's nuclear program in return for the greatest amount of sanctions relief. This may be the easiest agreement to quickly come to because the framework in both regards has already been mapped out in the JCPOA. From the perspective of U.S. law, it would require no review from Congress, as the JCPOA underwent congressional review in 2015 under the Iran Nuclear Review Act (INARA).<sup>8</sup> This option would also be most impactful with the P5+1, especially the United States' European allies, who not only value the JCPOA, but who also see its success as a broader statement about the effectiveness of multilateral diplomacy.

Given the political baggage associated with the JCPOA, Republicans would likely oppose a return by arguing that doing so still does nothing to address Iran's behavior in the region or its missile program and leaves the JCPOA's sunset provisions in place. These objections would also likely make bipartisan and regional support for efforts on any follow-on arrangements or future regional negotiations harder. Further, there is the question of whether Iran would even be willing to accept mutual reentry given its own concerns.<sup>9</sup>

A second option on the nuclear file would entail a smaller agreement akin to the Joint Plan of Action (JPOA) of 2013, the interim agreement on Iran's nuclear program that preceded the JCPOA, or like the effort by French president Emmanuel Macron in 2019 to negotiate a deal between the Trump administration and Iran by suggesting the U.S. provide some limited sanctions relief in exchange for Iranian nuclear concessions. Such an agreement might include a more modest sanctions relief package, granting Iran limited waivers on oil sanctions to sell roughly 1 million barrels per day, as it did under the JPOA from 2013 to 2015, as opposed to the 2.5 million barrels per day it exported during implementation of the JCPOA.<sup>10</sup> Iran could also receive access to foreign currency through the release of some of its frozen accounts abroad. In exchange, Iran would freeze its nuclear program where it stands and roll back other elements, such as reducing its stockpile of low enriched uranium or stopping enrichment at Fordow.<sup>11</sup>

A smaller agreement might be the simplest option. It would still allow for early de-escalation and may be much more appealing to U.S. partners in the Middle East concerned about providing too much sanctions relief to Iran without progress on regional issues. It may also have a higher likelihood of garnering bipartisan support if it can be framed domestically as a continuation of some of the Trump administration's effort to resume negotiations and get a «better deal.» While some members of the P5+1 will not be as enthusiastic about this option as about a straightforward return to the JCPOA, they would still welcome the resurrection of diplomacy after the Trump years.

A downsized approach naturally comes with drawbacks. A more limited agreement will do less to contain Iran's nuclear program. There is also the danger that if the United States and Iran move away from the JCPOA and toward an alternative, the more complex negotiations may not be completed before Iranian presidential elections in June. A new agreement would likely require a thirty-day congressional review period under INARA, and if Republicans hold on to the Senate in November, could lead to a drawn out political fight early in the new administration. Ultimately the Senate would not be able to block a new agreement, as according to INARA, it would require sixty-seven votes to do so. Regardless, a new administration would prefer to avoid an early fight over Iran if it can, simply because it would drain energy and attention from other key priorities.

A third option on the nuclear file would be to immediately negotiate a new agreement that builds on the JCPOA and focuses on extending sunsets, limiting Iran's missile program, and addressing regional disagreements. In exchange the United States would provide greater sanctions relief than in the JCPOA, including potentially not just secondary

<sup>7</sup> Biden 2020.

<sup>8</sup> Public Law 114–17 2015.

<sup>9</sup> See Ahmadian in this volume.

<sup>10</sup> Katzman 2015.

<sup>11</sup> See Geranmayeh in this volume.

sanctions but also some restrictions that prevent U.S. companies from doing business with Iran and allowing Iran to use dollar-denominated U-turn transactions. Breakthroughs in these areas may also require the new administration to consider inducements beyond the economic realm, into the more sensitive security arena. This strategy would allow the United States to continue to deploy the leverage pursued through the Trump administration's maximum pressure campaign. It would also be welcomed by Israel, Saudi Arabia, and Republicans in Congress.

This option would very likely lead to early escalatory steps on all sides, including acceleration of Iran's nuclear program and continued tensions in the Middle East. It would also probably be unacceptable to Iran. It remains hard to imagine getting back to serious negotiations without an initial confidence-building step. Therefore, this option should be the United States' fallback position if the other two options fail to yield an agreement.

Europe will be most important to the process in the months before a new U.S. administration takes power. During that time, it should play the same role it has played for the past four years: preserving as many options as possible through engagement with both the United States and Iran and trying to sustain the JCPOA. These efforts have met with mixed results, because the impact of U.S. secondary sanctions on the European private sector has prevented the delivery of real economic benefits to Iran to offset the U.S. departure from the agreement. That said, the E3 – France, Germany, and the United Kingdom – and the European Union's political support for the JCPOA have made a meaningful difference in slowing the deterioration of the agreement and preserving the possibility for a future return to compliance by both sides.

The Europeans must also take into consideration that a new administration will not engage with Iran before January 20, 2021, given the strong norms discouraging incoming administrations from meddling in the foreign policy of the administration in power. The Trump team violated this rule in 2016, especially with regard to Russian sanctions, and there will be a very strong inclination to reestablish the norm. Therefore, between the U.S. elections and January 20, the E3 and the rest of the EU could choose to begin preliminary talks with Iran on how a return to the JCPOA might work and track public statements from an incoming Biden administration.

## A LONGER-TERM APPROACH

In the aftermath of a possible first step as discussed above, further engagement between the United States and Iran is likely to pause for the 2021 presidential election in Iran. The United States will also need a pause before it pursues a longer-term comprehensive strategy, as a new administration will want to fully staff key positions, undertake a comprehensive internal review, and consult with allies. This would likely mean that serious engagement would not resume until late summer 2021 at the earliest. (Iran's new

administration takes office in August). When engagement begins, the agenda should expand far beyond the nuclear issue.

Iran's nuclear program will remain the first priority for the United States in terms of its global interests. There is growing recognition in Washington, however, that a central reason for the collapse of the JCPOA involved tensions around other issues that the United States and its Middle Eastern partners have with Iran.<sup>12</sup> In addition, in contrast to the years of the Obama administration, when the nuclear negotiations were novel and required the full brainpower and focus of the government, today policymakers are much more cognizant about the realistic and preferable parameters of a non-proliferation agreement with Iran, having already completed one. This does not mean that nuclear negotiations with Tehran will be easy, but there should be more bandwidth in the U.S. government to move beyond nuclear initiatives to consider other issues compared to when the previous negotiations historically broke new ground. This broader focus could be helped by the shifting regional context, given that Iran and some of its Gulf neighbors have begun to quietly discuss de-escalatory steps in the wake of the tensions that began in May 2019 with Iranian attacks on Gulf oil interests.<sup>13</sup>

For a broader regional dialogue to work, the format must include at a minimum the Gulf states, including Iran, with these players having to take some ownership of the process, although outside actors will remain central. Given the long history of animosity between the United States and Iran, and that Iran's security concerns are largely motivated by the threat posed by the United States, it makes sense for the Americans to be part of such a dialogue. Iran is unlikely, however, to engage in an initiative only involving the United States and the Arab Gulf states, as it would be isolated in such a negotiation. Thus a format that includes the key regional actors as well as the P5+1 may be acceptable to all of the players. Practically speaking, most of the significant negotiations and engagement will be bilateral and involve different actors depending on the issue.

Europe can play a constructive role in such a process because it is already engaged in a regional discussion with Iran through the EU+4 dialogue on Yemen. Perhaps this format can be adapted and expanded for the proposed regional negotiations. Indeed, Europe, or the EU, could act as a convener, as with the JCPOA. Russia's increasing role in the Middle East, most notably in Syria, will also make it an important participant in a dialogue. Iran would be interested in having Russia in the room, in part to offset the U.S. and European perspectives, just as it did during the nuclear negotiations.

<sup>12</sup> Benaim and Sullivan 2020; Pillar, Bacevich, Sheline, and Parsi 2020.

<sup>13</sup> Mazzetti, Bergman, and Fassihi 2020.

The agenda for the dialogue could include such issues as the following:

- non-interference by the Gulf states and Iran in each other's domestic affairs, including ceasing support for separatist groups and sabotage campaigns;
- de-escalation of naval tensions and attacks on critical oil infrastructure;
- regional conventional arms control arrangements, including missiles;
- regional nuclear inspection regimes and shared international enrichment;
- de-escalation mechanisms to end the wars in Yemen and Syria;
- reduction in U.S.-Iranian tensions in Iraq and Afghanistan; and
- regional responses to such transnational issues as the COVID-19 pandemic and environmental concerns.

The dialogue must be realistic and framed as focusing on moderate steps toward de-escalation instead of seeking to fundamentally reorient the region, reaching a »grand bargain« with Iran, or creating an entirely new regional security architecture. If such a process goes well, it could eventually lead to fundamental changes, but those will take years to accomplish. A much better approach is to start with modest objectives and build slowly.

Over time, the dialogue can be expanded to potentially include Turkey or Israel, especially when it comes to issues in the Levant and Syria. At the moment, it is hard to imagine Iranian and Israeli officials engaging directly on these questions, so an effort may need to start with a contact group of states engaging separately with Iran and Israel on some of these issues. This may be easier in the aftermath of the recent normalization agreement between Israel and the UAE and Bahrain.

Parallel to this dialogue, the P5+1 and Iran could create a second track focused on potentially renewing and expanding the nuclear agreement. If both the United States and Iran have returned to the JCPOA, such a dialogue can wait, as there are a number of years before the most important sunsets begin to expire. If instead, the nuclear agreement being enacted is short of a complete return to the JCPOA, a second track would likely be more urgent and require opening parallel to the regional dialogue. The possibilities that this broader follow-on arrangement on nuclear issues might entail are outlined in great detail in a Brookings Institution report by Robert Einhorn and Richard Nephew.<sup>14</sup>

At the core, the most important component of a deal would involve an extension of the sunsets for Iran's nuclear program in exchange for greater sanctions relief by the P5+1 to include potentially lifting parts of U.S. primary sanctions. Of importance, the nuclear issue is sufficiently

critical to U.S. and global interests that a successful nuclear agreement cannot be made entirely contingent upon resolving a slew of regional disagreements. It should be clear to Iran, however, that the level of sanctions relief it might receive and the Americans' willingness to also provide certain security assurances will be affected by progress on the regional track. The United States and other P5+1 members should be willing to show greater flexibility on a long-term nuclear arrangement if the talks on regional issues proceed well.

## CONCLUSION

It appears that a Biden administration would be genuinely determined to reenter the JCPOA and build on it through further diplomacy with Iran, fellow P5+1 states, and important players in the Middle East. The path, however, is far from clear. Negotiations will be incredibly difficult, and the constraints on both Iran and the United States could ultimately put a deal out of reach. Europe has played an essential role over the past few years in acting as a bridge between the United States and Iran and doing what it could to slow the inevitable deterioration of the situation. It can continue to play that supporting role, but now with a more positive agenda of helping revive U.S.-Iranian diplomacy.

<sup>14</sup> Einhorn and Nephew 2019.

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## 2

## OVERSHADOWED BY TRUMP: IRAN'S JCPOA POLITICS UNDER A BIDEN WHITE HOUSE

*Hassan Ahmadian*

For the Iranian government, the Joint Comprehensive Plan of Action (JCPOA) was a means and a framework for overcoming decades-long mistrust between Iran and the West, in particular the United States. The fate of the nuclear deal, however, served to do the opposite, with the trust deficit rising to unprecedented levels. Debate in Iran suggests that the future of the deal is very much conditioned by its past and how and why it was violated by the United States and Europe. At the same time, the possibility of a new administration in the White House has given rise to debate on the prospects of renewed diplomacy.

The extent to which Tehran sees a new deal, or even a new round of engagement with the West on other issues, as useful to its national security and economic interest is tantamount to the degree of urgency it feels toward renegotiating or recommitting to the JCPOA. This is not to say that a policy shift introduced by a new administration in Washington would do nothing to alter Iran's calculus. Internal debate casts much doubt on the link Tehran once saw between Iran's national security and its dealings with Western parties to the JCPOA. Nevertheless, Iran's return to the deal as a reciprocal act – or simply compliance-for-compliance – is a decision that has already been affirmed by Iran's Supreme National Security Council (SNSC) and announced by both Iran's supreme leader, Ayatollah Ali Khamenei, as well as President Hassan Rouhani.<sup>1</sup> Thus, it appears a US administration that intends to return to the JCPOA would at the least lead Tehran to revisit its reduced commitments policy toward the JCPOA.

A full return to compliance without addressing Iran's grievances would, however, be impossible to even imagine. On the one hand, according to Rouhani, those states that have violated the nuclear deal need to compensate Iran for damages incurred as a result of their breaching the agreement. On the other hand, debate in Washington suggests that there will be no unconditional return to the deal even under a Joe Biden administration. In fact, the Biden foreign policy team might view Trump's »maximum pressure« approach as having created leverage that can be used to extract more concessions, thus diminishing any chance of a swift return to the JCPOA.

### TRUMP'S LEGACY: THE COLLAPSE OF CONSTRUCTIVE ENGAGEMENT

In 2013 during Iran's presidential campaign, Rouhani ran on »constructive engagement« as a framework for resolving the standoff with the West over Iran's nuclear program, and by extension, its overall tumultuous relations with the West.<sup>2</sup> He promised Iranians economic dividends through the reintegration of their country into the world economy. The JCPOA emerged as a result of Rouhani's constructive engagement although the decision to engage the P5+1 – the five permanent members of the UN Security Council plus Germany – predates his presidency and had gained the backing of all the relevant political actors.<sup>3</sup> In addition, the JCPOA was seen by the Iranian leadership to serve as a confidence-building mechanism through which they could engage with Western powers on other issues. Khamenei called the deal a »test of reliance.«<sup>4</sup>

The U.S. withdrawal from the JCPOA in May 2018 hollowed out the deal and aborted the dividends that Iran had expected, diminishing the rationality, relevancy, and potential benefits of constructive engagement as a foreign policy approach.<sup>5</sup> With the Rouhani government's main fruit, the JCPOA, being spoiled by the United States, critics of his administration's policy gained traction in Iran. The amplified voices of Rouhani's opponents did not mean that criticism was confined to adversarial parties and figures. In fact, many leading reformists and moderates – members of Rouhani's base – also began voicing their objection to his administration's approach, with their criticisms and overall debate firmly rooted and affected by the nuclear deal's shortcomings and outcomes. A University of Maryland poll among Iranian citizens suggests that their criticism was resonating among the broader Iranian society with »about three in five saying that Iran should withdraw from the JCPOA.«<sup>6</sup>

<sup>2</sup> Zarif 2014.

<sup>3</sup> Office for the Preservation and Publication of the Works of His Majesty the Grand Ayatollah Khamenei 2015. [In Persian].

<sup>4</sup> Office for the Preservation and Publication of the Works of His Majesty the Grand Ayatollah Khamenei 2015. [In Persian].

<sup>5</sup> The White House 2018.

<sup>6</sup> Gallagher, Mohseni, and Ramsay, 2019, p. 4.

<sup>1</sup> Islamic Republic News Agency 2019.

As a result of domestic opposition and the U.S. policy of maximum pressure with its twelve demands seen as an equivalent to surrender by Iranians, a year after the U.S. withdrawal from the nuclear deal, Tehran changed course, moving away from strategic patience to a policy of push-back and resistance. The main shift involved the JCPOA, as Iran began downgrading the level of its commitment, albeit in a structured, reversible manner.<sup>7</sup> This step-by-step approach was geared toward creating leverage vis-à-vis Washington and the Europeans. The move was meant to dispel the United States of the perception that Iran could no longer leverage its nuclear capabilities and that it would therefore have to agree to more concessions to see any sanctions relief or otherwise enjoy the dividends of the JCOPA, which, ironically, had been the same line Washington had used before signing the JCPOA in 2015.

## IRAN REVISITS THE JCPOA

Debate on the JCPOA in Iran goes beyond the U.S. withdrawal, which obviously played a pivotal role in its failure, to focus on the shortcomings of the deal. The main argument is that without those shortcomings, Trump would have faced more obstacles in renegeing on the deal, and the E3 – France, Germany, and the United Kingdom – would not have easily reneged on their commitments as well.

The three main groups engaged in the debate in Iran can be categorized as opponents, critics, and arbiters. The opponents view the nuclear agreement from a broad perspective, criticizing it in its entirety as having diminished Iran's leverage and power and as strategically harming the country's national security. This group began calling for Iran's total withdrawal from the deal after the United States reneged on it. Some opponents have suggested that Iran also withdraw from the 2003 Additional Protocol on nuclear safeguards with the International Atomic Energy Agency (IAEA) as well as the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). In their eyes, a balanced deal between Iran and Western powers is a near impossibility and would never truly deliver dividends to Iran. The opponents are not necessarily against engaging with the West, but are skeptical about the outcomes. This group views themselves as realists, calling for Iran to gain leverage and downgrade its adherence to commitments under the deal to compel violators to observe their obligations in a reciprocal fashion.

The critics look at the deal more narrowly, focusing on the practical shortcomings that deprived Iran of the promised dividends. They advocate finding pathways for overcoming these failings and note the lack of adequate penalties that might guarantee that Western parties observe their commitments. Faced with Trump's Iran policy, many of them see no chance of a fair engagement able to address current Iran's grievances. Nevertheless, many of them believe that there is a way forward for the JCPOA if Biden wins in 2020.

<sup>7</sup> President of the Islamic Republic of Iran 2019.

This group's voice would most likely be effective in shaping Iran's dealings with a Democratic U.S. administration.

The arbiters focus on the JCPOA's security aspects, viewing it primarily as a desecuritization framework. In their eyes, the signing of the deal derailed Iran's securitization, a long-term U.S. policy according to Iranian strategists. Based on this view, halting the standoff over Iran's nuclear program short of war was Tehran's main accomplishment in negotiating the agreement. Although substantially concurring with the critics' on the deal's shortcomings, the arbiters argue that it was the desecuritization that helped curb the Trump administration's success at building an international coalition against Iran. Their voices have been influential in keeping Iran from exiting the deal, but their stock began to decline with the implementation of Iran's commitment reduction policy.

For the most part, the composition of these three groups is cross-factional, not necessarily adhering to the political divisions of Iranian politics. Nevertheless, to generalize, the conservative factions tend to hold views closest to the opponents, with many also agreeing with the critics, while the reformist factions primarily concur with the critics, with some advocating the arbiters' views. Of particular note, only the opponents steadfastly perceive the deal as having damaged Iran's national security. What all the groups have in common is that they unequivocally deem tackling the deal's shortcomings as necessary in any attempt to revive the JCPOA.

## JCPOA SHORTCOMINGS

Iran's plethora of political groups and factions have expressed something close to consensus on four issues that they see as the JCPOA's main shortcomings: asymmetrical implementation, one-sided punitive measures, fractured legal framework, and parallel sanctions and hollow sanctions relief. The resolution of these flaws will in all likelihood shape Tehran's future approach to nuclear diplomacy and to the agreement itself.

The asymmetrical nature of the entire deal is one of the critics' main points, including its non-concurrent implementation obligations. In this instance, Iran had to commit to its end of the deal before the introduction of sanctions relief. This enabled the United States and the EU states to violate the deal,<sup>8</sup> even after Iran's full implementation and its documented compliance.<sup>9</sup> As an issue raised by all sides,

<sup>8</sup> The E3 are seen in Tehran as violators »without announcement,« because they did not observe their economic and financial commitments under the deal, as European companies largely followed U.S. sanctions, and politically, Europe did little to stop them from doing so. In addition, the Europeans did not observe commitments made to Iran after the U.S. withdrawal, that is, announcement of a continuation of economic relations. Iran Press News Agency 2020.

<sup>9</sup> In addition, according to a Trump administration's interpretation, the United States is not only allowed to withdraw from the JCPOA whenever it wants, it can also rejoin it at will. Iran has rejected this assertion, yet it is quite telling to what extent the JCPOA can be manipulated because of its asymmetry.

including deal supporters, addressing this flaw will be critical to Iran's future approach.

The punitive measures written into the deal were designed to maintain Iran's compliance by raising the costs of its non-compliance, but the need for similar consideration in the event of U.S. or EU violations went unforeseen. Many point to the penalties as sufficient evidence of the asymmetrical nature of the deal: While non-compliance is costly for Tehran, violations by the other signatories are virtually free of any cost. Going forward, Iran will demand that all parties to the deal be liable for punitive measures in the case of non-compliance.

Although the endorsement of UN Resolution 2231 provides international legal backing for the JCPOA, this did not prevent the United States from violating it based on asymmetrical domestic legalities. In this respect, Iran's obligation was reinforced through parliamentary ratification and approval by the Council of Guardians. In the United States, however, the deal was enacted by the president's signature, but the Senate, being wary of the deal, legislated periodic presidential recertification of Iranian compliance, which provided Trump an opening to withhold certification and back out of the deal. It is hard to envisage a legally binding framework for the U.S. executive branch, and therefore how a more binding legal framework can be devised. While Senate ratification of the deal as a treaty might be an option, it would be a significant longshot.

As for sanctions, banning Iran from the U-turn – using U.S. dollars in transactions with third parties – cannot go hand in hand with relief from them. Without U-turn access, sanctions relief for Iran remained dependent on case-by-case financial and legal oversight by U.S. authorities. The Trump administration, by blocking Iran's access to the global financial system, hollowed out all lifted sanctions. This issue is too big to be ignored. It will certainly be on Iran's list of demands.

The above flaws, according to internal Iranian debate, deprived Iran of bargaining chips vis-à-vis the United States, while Washington retained its primary tool – sanctions – which would be used to brutal effect through its maximum pressure policy. In addition to the deal's flaws, one point usually raised by opponents is that there is no merit or strategic rationale for Iran to agree to extra-NPT commitments as it did in the JCPOA. Their arguments against the deal in this regard have been fierce, with some listing up to 100 flaws in the JCPOA that harm Iran's national security and interests.<sup>10</sup>

After the US withdrawal from the JCPOA, the debate in Tehran turned to the need to develop leverage vis-à-vis the United States. This led to the policy of commitment reduction and reactivation of Iran's ceased nuclear activities. This along with Tehran's ongoing development of a ballistic

missile program and heightened regional profile constitute Iran's three-fold strategy of active resistance vis-à-vis the U.S. maximum pressure policy as well as all violations of the deal.

## IN SEARCH OF A BALANCED DEAL

For Tehran, renewed negotiations with the United States and other parties to the nuclear deal require remedies to the above-mentioned shortcomings. Iran reestablishing leverage is part of that process. Without Iranian leverage, neither the United States nor the EU will be willing to address Tehran's grievances. Added to this, Iran's future approach almost certainly remains dependent on U.S. policy after the November election as well as its own presidential elections, scheduled for May/June 2021. Another consideration is the common outlook currently held by the Iranian strategic community toward the United States and the JCPOA, according to which Iran would not agree to unilateral full-scale implementation as in 2015, would demand a more binding legal framework, and would insist on clear punitive measures for all violators of the deal.

To the first point, through a reciprocal step-by-step approach, the Iranians would implement next steps only after seeing the results of previous steps. Simply returning to full compliance based on the United States rejoining the deal is no longer feasible. The trust deficit has skyrocketed to the extent that a change of faces in the Oval Office will not alter this fact.

In regard to the second issue, although a binding legal framework that would bar a future U.S. administration from violating the deal is hard to envisage, it would be encouraging to be able at the least to assess clear and internationally enforceable penalties for violations. The ideal would be for the U.S. Senate to ratify the deal as a treaty in accordance with U.S. law.

As to the third issue, financial and economic measures should be used not only for their incentivizing effect, but also for their punitive aspect of deterring future violations by all parties to the deal. To make this point, Iran will strongly demand both compensation for previous violations as well as clear financial and economic penalties legally applicable to all future violations. In addition, Iran will insist on the lifting of all sanctions-related financial regulations, with the U-turn being of the first order.

Many Iranians argue that in light of U.S. and EU violations, the Americans and the Europeans have to take into consideration Iran's perspective on a more balanced deal, which would be more long-lasting. Despite there being serious doubt about the possibility of a balanced deal, there is something of a consensus among the Iranian strategic community that business cannot continue as usual when it comes to the Western powers fulfilling their commitments. After all, they are the ones who broke the rules.

<sup>10</sup> Kayhan 2015.

## IRANIAN EXPECTATIONS FROM A BIDEN ADMINISTRATION

As the Democratic presidential nominee, Joe Biden has vowed to a U.S. return to the nuclear deal if elected. That said, however, and despite the Democratic Party Platform stating that the »Joint Comprehensive Plan of Action (JCPOA) remains the best means to verifiably cut off all of Iran’s pathways to a nuclear bomb,«<sup>11</sup> Democratic debate suggests that an unconditional return is unrealistic. The benefits of using the leverage generated by maximum pressure to extend the sunset clauses in the deal – i. e. extracting more concessions from Tehran through and also outside of the JCPOA – are part of this debate. Moreover, there is also discussion about the sequencing and reciprocity of measures surrounding a return to compliance.<sup>12</sup>

In addition to demanding compensation for past violations, in this scenario, Tehran is also likely to continue to build up leverage to counter U.S. demands. This is its primary path toward overcoming U.S. pressure and furthering its desire for a »balanced deal«. Continued U.S. and EU violations would lead Iran to expand its nuclear activities, which in turn would increase Iran’s stockpile of highly enriched uranium, creating a shorter breakout time, and encourage its furtherance of a more »Eastern«-focused foreign policy.

Though a significant development, Biden’s election would only be one of the major variables affecting the future of the JCPOA. Two others to consider are Trump’s snapback option, including whether it could materialize before January 2021, and the outcome of Iran’s presidential elections. The Biden foreign policy team will have to deal with the repercussions of both when it comes to Iran and the JCPOA.

An outgoing Trump administration together with its regional allies would most likely use the window before Biden’s inauguration to force Iran into taking actions that would make it harder for Biden to return to the deal or to build upon it. One example already at play is Israel launching military strikes not only against Syrian targets, but also Iraqi and reportedly Iran-based targets. The Trump administration tried to extend the UN arms embargo, which is to expire in October 2020 based on the JCPOA, and is likely to do whatever it can to implement snapback UN sanctions. In such a situation, Iran, to increase its leverage against the United States, might consider increasing its nuclear activities; reducing or halting IAEA inspections and implementation of the IAEA Additional Protocol; or withdrawing or announcing its planned withdrawal from the NPT. Against this backdrop, a president-elect Biden would need to prepare for two scenarios during the transition period.

In the first scenario, the Trump administration triggers a sanctions snapback, and in retaliation, Iran decides on the

major response of withdrawing from the NPT. Another option might be withdrawing from the additional protocol and reactivating the entire nuclear circle, which it had achieved before the 2015 deal. Although a mild response is also possible, Tehran understands that a tepid step would diminish its leverage. In either case, a return-upon-arrival to the deal would be impossible for a Biden administration. At best, renewed negotiations between Iran and the P5+1 are achievable. Though it is highly unlikely that after losing the election, and even in the time remaining until election day, Trump would be able to force allies and partners to trigger a sanctions snapback based on his team’s interpretation of Resolution 2231, it is not entirely out of the question. To stop a spiral into conflict, the response to U.S. actions by Europe, China, and Russia to U.S. would be pivotal.

In the second scenario, Trump leaves the issue to Biden without further complicating it. Iran would continue with its current approach, focusing through diplomatic channels on its grievances and demands for a balanced deal. If Biden’s Iran team opts to use maximum pressure as leverage to extract more concessions from Tehran, the current Iranian government will not have enough time to engage it in any meaningful way because of the 2021 presidential election. In terms of Iran’s election as a variable to consider, Trump’s Iran policy has vindicated the conservatives’ view of the United States, bolstering their position politically and boosting their chances of winning in 2021.

Despite the strategic consensus in Tehran surrounding the JCPOA, the executive can still play a significant role in translating Iran’s options within that consensus into policy. Taking shared criticism of the JCPOA and strategists’ inward-looking approach into account, a conservative administration would demonstrate much less enthusiasm toward engaging Western powers, and it would not commit the same mistakes, in their view, for which Rouhani has been criticized. As such, the four demands mentioned above are the least they will focus on in arriving at a balanced deal. The COVID-19 pandemic only adds to the conservatives’ lack of enthusiasm to engage with the upcoming US administration. The pandemic – ravaging the global economy and lowering the thirst for oil and gas – makes it harder to envisage a situation in which a return to the nuclear deal will benefit the Iranian economy in the short-to-medium term.

Some issues – namely Iran’s ballistic missiles program and its regional policy – will be off the table for Tehran. The fate of the JCPOA looks to play a significant role in Iran’s reluctance to engage in further negotiations toward a JCPOA 2.0 (*barjam-e do*) as Rouhani alluded in 2015. Any Biden administration demands for concessions on the two issues are likely to fall on deaf ears. Still, there are some regional issues on which Iran has shown a willingness to engage with Western states. Yemen is one example that if successful could lay the ground for further collaboration on other matters.

<sup>11</sup> Democratic National Convention 2020.

<sup>12</sup> See Goldenberg in this volume.



## CONCLUSION

It is quite possible that new negotiations could be launched were Biden to return the United States to the JCPOA, but his foreign policy team would confront an exhausting and lengthy process. By not exiting the deal after the U.S. withdrawal and in light of EU violations, Iran views itself as holding the moral high ground. Additionally, Iran, by reactivating its nuclear program beyond JCPOA limits, has increased its leverage, which was primarily aimed at countering U.S. pressure. From experiences in the recent past, Iran has arrived at one very fundamental conclusion: as long as it maintains some leverage, Western powers will listen and make concessions, but as soon as it does not, the listeners lose their hearing. It is therefore hard to imagine Iran taking an approach in the future similar to that taken previously. Debate in Tehran suggests that Iran will not forgo its grievances without adequate recognition and compensation.

Should Biden's foreign policy team eye maximum pressure as a means to extract more concessions, Iran is likely to double down on its efforts to create more leverage. While some in Washington assert that a return to the nuclear deal is in and of itself a prize for Tehran, Iranian debate is focused on the feasibility of a restoration of JCPOA commitments. Indeed, Tehran's return to the same flawed deal that Washington can turn a blind eye to whenever it wants is a non-starter. U.S. incentives must extend beyond the JCPOA if a new administration is to find open ears in Tehran.

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## 3

## COURSE CORRECTION IN U.S.-IRANIAN RELATIONS: A ROAD MAP FOR THE BIDEN ADMINISTRATION

*Ellie Geranmayeh*

After almost four years of the Donald Trump administration and a relentless policy of »maximum pressure« against Iran, Western security interests have been severely damaged. It is clear that the United States needs a major course correction regarding its Iran policy. A victory for former vice president Joe Biden in the November elections would provide an opening for a new diplomatic agenda between the two sides, one that the European powers can play an important role in supporting. Biden recently outlined that his administration »will make it a priority to set Iran policy right,« noting a series of key objectives, including reentering the nuclear deal »if Iran returns to strict compliance« with the agreement.<sup>1</sup> The below proposed three-phase road map demonstrates how a Biden administration could reenter the 2015 nuclear deal and considers the role of European actors in this process.

### THE CURRENT STATE OF AFFAIRS

It will be no easy task for Biden to pick up the pieces left by the Trump administration on Iran policy. The nuclear deal was hollowed out after President Trump brashly halted U.S. participation in it in 2018, and Iranian leaders reacted to mounting sanctions a year later by expanding their nuclear program and spurring regional tensions. European and American partners in the Arab Gulf region experienced a series of sophisticated attacks against their oil infrastructure, broadly viewed as being carried out by Iran in response to a U.S. attempt to impose an oil embargo against the country in 2019. After the United States assassinated the high-profile Iranian general Qasem Soleimani in January, American troops in Iraq came under fire by Iranian missiles, leaving the two sides closer to military conflict and European forces in the region caught in the cross-fire. The Trump administration's highly contested attempt to snapback international sanctions against Iran this September has left the United States isolated at the UN Security Council.

Against this backdrop, the first and most urgent priority with respect to Iran, for both European governments and a new Biden administration, will be to contain Iran's nuclear program. In the course of the U.S. presidential campaign, Biden has vowed that his administration will return the

United States to the nuclear deal, officially the Joint Comprehensive Plan of Action (JCPOA), so long as Iran does the same.<sup>2</sup> The Democratic Party Platform supports an urgent full return to compliance by both Iran and the United States.<sup>3</sup> It is not exactly clear how a Biden White House would seek to reenter the agreement that the Trump administration has gone to extreme lengths to sabotage.

If Biden wins the upcoming election, the political space for his administration to reenter the JCPOA will be impacted by whatever state the nuclear deal is in at that time, how far U.S.-Iranian relations escalate in the final months of the Trump administration, and the general degree of tensions in the Middle East. Nevertheless, a different U.S. government in January would provide an important opening for Washington to reset its diplomatic agenda with Iran and also to reengage European allies to coordinate respective strategies on Iran.

Time will be of the essence in locking in a diplomatic road map. With Iranian presidential elections due to be held in June 2021, President Hassan Rouhani's administration – which has been critical to shoring up internal support for the deal – would only have a narrow window to bring Iran back into compliance with the JCPOA. European efforts, led by the E3 – France, Germany, and the United Kingdom – and the European Union, can play an important role in facilitating the diplomatic platform for Tehran and Washington to begin a speedy political outreach. European governments can set the stage for such an exchange soon after the November elections. While the Biden camp will be unable to engage with either Europe or Iran during the transition period, from the election until January 20, 2021, the Europeans can work with Iran to identify a realistic process for the full implementation of the JCPOA to launch as soon as possible after Biden's inauguration. Full compliance with the JCPOA by both Iran and the United States will likely require a phased approach and could become severely complicated by actions from either side before January.

It is without doubt that the JCPOA is far from what the parties to it envisaged in 2015. For Iran, the economic div-

<sup>1</sup> Biden 2020.

<sup>2</sup> Ibid.

<sup>3</sup> Democratic National Convention 2020.

idents that were promised under the JCPOA have been all but nonexistent following the return of U.S. secondary sanctions. The security component of the JCPOA for Iran, namely to remove the shadow of conflict, has been largely dissipated by the bullish approach of the Trump administration. While Iran continues to provide international monitors with unprecedented access to its facilities, Europeans are extremely concerned that Iran has exceeded a number of important caps placed on its nuclear activities over the past year that could shorten its breakout capability – the time it takes to produce enough highly enriched uranium for a nuclear weapon.

It is nevertheless noteworthy that the architecture of the agreement has (for now) survived the Trump administration. There is also no doubt that all the current parties to the JCPOA would like to see it continue to survive and be rehabilitated through a U.S. return to the agreement.

## SETTING REALISTIC EXPECTATIONS FOR INITIAL DIPLOMACY

For the Biden administration and the E3, the most realistic way forward for diplomacy on Iran will be to freeze and then roll back Iranian nuclear activities to JCPOA levels. As part of this effort, the Biden White House should first make quick, yet extensive outreach with E3 allies. The E3's political commitment to the JCPOA has been one of the factors ensuring its survival, and the European Union has a key role as coordinator of the Joint Commission established by the agreement. Close collaboration between the E3/EU and the Biden administration will provide the best chance of bringing Iran into full compliance with the JCPOA. Differences between the United States and Europe over the nuclear deal in recent years have shown the limits to how far U.S. unilateral measures can go in politically isolating Iran. More broadly, Biden and Democratic members of Congress can use rehabilitating the nuclear deal to partially address the damage done to transatlantic relations by the Trump administration.

It will be important for the Biden administration to carefully sequence its steps and messaging with Tehran, especially when it comes to a follow-up nuclear agreement. Biden may either privately or publicly tie a U.S. reentry to the JCPOA and consequent sanctions relief for Iran to expanded negotiations. Iran is unlikely to accept such follow-up talks, however, until and unless the Biden administration fully implements the JCPOA sanctions-lifting commitments. Given the proven efficacy and power of U.S. secondary sanctions, the Biden administration is in a position to comfortably accept mutual compliance with the JCPOA as a first step and thereafter pursue negotiations with the knowledge that it maintains leverage if required in the future.

As part of the follow-up talks, the Biden administration will likely seek to prioritize extending the sunset provisions for Iranian nuclear commitments, some of which begin to expire in 2023. Such extensions will require a »more-for-

more« formula during phase 3 of negotiations. It will be hard to sell such talks to Tehran before Biden provides full sanctions easing and rejoins the JCPOA. At earlier stages of diplomacy Iran could however be more open to bringing forward certain obligations under the JCPOA, such as ratification of the Additional Protocol due to take place by 2023. More broadly, the United States will need to provide Iran with an attractive economic quid pro quo to make follow-up negotiations viable.

Some degree of tacit acceptance by regional partners would also enhance the durability and success of renewed nuclear diplomacy between Iran and the United States. The Biden administration and the E3 should instigate an aggressive diplomatic outreach to explain their stance toward the JCPOA with regional partners in parallel to addressing the reasonable concerns of Israel, the United Arab Emirates and Saudi Arabia about Iran. The United States will also need to clearly outline that Trump's maximum pressure campaign had contributed to pushing Iran and its neighbors to the brink of military conflict. Indeed, there is now a degree of appetite among the Arab Gulf countries to reduce hostilities with Tehran and find a way out of the current state of play which the E3 and Biden should capitalize on.

Israel and Saudi Arabia will certainly push for the United States and the E3 to place stringent restrictions on Iran's ballistic missile program as part of any diplomatic initiative on the nuclear file. That said, it will be difficult, if not nearly impossible, to get movement from Tehran over its missiles given its distrust of the West and the importance and proven efficacy of its missile program in bolstering Iran's military position. This is especially so given that Western countries continue to arm Iran's regional foes while Iran's air force and conventional arms stockpile remain depleted. The issue of missiles should be discussed with Iran as part of a parallel process separate from the nuclear talks and will require a broader regional perspective on the military balance of power in the Middle East.<sup>4</sup>

While regional diplomacy must be pursued, the Biden administration and the E3 should place the nuclear issue at the top of their agenda on Iran. Not only does this proliferation file present the biggest risks to Western security interests in the immediate term, but Rouhani – who was instrumental in garnering Iranian buy-in for the JCPOA – will leave office in August. During the six months of overlap between Biden and Rouhani, it is unlikely that a regional security dialogue or a follow-up nuclear deal can be negotiated, in part because an incoming Biden administration will be confronted with a series of pressing domestic and foreign policy challenges.<sup>5</sup> There is, however, an opportunity to address immediate concerns regarding Iran's growing nuclear program during the overlap and place Iran and the United States on a de-escalation ladder.

<sup>4</sup> Hinz 2019.

<sup>5</sup> See Goldenberg in this volume.

## Two January Scenarios

Given the realities outlined above, the best-case scenario is that the JCPOA framework is preserved as it currently stands until Biden takes office. To help keep the JCPOA afloat – especially in light of possible moves by the Trump administration to further corner Iran – soon after an election victory it would be helpful for the Biden camp to articulate high level principles that give the E3 room to explore diplomatic options with Tehran without boxing the future administration in. These should reiterate a commitment to return to the multilateral arrangements abandoned by Trump, including the JCPOA and reversing the snapback attempt at the United Nations. The Biden camp should also be flexible on the sequencing approach for JCPOA reentry and avoid constraining the political space at this stage through preconditions.

Such messaging and a change in U.S. administration can provide the hook for the E3 to accelerate ongoing talks with Iran over the JCPOA. The Europeans' effort should aim to establish parameters for an agreement in which Iran freezes nuclear activities that exceed the deal limits, setting the stage for the Biden administration to rejoin the JCPOA. The E3 will have an important role in conveying to Iran that continuing to ramp up its nuclear activities prior to January will make it much more difficult politically for Biden to reenter the agreement. It is important to note that the E3 have a blueprint for such diplomatic leadership, most recently in 2019 as part of President Macron's initiative to broker an initial settlement between Iran and the Trump administration.

It is under this first January scenario that the United States and Iran have the best shot at mutually implementing the JCPOA in full as proposed here. The two sides may, however, be presented with a much more difficult landscape to navigate. In the second scenario, Biden may well be confronted by a collapse of the JCPOA or far worse military tensions with Iran in the Middle East when taking office in January.

Since withdrawing from the JCPOA in 2018, the Trump administration has actively sought to collapse the deal altogether. In its latest gambit – which followed an embarrassing defeat at the UN Security Council in August over a resolution to extend the arms embargo against Iran that is due to expire in October – the administration attempted to snapback international sanctions against Iran that had been lifted by the JCPOA.<sup>6</sup> The E3, China, and Russia strongly contest the move, in which the United States sought to use a provision in UN Security Council Resolution 2231, which enshrines the JCPOA, allowing any »participant state« to the agreement to snapback international sanctions. The JCPOA parties vocally maintain that the United States can not resort to this measure, having ceased to be a member of the agreement and consistently stating that it had done so.<sup>7</sup>

In September, having failed to get other members of the UN security council on board with snapback, Trump administration imposed a new round of unilateral sanctions targeting arms trade with Iran. Meanwhile, it seems that the E3/EU will continue to oppose a U.S. snapback effort and maintain the space for diplomacy with Tehran.<sup>8</sup> However, there are some concerns that the Trump administration may take more extreme measures, such as seizing Iranian ships and cargo based on recent U.S. unilateral sanctions.

Reactions to such moves by Tehran could also severely complicate the political optics and viability for a JCPOA return by the Biden administration. After the United States imposed unprecedented sanctions against Iran's oil sector in May 2019, Iran began a process of gradual non-compliance with the JCPOA coupled with a more militarized and confrontational approach toward American troops and U.S. regional allies in the Middle East. In the absence of tangible economic benefits on offer by remaining JCPOA parties, in particular Europe, Iran accelerated its nuclear activities beyond the confines of the deal, as detailed in multiple reports by the International Atomic Energy Agency (IAEA).<sup>9</sup> The E3 have repeatedly flagged their concern with respect to Iran's nuclear activities.<sup>10</sup>

If in response to more aggressive moves by the Trump administration, Iran advances its nuclear program – for example by raising enrichment levels to 20 percent – or restricts the access of international monitors to its nuclear facilities, the E3 may look to escalate the ongoing talks with Tehran as part of the JCPOA's Dispute Resolution Mechanism (DRM). At this stage however, so long as Europe continues to politically resist attempts by the Trump administration to sabotage the JCPOA, Iran is unlikely to take such an extreme course of action. Indeed, shortly following the public rejection by the EU and E3 of the attempted U.S. snapback in August, Iran reached a deal with and provided access to the IAEA for inspection of nuclear sites that have been the subject of ongoing tensions over the past year.<sup>11</sup>

Another danger to future diplomacy will be the amount of destruction that could follow a Trump defeat at the polls. After a loss in November, the Trump White House could launch a scorched earth policy toward Iran in a final bid to destroy the JCPOA and militarily target Iranian assets in the Middle East. Both the White House and hawkish Republicans in Congress may also use the last two months of Trump's term to introduce a series of sanctions on Iran that create further political obstacles for Biden to return to the JCPOA. No doubt, these will be met with an Iranian reaction that gives rise to further military escalation between the two sides as seen earlier this year.

<sup>6</sup> Johnson 2020.

<sup>7</sup> European External Action Service 2020.

<sup>8</sup> Geranmayeh and Catalano Ewers 2020.

<sup>9</sup> Tirone 2020, for a summary of the latest IAEA report, Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015), issued September 4, 2020.

<sup>10</sup> Ministère de l'Europe et des Affaires Étrangères 2020.

<sup>11</sup> France 24 2020.

If the JCPOA collapses by January, or if the Trump administration ratchets up the maximum pressure campaign to a new level, the political space for Biden to reenter the JCPOA significantly narrows. There are also factors outside of Iranian and U.S. control, such as Israel targeting Iranian nuclear facilities (as it is suspected of doing in June at the Natanz facility), which could in turn escalate regional tensions.<sup>12</sup> While such scenarios will make it much more difficult for the Biden and Rouhani administrations to adopt the road map outlined below, the JCPOA will likely remain the foundational framework for any revised arrangement.

## A PHASED ROAD MAP FOR JCPOA REENTRY

The proposed road map envisages a scenario in which the JCPOA has been preserved until Biden's inauguration and absent a major uptick in U.S. military escalation with Iran in the Middle East.

The JCPOA does not have a formal reentry process so decisions on how the United States can do so will ultimately be a political one, which has potential to make it flexible and relatively speedy. The road map for U.S.-Iranian diplomacy under a Biden administration can be divided into three key phases: an interim freeze agreement, full and mutual JCPOA implementation, and more-for-more nuclear talks.

### Phase 1: Interim Freeze Agreement, by Mid-February 2021

The first phase of the road map should ideally begin immediately after Biden's election victory in November. The E3/EU can intensify nuclear diplomacy with Iran starting in November, during the transition in the United States. This European effort should focus on exploring the parameters of an agreement for Iran to freeze its nuclear activities that exceed the JCPOA limits. The goal would be to have this interim deal in place by mid-February, making it more viable for the Biden administration to reenter the JCPOA. Iran will only accept an interim freeze deal, however if the Biden administration simultaneously provides it economic relief and formally initiates a process of reentry to the JCPOA.

The freeze on nuclear activity could require Iran to halt and roll back low uranium enrichment that exceeds 3.67 percent, as outlined in the JCPOA, suspend enrichment activities at the Fordow facility, and stop installing advanced centrifuges. Iran may accept such measures if it can hold on to its increased stockpile of low enrichment uranium, which will provide it with some leverage going forward. The IAEA can verify this process.

Immediately following Biden's inauguration, the E3 should begin coordinating positions with the United States with the aim that by end of this first phase, the United States formally submits a request to the Joint Commission to reinstate its participation to the JCPOA. In parallel, the Biden administration should appoint a senior aide, such as a former senior JCPOA negotiator, to reach out to the Iranian mission in New York to begin a process of discreet direct diplomacy. It should also provide Iran tangible economic incentives by the end of the first phase as part of a synchronized set of measures. The incentives would be in return for reaching an interim freeze deal and to signify the seriousness of the United States' intent to rejoin the nuclear deal. They would also build confidence with Tehran.

Biden can take the following confidence building measures in January, with little domestic political cost:

- Removing, as part of Biden's commitment to lift the »Muslim ban,« the Trump travel restrictions affecting Iranian nationals.<sup>13</sup>
- Working with the EU/E3 to boost the volume of humanitarian trade with Iran through the INSTEX-STFI mechanism. In the context of COVID-19 the Biden administration could also endorse INSTEX.
- Providing a reliable framework for humanitarian trade with Iran by reducing uncertainties surrounding General License 8. In particular, the United States should remove impediments to Iran's purchase of medical goods and equipment given the precedent of COVID-19.
- Easing some of the sanctions that Trump's executive orders have imposed on senior Iranian officials since the U.S. withdrawal from the JCPOA. This should include those against Foreign Minister Mohammad Javad Zarif, who will likely remain Iran's chief nuclear negotiator or transition to playing a major role in building internal buy-in for diplomacy.
- Returning travel restrictions introduced by the Trump administration to the status quo ante for Iranian officials visiting their UN mission.

A more concrete economic package that can be offered to Iran by the end of the first phase in exchange for an interim freeze agreement include:

- Issuing executive waivers that ease restrictions on Iran's ability to access its foreign revenues frozen in offshore banks (especially in China, Europe, India, Japan, South Korea and Iraq) for non-sanctioned trade.
- Reissuing waivers to certain countries for the limited purchase of Iranian oil, in effect returning the sanctions environment to pre-May 2019. Here China will be key. A waiver for South Korea will also be important, so it can purchase condensates from Iran.

<sup>12</sup> Fassihi, Pérez-Peña, and Bergman 2020.

<sup>13</sup> Wilkie 2020.

The utilization of condensates, a natural gas by-product, is key to maintaining output growth at the South Pars field, which in turn is sorely needed for domestic economic activity. While oil waivers can be issued to European countries that previously imported Iranian crude oil, such as Greece and Italy, commercial actors from these countries are unlikely to reenter the Iranian market in the foreseeable future.

## Phase 2: Full and Mutual JCPOA Implementation, by June 2021

By the end of the second phase, both the United States and Iran should, in a synchronized series of steps, come into full compliance with the JCPOA. Given the experience of implementing the JCPOA – which entailed a complex series of measures between July 2015 and January 2016 – with enough political will on both sides it should be feasible for Iran to reverse its nuclear activities that exceed the JCPOA caps and for the United States to put in place sanctions-easing steps by July 2021.<sup>14</sup> Iran will need to reduce its stockpile of low enriched uranium, dismantle advanced centrifuges at Natanz, and halt steps on research and development that go beyond the JCPOA, among other measures.

It will be important to cement the full implementation of the JCPOA prior to the June presidential elections in Iran, thereby rendering it more durable regardless of who succeeds the Rouhani administration. Moreover, the U.S. reentry to the JCPOA by June, could help boost the political momentum in Iran in favor of continued diplomacy with the West.

This will also be the time for confidence building. First and foremost, both sides have to cool military tensions of the type witnessed under the Trump administration in the Middle East. The E3 can promote an understanding between Iran and the Biden administration during this delicate phase that neither side will engage in provocative actions. While major political progress on regional conflicts is unlikely at this stage, Tehran could moderate its rhetoric toward the United States and its regional partners. Moreover, the United States and Iran could continue mutually releasing detainees, which the Swiss government facilitated during the Trump administration.

Iran has consistently noted that as part of a reentry to the JCPOA, the United States will need to »compensate« it for the economic hardship resulting from Trump's decision to reimpose sanctions at a time when Iran was fully compliant with the agreement. It is also a reality that secondary sanctions provide the United States with an extremely powerful tool that can be deployed much faster than Iran can expand its nuclear program. Iran will no doubt want this disparity addressed.<sup>15</sup>

While it is highly unlikely that the Biden administration will agree to an explicit compensation package, given existing domestic pressure against diplomacy with Iran, there are some creative measures that it can take as part of a confidence-building process to shore up the JCPOA. The administration should also be prepared to exercise flexibility in providing the Rouhani administration with ammunition to sell the notion of follow-up talks with the United States through the following measures:

- Working with European partners to expand scope of trade taking place under INSTEX-STFI mechanism to step in where international banks are reluctant to facilitate transactions involving Iran (this can go beyond humanitarian trade to cover areas that will be exempt under U.S. sanctions framework once JCPOA implementation is complete).
- Undoing executive order sanctions issued under Trump against Iran's metals and mining sector including under Executive Order 13871 and Executive Order 13902.<sup>16</sup>
- Issuing waivers for companies such as Boeing and Airbus to transfer civilian aircrafts, spare parts and related technology to Iran.
- The US and U.K. can coordinate to allow the transfer of a £400 million debt owed by the British government to Iran for the sale of tanks (concluded decades ago but never delivered). This debt payment has been delayed due to banking and political issues.
- Stepping up outreach by OFAC and the State Department with European commercial actors and banks with respect to the eased U.S. sanctions posture. This could include the designation of one or two European banks as so-called »Clean Banks« for transactions with Iran.
- Agreeing, if pressed by other parties to the JCPOA, to abolish the veto-proof ability (as per Resolution 2231) of any JCPOA participant to snapback UN sanctions and replacing it with a requirement of a simple majority vote of permanent Security Council members in favor (thus effectively requiring that the United States obtain the support of France and the United Kingdom). In return, the Biden administration could push for a series of arrangements with the permanent Security Council members to restrict Iran's export and import of specific sophisticated arms following the expiration of the UN arms embargo in October 2020.

## Phase 3: More-for-More Nuclear Talks, Late 2021–August 2023

Whereas the first two phases focus on stabilizing the JCPOA and averting a short-term crisis over Iran's nuclear program, the third phase looks to build on the JCPOA as part of a more-for-more formula through which all JCPOA parties can benefit. It is unlikely that the political optics in Iran will allow Rouhani to advance to this third phase, so

<sup>14</sup> JCPOA 2015, para. 17.

<sup>15</sup> See Ahmadian in this volume.

<sup>16</sup> Executive Order 2019; Executive Order 2020.

the world powers will need to wait to move this forward with a successor Iranian government.

The Biden administration can utilize the last months of the Rouhani administration to privately make the case for why Iran's supreme leader, Ayatollah Ali Khamenei, should green-light further negotiations. It may be most realistic for these talks to begin through a discreet channel. For this process, the Biden administration can appoint a special envoy for diplomacy with Iran, selecting a figure who has deep knowledge of the Iran file and is well respected among members of Congress. Greater engagement between senior Iranian and U.S. officials in multilateral forums such as the UN or IAEA can be useful in widening the diplomatic aperture more widely.

For a more public stage of talks with the United States on a more-for-more deal, Tehran is likely to require a multilateral framework, especially in light of the domestic backlash toward the United States following the Trump administration's assassination of Soleimani. The P5+1 framework and the Joint Commission will remain the most viable theater for discussions with Iran over the nuclear issue.

The Biden administration and the E3 will be eager to lock in follow-up nuclear commitments from Iran with respect to areas that expire starting October 2023, the current »transition date« under the JCPOA. Moreover, the knowledge that Iran has obtained through expanded research and development activities will create imbalances in the original JCPOA which the E3 will want addressed in this phase. To make this process more effective, the United States and the E3 should gain a degree of buy-in from Russia and China, who could otherwise act as spoilers. Moreover, early consultation and messaging to partners in the Middle East, such as Israel and Saudi Arabia, can help reduce the inevitable resistance by these countries to diplomacy with Iran.

It remains unclear whether Iran is willing to extend its nuclear commitments beyond the terms outlined in the JCPOA, or indeed, whether the new Iranian president can deliver on such diplomacy. What is certain is that in return for such steps, the Biden administration will need to be prepared to offer Tehran greater sanctions easing, such as the following:

- Providing Iran with some access to the U.S. dollar. This could entail reissuing a general license for U-turn transactions with Iran (revoked in 2008) to allow international banks to process and clear US dollar transactions relating to Iran busines. As part of this, the United States could also offer to ease measures restricting dollar-denominated trade with Iran.
- Easing primary U.S. sanctions in specific sectors important for Iran's economic rehabilitation, such as energy and manufacturing.
- Endorsing the more-for-more deal as a treaty or a legislative and executive agreement. Given the fate of the JCPOA, as a way to reduce the risk of a future

U.S. president undoing the follow-up arrangement, the Biden administration can try to obtain congressional backing for the deal. Both Tehran and the Biden administration should, however, be prepared for this attempt to fail, depending on the political environment in Congress. Moreover, Iran will need to accept that such an agreement could still be undone by a future Congress, especially if passed with narrow Democratic support.

While Iran is likely to insist throughout on the removal of the Islamic Revolutionary Guard Corps from the U.S. list of foreign terrorist organizations, a designation applied to it by the Trump administration in 2019, it is difficult to see Biden having the political space to do so as part of the nuclear talks.<sup>17</sup> This matter can be more appropriately dealt with under the separate, parallel track of negotiations with Iran over regional issues.

## CHALLENGES CONFRONTING BIDEN AND ROUHANI

Assuming that Biden and Rouhani can kick-start a diplomatic track, the two sides are likely to face challenges to diplomacy that go beyond those their countries encountered over the 2015 nuclear deal. The hard-liners in both Tehran and Washington already argue that the JCPOA makes clear the other side cannot be trusted to fulfill their obligations. Meanwhile, Israel, Saudi Arabia, and the United Arab Emirates are much more coordinated in pushing back against Iran, a situation that which will require careful balancing by the Biden administration.

Rouhani's internal opposition will seek to deprive him the ability to secure the legacy of the nuclear deal so close to elections. The position of Iran's supreme leader will be decisive on whether the Rouhani camp can put a diplomatic track in place with the United States that is sustainable once a new administration takes over.

Despite the perilous economic circumstances in Iran, Biden may find it more difficult to persuade Tehran to make concessions in 2021 as compared to nuclear talks in 2013. While it is now beyond doubt that U.S. unilateral sanctions can have a devastating effect, Iran's economy has proven to be resilient. Both the World Bank and the International Monetary Fund now predict a rebound for the Iranian economy in 2021 despite COVID-19.<sup>18</sup>

Moreover, the world economy today looks very different than in 2012/13, when Iran decided to enter negotiations with the Barack Obama administration. Today's much lower oil prices, combined with the global economic downturn and consequent reduced demand for oil from Asian buyers, means that Iran gets less bang for its buck than in the immediate aftermath of sanctions easing by the United

<sup>17</sup> The White House 2019.

<sup>18</sup> The World Bank 2020; International Monetary Fund 2020.

States. Meanwhile, growing numbers of voices in Iran argue that the best remedy for Iran is to become ›immune‹ to U.S. sanctions rather than tie Iran's economy to whether sanctions are switched on or off.

It is also clear from the experience of sanctions easing in 2016 that the global financial sector remains highly cautious of supporting transactions with Iran so long as U.S. primary sanctions are in place to restrict Iran's access to the U.S. dollar. The precedent set by the Trump administration and hawkish Republicans in Congress will make global financial institutions even more hesitant to do business with Iran in 2021. In any case, much of Iran's own banking sector will have to make notable progress on the Financial Action Task Force's road map before fully reconnecting with foreign financial institutions.

The Biden administration and Europe need to remain alert to the political and economic realities shaping the calculations of Iranian decision makers. Before Iran enters follow up negotiations on the nuclear issue, Tehran will likely require a period of confidence building to be convinced that U.S. sanctions lifting are more durable and rewarding this time.

## THE DIPLOMATIC SLOG AHEAD

In light of Iran's expanding nuclear activities, it is clear that come January, engaging in urgent diplomacy and preventing a military escalation in the Middle East should be a priority for Washington and European capitals. How much the Biden administration can get from Iran on steps beyond the JCPOA will heavily depend on how far the United States is able and willing to provide Iran with tangible economic dividends. It will be critical to use the narrow window of time remaining under the Rouhani administration to put in place a diplomatic track that can fulfil these goals and be continued by Rouhani's successor. Europe can kick-start this process soon after the U.S. elections to find the parameters of an acceptable process for the United States and Iran to come into full compliance with the JCPOA.

Given the challenges that will confront Biden and Rouhani in January, a phased approach is required for diplomacy. The timeline suggested here is achievable with enough political will in Washington and Tehran. It also provides the best chance for reinforcing the JCPOA within a speedy timeframe prior to the departure of an Iranian administration and tranche of officials that have consistently pushed for diplomacy with the West and demonstrated a proven record of delivering on the JCPOA commitments. Negotiations may, however, become more drawn out as a consequence of domestic constraints on both sides and conduct by third-party spoilers. European capitals will need to continue the hard slog of pressing Iran and the United States toward a diplomatic ladder as they have done so far under successive governments on both sides in previous decades.



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## 4

## EUROPE'S STRATEGIC POSITION BETWEEN IRAN AND THE UNITED STATES

*Cornelius Adebahr*

With four years of President Donald Trump in the White House coming to an end, there is some good news to be had: The 2015 Iranian nuclear deal is still alive. Admittedly, that's a description of its general condition, not a diagnosis of good health. In fact, it is hard to foresee the agreement, officially the Joint Comprehensive Plan of Action (JCPOA), surviving another Trump term. On the other hand, the simple fact of former vice president Joe Biden winning the electoral college could enable the United States to build on the existing framework of the nuclear deal – whether through a »more for more« or »less for less« approach – to craft some sort of JCPOA 2.0, rather than constructing an entirely new agreement. For Europeans, this would mean resuming their role as a constructive mediator between Washington and Tehran.

### THE 2020 U.S. ELECTIONS: A CHANCE FOR EUROPE TO REASSESS ITS APPROACH

For decades, Europe's relations with Iran have been a function of a broader triangular relationship that includes both the United States and Iran. Transatlantic bonds have been the foundation not only of European security, but also of a rules-based international order for the past seven decades. Meanwhile, relations between Tehran and Washington have been fraught with enmity since 1979. In contrast, interactions between Iran and Europe – widely understood as the European Union or its member states – have been comparably less pronounced; in effect, they are open to influence from the other sides of the triangle – U.S.-Iranian relations and the state of the transatlantic partnership.

The 2015 Iran nuclear deal had been at the core of this fragile triangle until the U.S. withdrawal in May 2018. Since then, the JCPOA has gone from being the only unifying political issue among the three parties to becoming a hotly contested matter, initially between the Europeans and the United States, and later, following Iran's gradual ceasing of its own commitments to the agreement, also between the EU and Iran. This comes on top of such persisting concerns as acts of sabotage in the Persian Gulf area and inside Iran, ongoing proxy wars in Syria and Yemen, regular rocket attacks in Iraq against U.S. troops, and the dire socioeconomic situation of the Iranian peo-

ple as exemplified by recurring strikes and unrest. There is also the matter of increased hostage-taking of dual nationals in Iran under spurious accusations.<sup>1</sup>

As current U.S. policy threatens to broadly undermine the foundations of Europe's security and prosperity, and Iran contributes to increased instability in its immediate neighborhood, the EU needs to reassess its approach to Iran. Of importance, in the case of a Biden electoral victory, Europe will have to quickly reverse gears and switch from fighting for the survival of the JCPOA to developing concrete proposals, backed up with political will and resources, to forge a new transatlantic approach toward Iran. The window of opportunity will be short: The Europeans cannot substantively engage with the incoming Biden team during the transition period, from the election to the president's inauguration, as this would amount to foreign interference. An unclear electoral outcome would obviously also play a factor time-wise. But even more at issue, there are not even five months between the U.S. presidential inauguration in late January 2021 and the Iranian presidential election scheduled for mid-June 2021.

The triangular relationship of Iran, the EU, and the United States over the past two decades offers a number of valuable lessons learned relevant to any discussion of a possible Democratic presidency. For the EU, looking ahead to 2021 means examining how European interests in the region can best be aligned with the new approach of a Biden White House.

### TWO DECADES OF TRILATERAL RELATIONS: LESSONS LEARNED

The 2015 transatlantic agreement on how to deal with Iran has been the exception rather than the rule over the past forty-one years. More often than not, policy makers in European capitals have been at odds with their counterparts in Washington over how to deal with the regime in Tehran.

<sup>1</sup> Limbert 2019.

## Different Approaches on Both Sides of the Atlantic Hinder an Effective Policy

Since the 1979 Islamic Revolution in Iran, the United States has been much more confrontational toward Tehran than have its European allies. Where the latter sought to incrementally nudge Tehran toward a less ideological course by maintaining diplomatic ties and investing in trade, Washington pursued, by and large, an approach focusing on isolation and economic sanctions. The discord resulting from these differing approaches was one of the reasons for the breakdown of early European-Iranian negotiations over the country's nuclear program between 2003 and 2005.

Iran's clandestine nuclear activities revealed in 2002 had posed two particular threats to European interests. The first was to Europe's normative interest in maintaining the global non-proliferation regime, expected to crumble in the face of a nuclear arms race in the Gulf and beyond following Iran's eventual acquisition of the bomb. The second threat was to Europe's security interest in maintaining regional stability, as military action by Iran's rivals to impede its nuclear program would likely have led to major conflict.<sup>2</sup>

Whereas France, Germany, and the United Kingdom (E3), along with the EU high representative for foreign and security policy, were determined to defuse these twin threats through diplomatic compromise, Washington was unwilling to budge. Regardless, the E3/EU invited Tehran to negotiations aimed at producing verifiable guarantees of the solely peaceful nature of Iran's nuclear program. Although the threat of a U.S. military strike following the 2003 invasion of Iraq helped prompt Tehran to enter such talks with Europe, Washington's insistence on »zero enrichment« weakened the latter's diplomatic hand. Without the Americans sitting at the table, the Europeans could not offer what Iran wanted most: effective security guarantees and official recognition of its »nuclear rights« – an acute problem that returned when the United States withdrew from the JCPOA in 2018.<sup>3</sup>

The absence of the United States from the negotiations was one important reason those talks effectively collapsed. Others can be found in Iran, where the political factions disagreed over what concessions to make in return for international recognition.<sup>4</sup> In addition, the Europeans were unwilling to formulate a position that differed from the Americans' (then-nonnegotiable) »no« to enrichment and to back it with a substantive offer to Iran.<sup>5</sup> In contrast, it remains remarkable in the face of differing national interests that EU member states by and large allowed the E3 to drive policy on the Iran file jointly with the EU high repre-

sentative, thus achieving and maintaining a fairly coherent European position over the years.<sup>6</sup>

To unify across the Atlantic in a dual-track approach from 2006 onwards, the Europeans and the Americans each had to give up one of its planks. Ultimately, the EU warmed to the idea of toughening its diplomatic efforts with multilateral sanctions, while the United States agreed to back up its decades-old sanctions with a concerted push for negotiations that included China and Russia.<sup>7</sup> Foreshadowing a possible Trump-to-Biden transition in the White House, it certainly also helped that incoming president Barack Obama embodied this common approach both in symbolism (his »stretched hand« to Iran on the occasion of Nowruz in 2009) and in substance (a renewed push for negotiations backed up by United Nations (UN) and bilateral sanctions).

## The JCPOA: Combining Better Instincts

Combining diplomacy and sanctions eventually provided the common ground on which the E3/EU were joined by the non-European permanent members of the UN Security Council – China, Russia, and the United States – to form the E3/EU+3.<sup>8</sup> It was thus that the Vienna accord emerged to curtail Iran's nuclear activities in exchange for economic respite: building upon a gradually strengthened UN sanctions regime, itself buffeted by autonomous EU and U.S. sanctions, and continuously extending secret U.S.-Iranian talks until eventually yielding the JCPOA in July 2015.<sup>9</sup>

Compared to the previous »deals« that the Europeans had negotiated in the mid-2000s, the JCPOA benefitted from all sides being represented. Of significance, the EU's willingness to act, initially alone, evolved into an ambition to bring all the relevant players to the table and keep them there. Moreover, Europe's insistence on a multilateral solution underscored the importance of a negotiated compromise. Finally, negotiators opted for a »compartmentalization« of the problem. By focusing on shared interests vis-à-vis Iran's nuclear program and disregarding differences over other matters, such as the ongoing wars in Syria since 2011 or Russia's 2014 annexation of Crimea, the negotiators could work out a compromise. This approach, however, left a number of countries in the Middle East unsatisfied, as they feared that both the recognition and the material reward that Iran received from the nuclear deal would embolden it to intensify its regional campaign.

Despite the near-global consensus on the positive value of the JCPOA, or precisely because of it, the new Trump administration in 2017 – following its America First ap-

<sup>2</sup> Adebahr and Alcaro, forthcoming.

<sup>3</sup> Hibbs 2015; Perkovich 2006.

<sup>4</sup> Posch 2006.

<sup>5</sup> Mazzucelli 2009.

<sup>6</sup> Meier 2013.

<sup>7</sup> Tabrizi and Santini 2012.

<sup>8</sup> Alcaro 2018.

<sup>9</sup> JCPOA 2015.

proach – immediately began to work against the deal. By May 2018, it declared the United States’ withdrawal despite ongoing talks with the E3 and some last-minute high-profile interventions by European leaders to halt such a move.<sup>10</sup> By November, under its »maximum pressure« policy, Washington had reinstated all the U.S. sanctions previously suspended under the JCPOA.<sup>11</sup> Since then, more measures have followed, including sanctions on the Iranian foreign minister and the Islamic Revolutionary Guards Corps, against JCPOA-mandated international collaboration on Iran’s nuclear program, and on specific industries, such as mining, metal products, textiles, and manufacturing. The result, as intended, has been to severely disrupt Iran’s domestic economy.<sup>12</sup>

## America First Hurts, but without Achieving Intended Results

Increasingly stringent U.S. sanctions have not only exposed Europe’s lack of economic defenses but have also demonstrated their reach and severity even without broad international support. After announcing their intention to uphold the trade aspects of the nuclear deal in May 2018, and creating the INSTEX special purpose vehicle in January 2019, the Europeans only managed to conduct a single transaction by September 2020.<sup>13</sup> Even China, an outspoken critic of U.S. policy in general and toward Iran in particular, but careful not to escalate its own trade war with Washington, has largely abided by the U.S. sanctions.<sup>14</sup> At the same time, Tehran realized that it could not count on Europe’s active support, and thus in May 2019, began to gradually reduce its commitments under the deal.<sup>15</sup> Consequently, in January 2020, European powers triggered the JCPOA’s dispute resolution mechanism over Iran’s overt non-compliance.<sup>16</sup>

Given the stalemate on the nuclear deal, supporters of the JCPOA are naturally looking to the U.S. presidential election to bring about another policy change. Before exploring how Europe’s position between the United States and Iran may differ under a Biden presidency, it is worth reviewing the factors that played a role in the past successes and failures of this triangular relationship.

First, as the EU is both an international actor in its own right and a union of states, a coherent position of its members is a sine qua non for any foreign policy action. E3/EU coordination is therefore crucial, in particular after the United Kingdom left the bloc in early 2020. Notably, by weighing on its status as security guarantor against Russia, the United States has leverage over many of the smaller EU

states for whom general alignment with Washington is more important than a particular policy position. Crucially, it may have even more sway over a post-Brexit United Kingdom, as the prospect of a U.S.-UK trade deal could lead London to abandon the current hard-fought E3 consensus on Iran policy.

Second, it was only after a convergence of interests and preferred causes of action across the Atlantic that the nuclear file advanced. Europe’s earlier efforts at getting Iran to compromise proved unsuccessful without U.S. backing. Likewise, even maximum pressure from Washington has not made Tehran crumble, not least because the deal’s signatories insist, with the Europeans front and center, that the agreement be upheld.

Third, Europe on its own has little leverage over Iran. Its promises to shield European companies from the effects of U.S. sanctions and to establish a separate payment channel have failed to maintain sizeable trade.<sup>17</sup> Instead, some Iranians view Europe as merely playing the »good cop« to the United States’ »bad cop« rather than acknowledging the difficulties of staking out an independent position.<sup>18</sup>

Five years after concluding the Vienna accord and just ahead of decisive presidential elections in both the United States and Iran, it is obvious that European influence has declined vis-à-vis Washington and Tehran. Whereas the former is irritated and annoyed by Europe’s refusal to toe the line, the latter is immensely frustrated by Europe’s lack of political will and actual economic clout. A potential Biden presidency has the potential to change much of this.

## LOOKING TO 2021: REALIGNING EUROPEAN AND AMERICAN INTERESTS?

The assumption here is that in January 2021, there will still be a nuclear agreement in place for both the United States and Iran to rejoin. This does not mean, however, that there can be a return to the status quo ante before Washington’s departure from the deal. Years of sanctions and bullying have not only hardened positions in capitals around the world, but have also created facts on the ground that need to be overcome through increased diplomacy. This means that despite agreeing in principle on reaching another deal with Iran, the Europeans and the Biden administration would still have to haggle over how to get it done.

The EU’s strategic interests in regard to the Islamic Republic involve three interconnected goals: first, to uphold the international non-proliferation regime and to keep Iran, or any other country for that matter, from developing a nuclear weapon; second, to avert a full-blown, interstate war involving Iran and risking further regional instability; and third, to demonstrate the EU’s ability to act on the interna-

<sup>10</sup> Chassany 2018; The White House 2018.

<sup>11</sup> U.S. Department of the Treasury 2018.

<sup>12</sup> Radio Free Europe/Radio Liberty 2020.

<sup>13</sup> German Federal Foreign Office 2020.

<sup>14</sup> Hackenbroich and Geranmayeh 2020.

<sup>15</sup> Einhorn 2020.

<sup>16</sup> E3 Foreign Ministers 2020.

<sup>17</sup> Batmanghelidj 2019.

<sup>18</sup> International Crisis Group 2019.

tional scene.<sup>19</sup> The EU had achieved all three of these goals with the JCPOA of 2015, and European policy makers have clung to the deal ever since.

## From an Iran-Centered Approach to Broadly Addressing the Persian Gulf

It is important to note, that maintaining the JCPOA is not, and ought not be, an end in itself. The nuclear file is but one area of concern for the Europeans, with Iran's potential for regional destabilization, whether through its support for proxies or its missile program, being another. Also shared with the United States is Europe's unease over the regime's dismal human rights record, including a penchant for anti-Semitism and homophobia. In turn, with nuclear energy programs now active in the United Arab Emirates (which brought its first reactor online this year) and Saudi Arabia (which has boosted its missile program), a clear regional dimension to the nuclear file has emerged.<sup>20</sup> Resuming talks on the JCPOA should therefore also take in the regional picture.

Just as much as the nuclear deal was meant to »positively contribute to regional and international peace and security,«<sup>21</sup> Europeans were also betting on gradual change inside Iran. The implicit wager was that the economic opening in the wake of the 2015 deal would strengthen the moderate, technocratic forces in the Islamic Republic. Europe, to this end and based on its fundamental foreign policy disposition, sought to engage Iran across the board rather than ostracize it. This is demonstrated by the EU's comprehensive policy agenda encompassing »economic relations, energy, environment, migration, drugs, humanitarian aid, transport, civil protection, science and civil nuclear cooperation, as well as culture.«<sup>22</sup>

None of these goals per se is contrary to the United States' declared interests. Rather, the problem lies in how to (jointly, if possible) achieve them. Currently, with Washington bent on bringing down the Iranian regime, but failing to even get it to the negotiation table,<sup>23</sup> no such operational overlap exists. The dual-track approach of the late 2000s and early 2010s would have to be replicated by the next U.S. administration together with the Europeans and, ideally, with China and Russia.

With a Biden presidency, there is potential not only for shared European-American interests vis-à-vis Iran, but also for joint action to realize them. The presumptive Democratic candidate has vowed to reenter the JCPOA if and when Iran also resumes compliance.<sup>24</sup> This should not come as a surprise given that the vice president himself

vehemently defended the deal to an unconvinced Congress.<sup>25</sup> From a European perspective, this would mean undoing, as much as possible, the wrongs of current U.S. policy and a return of sorts to the status quo ante, at least on the nuclear file.

## After the Deal is before the Deal: Renewed Diplomacy in Uncharted Territories Required

In reality, returning to the JCPOA would be no small feat. For one, positions in Iran have hardened over the most recent years of sanctions, and the region itself has only become more volatile.<sup>26</sup> In addition, with the JCPOA's sunset clauses beginning to end some of Iran's nuclear limitations in 2023, there will be a need to extend some of the deal's constraints.<sup>27</sup> As suggested by Jake Sullivan, a Biden campaign advisor and who as Vice President Biden's national security advisor was part of the team conducting secret negotiations with Iran, a president Biden should »immediately begin the process of negotiating a follow-on agreement,«<sup>28</sup> a »JCPOA plus.«

This is where the Europeans come in – as potential facilitators of multilateral talks – because a president Biden would be willing to tackle Iran's regional reach in consultation with U.S. allies. In particular, France has been vocal about the need to check Iran's missile capabilities, for example through a regional arrangement on missiles.<sup>29</sup> In addition, negotiations to end the wars in Syria and Yemen and to stabilize the security situation in Iraq would have to address the issue of Iranian proxies, from Hezbollah and the Houthis to its many Shiite militias.<sup>30</sup>

## Strengthening Europe as a Transatlantic Interest

Rather than treating U.S. allies in Europe like vassals, Biden could use Europe's goal of becoming a more autonomous actor to the United States' advantage. American policy makers often, and somewhat unfairly, tend to visualize »hawkish« Washington against »feebish« European capital.<sup>31</sup> Yet, especially in the final stretch of the 2013–15 nuclear negotiations, it was the Europeans who held their ground when U.S. negotiators were willing to compromise, for example on the inclusion of the Arak heavy-water reactor in the deal and with regard to limiting Iran's centrifuge research and development.<sup>32</sup> A Democratic president could resume such fruitful transatlantic role sharing.

<sup>19</sup> Adebahr 2017.

<sup>20</sup> Adebahr 2020.

<sup>21</sup> E3/EU+3 and Iran 2015.

<sup>22</sup> European Commission 2016.

<sup>23</sup> Edelman and Takeyh 2020; Wolfsthal and Smith 2018.

<sup>24</sup> Biden 2019.

<sup>25</sup> Mimms 2015.

<sup>26</sup> See Ahmadian in this volume.

<sup>27</sup> International Crisis Group 2020.

<sup>28</sup> Petti 2020.

<sup>29</sup> Einhorn and van Diepen 2019; Vakili and Quilliam 2019.

<sup>30</sup> Nasr 2018.

<sup>31</sup> Bahout and Haddad 2015.

<sup>32</sup> Borger and Traynor 2013; Fabius 2016; Solomon and Norman 2015.

Moreover, with better relations, those EU member states that would rather side with Washington than develop an autonomous European position on Iran could be more easily brought on board. The lack of Europe's leverage over partners (i. e., the United States) and difficult partners (i. e., Iran) alike has heightened calls to increase European sovereignty beyond the Iran file to include everything from energy supplies to digital taxes.<sup>33</sup>

With pressure from U.S. sanctions likely easing and European businesses returning to Iran, there would be less need for Europe to circumvent American regulations. Rather than construing INSTEX as an instrument to defy U.S. sanctions, whether against Iran or against Russian gas pipelines, this instrument could be developed in greater coordination with Washington. From a U.S. perspective, this would have the additional advantage of avoiding the risk of overusing sanctions, that is, excessively conditioning the use of the dollar and the U.S. financial system on adherence to U.S. foreign policy, a situation about which former U.S. treasury secretary Jack Lew warned.<sup>34</sup>

Bringing in China and Russia on renewed negotiations will be trickier than it was back in 2006, when the E3/EU+3 emerged. Even without the current president's blunders involving Beijing, Sino-American relations will be fraught by superpower rivalry. Any flashpoint, from bilateral trade to control of the South China Sea to the Uighur detention camps, will make compromise over Iran-related issues arduous. China already appears to have seized the moment by signing a twenty-five-year strategic partnership with Iran aimed at giving Beijing access to energy and infrastructure dominance in a critical region, much as Washington enjoyed under the shah from the 1950s to 1970s.<sup>35</sup> Russia too – following its re-emergence as an actor in the region due to its involvement in the Syrian and Libyan wars, partly in close collaboration with Tehran – will be less inclined to cede any ground to Washington.<sup>36</sup>

What these geopolitical frictions allow for, however, is a closer realignment between the transatlantic partners. Rather than siding with China and Russia and against the United States as over the JCPOA, as became the case under the Trump administration, the Europeans could forge a common approach with a Democratic White House. Moreover, Biden, a self-ascribed Zionist,<sup>37</sup> and with a long-standing record of support for Israel's security,<sup>38</sup> could seek a new understanding with the Israeli leadership, including on how to approach Iran. With some Arab Gulf states seeking a more pragmatic line toward Iran, this could also

provide room for maneuver for European ideas to promote regional cooperation.<sup>39</sup>

## Transatlantic Realignment to Bring in, Rather Than Put Off, Other Powers

A Biden administration would, for the better, fundamentally change the EU's strategic context in regard to Iran. As much as the U.S. maximum pressure campaign is contrary to Europe's security interests, a return to the decade of transatlantic cooperation from 2006 to 2016, both in style and substance, would be an enormous relief for the Europeans. Restoring JCPOA compliance on all sides, negotiating a possible follow-on deal (such as more sanctions relief for extended deadlines), and beginning talks on regional security arrangements are all issues that a Biden agenda could entail from 2021 to 2024, despite a potential conservative turn in Iran after the 2021 presidential election.

There would still be transatlantic divergences, no doubt. Even with a likely new agreement on the nuclear front, the United States and Europe will differ on how exactly to deal with Iran's missile program and its growing regional clout. While these threats are more pertinent for Europe because of geographical proximity, the Europeans also appear more inclined to acknowledge that Iran has its own legitimate security concerns. Given an entrenched U.S. sanctions architecture, any future economic benefits for Iran are likely to again come from Europe, not the United States (though with the latter's blessing). Still, the EU and U.S. positions would be much closer to one another than over the past three and a half years, and together they hold more sway in getting the likes of China and Russia, Israel, and Saudi Arabia to enter the tent.

Lastly, a realignment with the United States could help the Europeans overcome their irrelevance vis-à-vis Iran. Because Europe still lacks political and economic independence from the United States, it has had few tools available in trying to uphold the nuclear deal in the face of U.S. pressure. Moreover, the trajectory of the past two decades has shown that only when acting in tandem can Europe and the United States achieve their own, and their shared, goals.

For as long as mutual enmity remains the defining feature along the Tehran–Washington axis, Europe will have to play a balancing role and approximate its own interests. Should the situation in Iran fundamentally change, however, Europe and the United States could become competitors for partnership with the new powers that be, even under a Biden presidency.

<sup>33</sup> Leonard and Shapiro 2019.

<sup>34</sup> U.S. Department of the Treasury 2016.

<sup>35</sup> Saleh and Yazdanshenas 2020.

<sup>36</sup> Trenin 2017.

<sup>37</sup> Benhorin 2008.

<sup>38</sup> Meir 2020.

<sup>39</sup> Adebahr 2020.

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## ABOUT THE AUTHORS

**Dr. Cornelius Adebahr** is an independent analyst and consultant working on European foreign policy. He has taught as a lecturer at various universities, including the Hertie School of Governance in Berlin, The University of Tehran, and the School of Foreign Service at Georgetown University in Washington, D.C. He is the author of *Europe and Iran: The Nuclear Deal and Beyond* (Routledge 2017).

**Dr. Hassan Ahmadian** is an assistant professor of Middle East and North Africa studies at the University of Tehran and an associate with the Project on Shi'ism and Global Affairs at Harvard University's Weatherhead Center for International Affairs. He focuses on Iran's foreign policy and international relations, political change, civil-military relations, and Islamist movements in the Middle East.

**Sigmar Gabriel** is former vice chancellor of Germany, minister for foreign affairs, and leader of the Social Democratic Party. He is currently chairman of the board of the Atlantik-Brücke, a non-profit association in service of German-American friendship.

**Ellie Geranmayeh** is a senior policy fellow and deputy head of the Middle East and North Africa program at the European Council on Foreign Relations. She specializes in European policy on Iran, particularly on the nuclear and regional dossiers and sanctions policy. Geranmayeh advised European governments and companies on the nuclear negotiations between Iran and world powers from 2013 to 2015 and continues to brief senior policy makers on how to effectively safeguard implementation of the nuclear agreement.

**Ilan Goldenberg** is senior fellow and director of the Middle East Security Program at the Center for a New American Security in Washington, D.C. He is a foreign policy and defense expert with extensive government experience covering Iran's nuclear program, the Israeli-Palestinian conflict, and the broader challenges facing the Middle East. Goldenberg served as chief of staff to the special envoy for Israeli-Palestinian negotiations at the U.S. Department of State and as the Iran team chief in the Office of the Under Secretary of Defense for Policy.

**Dr. David Jalilvand** is founder and managing director of Orient Matters, a Berlin-based research consultancy. His work focuses on the dynamics between geopolitics, economics, and energy in the Middle East. After obtaining his doctorate from the Freie Universität Berlin, he worked in the Middle East and North Africa department of the Friedrich-Ebert-Stiftung between 2015 and 2018.

**Achim Vogt** is the director of the Friedrich-Ebert-Stiftung's Regional Peace and Security Project for the Middle East and North Africa and non-resident representative for Yemen. He previously served as country director in Lebanon, Jordan, Morocco, Tunisia, and Benin. Vogt received a master of arts in political science from the Freie Universität Berlin and worked as a journalist in the Middle East from 1984 to 1992.

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Friedrich-Ebert-Stiftung | Department for Middle East  
and North Africa  
Hiroshimastr. 28 | 10785 Berlin | Germany

## Responsible:

Elisabeth Braune | Head, Department for Middle East  
and North Africa

Tel.: +49-30-269-35-7420 | Fax: +49-30-269-35-9233

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## A RETURN TO DIPLOMACY

### The Iran Nuclear Deal and a Democratic White House



Proponents of the Iran nuclear deal are pinning their hopes on a change in the White House after U.S. elections on November 3. The Democratic presidential nominee, Joe Biden, has vowed to return the United States to the accord, provided Iran also agrees to strictly comply with it. A plethora of challenges, however, stand in the way of reviving the deal. This report addresses the challenges should a change in U.S. administration create room for diplomacy and revive the prospects of the JCPOA succeeding. The report presents a range of relevant perspectives by experts from Europe, Iran, and the United States.



If Biden wins the U.S. presidential election, Europe must shift quickly from trying to save the nuclear deal to forging a new transatlantic approach to Tehran with the goal of kickstarting U.S.-Iranian negotiations. That would require it to engage with both Iran and the United States between the elections and the inauguration of the new president in January 2021. In particular during this period, Europe could help ease the path for the incoming Biden administration by conducting preliminary talks with Iran on a return to full compliance.



Although a Biden administration would likely make an early diplomatic push with Iran to ease tensions, a full domestic and international agenda as well as domestic political pressures, along with other issues, stand to complicate matters. In any talks, Iran will expect reliable and lasting sanctions relief and compensation for the economic fallout of U.S. sanctions. To overcome immediate challenges, the two sides could pursue a phased approach to craft an interim agreement. This would see Iran scale back the most concerning aspects of its nuclear program in exchange for partial sanctions relief. An interim agreement would halt the escalation from the Trump years and allow all parties to address more complex issues at a later stage, including those beyond the nuclear file.

Further information on the topic can be found here:

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