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Alert

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Five Reasons Why The Iran Nuclear Deal Has To Go

US President Trump declared his intention not to recertify the Iran Nuclear Deal on 13 October 2017. President Trump had already labelled the Iran Deal an "embarrassment" and "the worst deal ever", so this step was not entirely unexpected. Global reactions varied widely, with leaders in Saudi Arabia and Israel celebrating Trump's announcement, and (all 28) EU foreign ministers warning that "[a]t a time of acute nuclear threat the EU is determined to preserve the [Iran Deal] as a key pillar of the international non-proliferation architecture."[1] This Alert argues that the EU would be best served by using the momentum created by President Trump's decision and considering reimposing sanctions on Iran, even if this means that the Iran Deal will be scrapped. Current popular unrest in Iran suggests that the political situation in Iran is more volatile than expected. Adding more Western pressure on Iran could support democratic forces and move the country towards more openness.

For the moment, the fate of the Iran Deal may well be in the hands of the US Congress, which can decide to tear up the US involvement in the Deal, try to amend it (preferably with EU support), or do nothing at all.[2] Mid-January 2018, the US President has to decide whether to waive (some) sanctions against Iran, or reimpose (some) sanctions related to Iran's non-nuclear activities. Iran's President Hassan Rouhani claims that the Nuclear Deal cannot be terminated by a single country and has even warned that Iran might withdraw from the Deal if sanctions are reinstated. The EU ought to acknowledge that we now have (in Israeli Prime Minister Benjamin Netanyahu's words) an "opportunity to fix this bad deal, to roll back Iran's aggression and to confront its criminal support of terrorism."[3]

By focusing negotiations on nuclear matters only, the "Joint and Comprehensive Plan of Action" (or JCPOA, as the Iran Deal is officially referred to) has failed to foresee major negative side effects. Most importantly, the Iran Deal has not moderated Iran, but has emboldened an autocratic regime now fighting proxy wars in Syria and Yemen and battling for political power in Iraq and Lebanon. In November 2017, Iran warned the EU that "if Europe wants to turn into a threat, we will increase the range of our missiles

1 Jennifer Rankin, "EU Urges US Congress To Preserve Iran Nuclear Deal Trump Threatened", *The Guardian* (16 October 2017). Online.

2 Amber Phillips, "It's Up To Congress To Keep Or Kill the Iran Nuclear Deal", *Washington Post* (11 October 2017). Online.

3 Emily Shugerman, "Iran Nuclear Deal: EU Condemns Donald Trump's Decision to Decertify Agreement", *The Independent* (13 October 2017). Online.

[to more than 2,000 kilometres]."[4] In October 2017, President Trump already urged "allies to join us in taking strong actions to curb Iran's continued dangerous and destabilizing behavior, including thorough sanctions outside the Iran Deal that target the regime's ballistic missile program."[5] After the recent blatant missile threats from Tehran, it is time for the EU to support President Trump and put pressure on Iran to check its irresponsible and aggressive behaviour.

This Alert identifies five reasons why it is incumbent upon the EU to change its policy course on Iran.

Five Reasons to End a "Bad Deal"

First, the EU and the International Atomic Energy Agency (IAEA, which is monitoring and verifying the Iran Deal) maintain that Iran is sticking to its side of the bargain. This ignores the long (and well-documented) history of Iran's attempts to cover up its organised nuclear weapons effort and several recent reports documenting Iran's continued drive to circumvent the Deal. Taken together, there is no reason to stick to the narrative that Tehran is living up to the JCPOA's expectations.[6]

In 2016, Germany's domestic intelligence agency for North-Rhine Westphalia reported that it had registered "141 attempts to acquire technology for proliferation purposes [in 2015] and that two-thirds of these attempts were linked to Iran."[7] In February 2017, a report from the Begin-Sadat Center for Strategic Studies warned that North Korea is ready and able to assist Iran to covertly advance its nuclear program, notably since the JCPOA's "restrictions are looser with regard to related delivery systems (particularly nuclear-capable ballistic missiles) as well as to the transfer of nuclear technology by Iran to other countries."[8] In October 2017, Dutch Minister of Defence Klaas Dijkhoff admitted that (on the basis of his own military intelligence) Dutch technology was used in WMD programs developed by Iran (as well as by Pakistan and Syria).[9]

For now, this may not add up to a flagrant breach of Iran's commitments under UN Security Council Resolution 2231, which endorses the JCPOA. Although the EU has, on numerous occasions, firmly condemned Iran's missile tests (of October 2015, March 2016 and January 2017), it is adamant about keeping the Nuclear Deal alive, arguing that it should be kept separate from Iran's missile activities and regional security matters. Only France seems prepared to follow US policy, arguing that Paris "is concerned about the continued pace of the Iranian missile program, which does not conform with UNSCR Resolution 2231 and which is a source of destabilization and insecurity in the region." France is also considering "if necessary, new European sanctions against Iranian entities or individuals involved in the ballistic missile program."[10] President Trump has argued (in September 2017) that Iran

4 "Iran Says It Will Increase Missile Range If Europe Threatens Tehran", *Reuters* (26 November 2017). Online.

5 "Remarks By President Trump On Iran Strategy", *The White House* (13 October 2017). Online.

6 "Final Assessment On Past and Present Outstanding Issues Regarding Iran's Nuclear Programme", *IAEA* (2 December 2015). Online; and William Tobey, "Iran Lied About Its Nuclear Program: What Is the United States Going To Do About It?", *Foreign Policy* (3 December 2015). Online.

7 "Germany Says Forces In Iran Trying To Torpedo Nuclear Deal", *Reuters* (8 July 2016). Online. See also Benjamin Weinthal, "Iran Attempted To Buy Nuclear Technology Illegally 32 Times, German Agency Says", *Foundation For Defense of Democracies* (9 October 2017). Online.

8 Refael Ofek and Dany Shoham, "Iran Is Progressing Towards Nuclear Weapons Via North Korea", *BESA Perspectives Paper*, No. 415 (28 February 2017), p. 1.

9 "Dutch Technology May Have Been Used in Weapons of Mass Destruction: Ministers", *Dutch News.nl* (26 October 2017). Online.

10 Josh Irish, "Despite EU Caution, France Pursues Tough Line On Iran Missile Program", *Reuters* (15 November 2017). Online.

has "violated so many different elements [of the JCPOA] and they've also violated the spirit of that deal."[11] For now, the EU (as well as Russia) continues to shield Iran from US criticism. Instead, the EU should follow the French lead and join the US in fashioning a new sanctions regime to keep Iran in check.

Second, by lifting (or suspending) most UN, US and EU sanctions on Iran, the JCPOA has *de facto* brought Iran back from the brink of economic collapse and offered the regime a new lease of life. Iran's isolation from the global economy resulted in widespread domestic discontent, spurring the (failed) 2009 Green Movement protests. Today, the IMF projects Iran's (non-oil) growth at a healthy 3.5 percent (in 2017, up from 0.75 percent in 2016), and oil exports have reached pre-sanctions levels (3.8 million barrels per day). Business between the EU and Iran has almost doubled in 2017 (compared to 2016), and the European Commission has (as a "sign of confidence") proposed to allow the European Investment Bank (EIB) to operate in Iran.[12] Why Europeans have decided to put their confidence in a regime bent on destroying Israel, harbouring dreams of regional hegemony and financing terrorism beggars belief. Lifting sanctions on Iran may have benefited a few multinational companies, but has also kept in place (and even strengthened) a fanatically anti-Western regime (disguised as "moderates"). A new and credible Western threat to reimpose sanctions will put pressure on the Rouhani government and support popular protests that now takes aim at the core pillars of the Islamic Republic.

Third, the JCPOA has further destabilised an already volatile Middle East that looks upon Iran's hegemonic ambitions with growing unease. Today's reality stands in stark contrast to the hopes of US President Barrack Obama that the JCPOA would encourage Iran to "get right with the world" and become a "very successful regional power."[13] Iran is now widely seen as a budding regional hegemon, pursuing an assertive strategic agenda in Syria, Iraq, and the Gulf as well as the Greater Middle East. The West should have heeded Saudi warnings that the JCPOA will allow Iran to "wreak havoc in the region."[14] Giving a radical Islamic regime a boost of confidence and economic and financial support is rarely a good idea. Assuming that other regional powers will accept Iran's grandstanding is simply reckless. Since the JCPOA, Iran and Saudi Arabia have been "engaged in a spat over who is the West's darling in the region."[15] It would be disastrous for transatlantic unity if the EU and the US were to choose different sides. Recent street protests show the deep and widespread popular discontent with Iran's clerical rule. With Saudi Arabia, finally and belatedly, on track towards modest reform, the EU should make the strategic choice to counter the Rouhani government and support democratic forces in Iran, whilst coaxing Saudi Arabia away from authoritarianism. A credible threat to end the Iran Nuclear Deal is an indispensable part of such a strategy.

Fourth, the US State Department designates Iran as a "state sponsor of terrorism" due to its continued "terrorist-related activity in 2016, including support for Hizballah, Palestinian terrorist groups in Gaza, and various groups in Syria, Iraq, and throughout the Middle East."[16] The Obama administration had equally labelled Iran "the foremost state sponsor of terrorism in 2015, providing a range of support, including financial, training, and equipment, to groups around the world." In October 2017, President Trump also

11 "Trump: Iran 'Atrocious' At Sticking To Spirit Of Nuclear Deal", *BBC News* (14 September 2017). Online.

12 Saeed Kamali Dehghan, "Europe's Business Heads Aim To Keep Iran Nuclear Deal Despite US Threat", *The Guardian* (6 October 2017). Online.

13 "Obama: Iran Has 'Chance to Get Right With the World' – NPR", *Reuters* (29 December 2014). Online.

14 Angus McDowall and Hadeel Al Sayegh, "Iran's Nuclear Deal Puts Saudis On Edge", *Reuters* (14 July 2015). Online.

15 Ali Fathollah-Nejad, "The Iranian-Saudi Hegemonic Rivalry", *Harvard Belfer Center* (25 October 2017). Online.

16 "Country Reports On Terrorism 2016 - State Sponsors Of Terrorism", *US State Department* (July 2017). Online.

formally added Iran's Islamic Revolutionary Guards Corps (IRGC) to its antiterrorism sanctions list. In 2013, the EU put the military arm of Hezbollah on its sanctions list, but still recognises its "political" arm.

Iran continues to give lavish financial aid for Palestinian terrorism, a policy that was formally confirmed (in February 2016) by Iranian ambassador to Lebanon Mohammad Fethali, just one month after the JCPOA came into effect.[17] Due to the JCPOA, Iran has more financial leeway to support terrorism. In November 2017, the Arab League accused Hezbollah (and thereby Iran) of "supporting terrorism and extremist groups in Arab countries with advanced weapons and ballistic missiles."[18] Recent street protests throughout Iran used the slogan "No Gaza, No Lebanon, My Life for Iran",[19] indicating that ordinary Iranians blame their own government for supporting terrorism. It should be clear that any progress in achieving stability and peace in the Middle East remains a pipedream as long as Iran supports (regional) terrorism and as long as the JCPOA gives Tehran the political confidence and backing (as well as the financial means) to do so.

Fifth (and last), a new transatlantic row over the JCPOA would play into Iran's hands and put more distance between the EU and the US than Europe can stomach. If the US Congress decides to reimpose sanctions on Iran, this would also affect third parties dealing with Iran. The EU would then have to decide whether it wanted to protect its economic interests from US extraterritorial legislation (for example, by including US sanctions in the 1996 blocking statute which protects EU-based firms from "the extra-territorial application of legislation adopted by a third country.")[20] The EU would then be faced with a difficult choice: stick to the JCPOA and risk an economic (and political) confrontation with the US, or make a strategic U-turn, and maintain transatlantic unity by (partly) ditching the Iran Nuclear Deal.[21]

The EU has made a commitment (since its 2016 Global Strategy) to think and act more strategically, which implies that it must embrace complexity and accept that it should learn from mistakes and failures. The current Iran Deal is a case in point, offering the EU an opportunity to work together with the Trump administration, for example by jointly invoking the JCPOA's "snapback" provision under which sanctions could be reinstated. Both the EU and the US could reimpose sanctions (unilaterally) without any complementary action by other P5+1 members. It is time for the EU to acknowledge who its real friends and enemies are, and to take action accordingly. Iran's current political turmoil has unexpectedly increased Western leverage, offering an opportunity for the EU to work closely with the US to halt Iran's support for terrorism and curb its hegemonic ambitions.

17 Abra Forman, "Iran To Incentivize Terror In Israel By Paying Off Families Of Palestinian Terrorists", *Breaking Israel News* (25 February 2016). Online. Iran is funding Hezbollah to the tune of US$75 million a year, while paying US $50million of Hamas's budget and approximately US$70million to Islamic Jihad. Iran pays from US$7,000 for "basic martyrdom", rising to US$30,000 if the terrorist's family home was demolished by the Israel Defense Force (IDF). See Yonah Jeremy Bob, "Massive Iranian Funding For Anti-Israel Groups Revealed", *The Jerusalem Post* (23 June 2017). Online.

18 Patrick Markey and Mohamed Abdellah, "Saudi Arabia and Arab Allies Push For Unity Against Iran, Hezbollah Meddling", *Reuters* (17 November 2017). Online.

19 Raf Sanchez, "Two Reportedly Killed After Iranian Forces 'Open Fire On Protesters' As Demonstrations Continue For Third Day", *The Telegraph* (31 December 2017). Online.

20 "Council Regulation (EC) No 2271/96 of 22 November 1996 Protecting Against the Effects of the Extra-Territorial Application of Legislation Adopted By a Third Country, and Actions Based Thereon or Resulting Therefrom", Brussels (29 November 1996).

21 Tarja Cronberg and Tytti Erästö, "Will the EU and the USA Part Ways On the Iran Deal?", *SIPRI Commentary* (11 October 2017).

Conclusion

When Iranian leaders chant "Death to America" and call for the destruction of Israel, we should start taking them more seriously. When Iranian leaders threaten Europe with medium-range ballistic missiles, we should start taking them more seriously. Today, the EU is not sufficiently alarmed by Iran's clear and present danger. The JCPOA was a nice try but has failed because its negative side effects far exceed any possible benefits. The JCPOA and UNSCR 2231 have now offered Iran three years to build a more constructive relationship with the West as well with its neighbours in the Middle East. Instead, it has continued its clandestine WMD proliferation activities, its active ballistic missile program, and its ardent support for terrorism. France is best positioned to alter the EU's current lenient course on Iran, and may take the lead in opening tough negotiations with Iran on its ballistic missiles activities and program. This may well be the foundation of a policy of concerted Western containment of Iran in which the JCPOA (at least in its current form) will have no place.

The Iran Nuclear Deal

What is the Iran Deal? Officially called the "Joint Comprehensive Plan of Action" (or JCPOA), an international agreement on Iran's nuclear program. Under the agreement, Iran is eliminating and/or cutting its stockpiles of uranium and reducing the number of gas centrifuges. The IAEA monitors and verifies the agreement. In exchange, most international economic and financial sanctions were lifted.

Who is part of it? The agreement involves Iran, as well as China, France, Russia, the United Kingdom, the US and Germany (the "P5+1"), and the EU. UN Security Council Resolution 2231 endorsed the JCPOA (on 20 July 2015) and calls upon Iran to refrain from activities related to nuclear-capable missiles.

When was it signed? The JCPOA was signed on 14 July 2015 in Vienna.

Why is it controversial? Although still supported by the EU, the Trump administration seems bent on sinking the JCPOA, sooner rather than later. The US argues that Iran is in breach of both letter and spirit of the JCPOA, as well as its commitments under UNSCR 2231. Moreover, the JCPOA has given Iran a political and economic/financial boost and its neighbours are bearing the brunt of Tehran's invigorated hegemonic policies and support for terrorism.

Any specific date(s) to watch? On 15 January 2018, US President Trump will (again) decide whether to waive a set of old sanctions on Iran. If he refrains from issuing that waiver, the JCPOA may not survive. At about the same time, President Trump will have to decide (again) on the (de)certification of the Iran Deal. If he decertifies the Deal, another 60-day window will be opened during which the US Congress may reimpose sanctions on Iran's nuclear activity.

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