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**THE JOINT COMPREHENSIVE PLAN OF ACTION
WITH IRAN
AND NUCLEAR NON-PROLIFERATION**

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*To my mother,
for what I am today
is also thanks to her.
Thanks for believing
in what is meant to be.*

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LIST OF ABBREVIATIONS

AEOI	Atomic Energy Organization of Iran
CSA	Comprehensive Safeguards Agreement
DRM	Dispute Resolution Mechanism
EU	European Union
E3	United Kingdom, French Republic and Federal Republic of Germany
E3/EU+2	United Kingdom, French Republic and Federal Republic of Germany with the High Representative of the EU for Foreign Affairs and Security Policy, plus the People's Republic of China and the Russian Federation
E3/EU+3	United Kingdom, French Republic and Federal Republic of Germany with the High Representative of the EU for Foreign Affairs and Security Policy, plus the People's Republic of China, the Russian Federation, and the United States
GCC	Gulf Cooperation Council
HEU	Highly Enriched Uranium
HOPE	Hormuz Peace Endeavour
IAEA	International Atomic Energy Agency
IMF	International Monetary Fund
IRI	Islamic Republic of Iran
IRGC	Islamic Revolutionary Guard Corps
IRGC-QF	Al-Quds Forces
INARA	Iran Nuclear Agreement Review Act
JCPOA	Joint Cooperation Plan of Action
LEU	Low Enriched Uranium
LWR	light water reactor
MENA	Middle East and North Africa
NATO	North Atlantic treaty Organization
NPT	Nuclear Non-Proliferation Treaty or Treaty on the Non-Proliferation of nuclear weapons of 1968
NNWS	Non-Nuclear Weapon State
NWS	Nuclear Weapons States

P5	the five permanent members of the UNSC (The United States, the Russian Federation, the French Republic, the United Kingdom and the People's Republic of China)
p.	page
pp.	pages
SVP	Special Purpose Vehicle
TPNW	Treaty on the Prohibition of Nuclear Weapons (2021)
UAE	United Arab Emirates
UK	United Kingdom
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
US	United States of America
WMD	weapons of mass destruction

INTRODUCTION

It was June 14th, 2015, and in Vienna the countries of the P5+1 could cherish to have reached after many efforts, one of the major accomplishments for nuclear diplomacy with the signing of the JCPOA, the Iran nuclear deal. The Joint Comprehensive Plan of Action regulated the Iranian nuclear program in exchange for international sanctions relief especially in the financial and oil sectors. However, the unilateral withdrawal of the US from the deal in 2018 and the consequent gradual loss of compliance by the parties has changed the diplomatic scenario. The positive path stopped with the appointment of Donald Trump as the new US President in 2017 who was determined to withdraw the US from the JCPOA and reinstall heavier sanctions on Iran, in this way hitting hard the Iranian economy.

In 2021, new actors have entered the scene and modified the scenario once again: the new President of the United States, the Democrat Joe Biden Jr., gave a push for change in the relationship between the American administration and the Islamic Republic of Iran that will certainly evolve. Also on the other side, in 2021 Iran experienced a political shift with the substitution of the former reformist President Rouhani with the more conservative Ebrahim Raisi.

Therefore, this project of thesis comes from a research question I posed myself. To *what extent and in what terms will this relationship change and how will the future role of the other actors involved look like?*

During this research that started in 2021, six years after the signing of the original nuclear deal, I formulated a series of critical questions that also policymakers from all sides are posing themselves regarding the Iranian scenario. Within the existing setup, *is it still possible to revive the existing deal, given each side's perception of interests and no-deal options?*

In his electoral manifesto, Joe Biden stated that a return to the nuclear deal would have been the starting point to renegotiate with Tehran a wider deal. *Can changes and additions to the current setup or a follow-on agreement be possible and acceptable by the parties?*

Moreover, at this point of the story *why is it still worthy to work for an agreement?* And especially, *why does the Iranian government still require the nuclear deal?*

Over time the international community, in approaching the Islamic Republic of Iran has posed itself some questions on how to proceed diplomatically or otherwise. For instance, *what are the intentions and the goals of Iran? How long will it take for the IRI to create a weapon? And is there enough space left to use diplomatic means to stop this process?* Another important issue regards the role of sanctions, whether they can be considered successful or not and how can they be substituted otherwise to achieve some leverage over Iran. We will also explore the consequences represented by the technical-scientific progress on the nuclear field that Iran has obtained since the resumption of its programme in 2020, beyond the limits established in the JCPOA. We will see why it so difficult to work out a compromise able to satisfy both US and Iranian domestic and international interests, since there are some issues that stand in the way of the recovery of the deal: the problem of American credibility, the Iranian nuclear progress, the geopolitical uncertainty. This agreement is not easy to fully restore as it was before 2018 both for the parties involved and the current relationship existing between them, but mainly for technical reasons that are central to the issue. The thesis will try to shed light on the possibility of restoration of the JCPOA and the possibility of opening of a new ‘around the table negotiations’ for the enlargement of it, a process that for sure will not be smooth neither quick, considering that the previous negotiation timeframe to reach the 2015 nuclear deal remained open for some years. It is a process that takes time to be concluded.

This dissertation is divided into three parts, starting in chapter one with a description of the current nuclear non-proliferation global framework, the concept of deterrence and national security and the status of the Iranian nuclear deal. Iran has been engaged for more than two decades in the nuclear sector and it has developed a good range of technologies, among which the ability to enrich uranium. Nonetheless, Teheran has always stated that its development in the nuclear sector falls within a completely peaceful attitude for civil and medical purposes alone. The first chapter poses that basis and the reasons behind the various actors’ decisions and interests, in order to better understand how we have reached the current situation.

The second chapter focuses on the brief excursus of the diplomatic path that led to the signing in 2015 of the JCPOA agreement in question. Six world powers that we will refer to in this context as the P5+1 (China, France, Russia, the United Kingdom and the United States, the five permanent members of the UN Security Council plus Germany, together with Iran) reached a historic deal on the nuclear armament which aimed at limiting and

monitoring the Iranian nuclear program in exchange for the relaxation of nuclear sanctions for Iran. Chapter two also analyses the specific content of the JCPOA, up until the 2018 American withdrawal with its consequences. Military actions against the Islamic Republic of Iran, from the death of General Qassem Soleimani to the killing of Iranian physicist Mohsen Fakhrizadeh, in an escalation of tensions in 2020-2021, led Tehran to answer with its detachment from compliance with the treaty.

In the third chapter, the central part of the research, describes the US-Iran scenario in 2021 and tries to answer all the above questions envisioning some possible strategies for overcoming the current standoff. We are going to deal with the complex world of sanctions and the follow-on issues of the JCPOA. In the last part, by taking in consideration the point of view of the other actors connected to this state of affairs (the European scenario, Russia and China, the GCC countries and Israel), we will also try to understand whether the nuclear issue can be tied within a regional initiative for higher and comprehensive security in the Persian Gulf.

Before proceeding, it is worth mentioning that the events related to this issue are continuously evolving in the present. But the goal of this work is that of helping understand how the future can develop from here and how we reached this point from the previous situation of apparent stability. This work does not pretend to offer a solution or explain the way in which the parties will come to terms, but rather it is the product of questions I posed myself as a lover of the international relations' world and believer in diplomacy as the perfect approach in the relationship among nation states. With this work my hope is to discern the causes of conflict among these actors and maybe understand which might be the best way forward in the conflict-resolution phase from the diplomatic point of view, an approach that can be useful and adaptable in several cases and crises on the international level.

The material used during this research is both of primary and secondary source. Therefore, official documents, papers and reports regarding this matter, as well as the latest news, live conferences and known media articles will be taken into consideration. This work will make ample use of various and different points of view of analysts, necessary to represent a projection or forecast of the future decisions and developments of leaders during the negotiations, based on past declarations or behaviours.

CHAPTER 1: Nuclear non-proliferation and the Iranian Nuclear programme

1.1. The nuclear proliferation regime

In this work the issue of nuclear proliferation and latency is dealt with and applied specifically to the case of Iran, but the issue is wider and concerns other scenarios as well. Throughout this chapter we will analyse the question of nuclear non-proliferation as the goal of preventing the spread of nuclear weapons, fissionable material, and weapons-applicable nuclear technology and information in those countries that have not been designated as "Nuclear Weapon States" (NWS) under the Treaty on the Non-Proliferation of Nuclear Weapons, also known as the NPT. It is an international agreement that entered into force in 1970¹ and is aimed at preventing the spread of nuclear weapons and weapons technology in general as well as promoting cooperation towards the peaceful use of nuclear energy. A total of 191 States are part of the NPT Treaty, including the five nuclear-weapon States (the NPT officially recognizes only China, France, Russia, United Kingdom, and the United States as "Nuclear Weapons States" – NWS – since they possess nuclear weapons and happen to be also the five permanent members of the Security Council) and many countries have ratified the NPT, more than any other arms limitation and disarmament agreements, demonstrating this Treaty's significance². Article III of the said treaty establishes the participation of all non-nuclear-weapons states to a comprehensive safeguards agreement (CSA) with the IAEA, to enable the agency to verify compliance and prevent a change from peaceful to military uses of nuclear energy³.

¹ The Treaty opened in 1968 for signature and officially entered into force on March 5th, 1970. On May 11th, 1995, in line with article X, paragraph 2, the Treaty was extended indefinitely. Articles I and II of that Treaty, stress the need of States Party "to develop research, production and use of nuclear energy for peaceful purposes without discrimination".

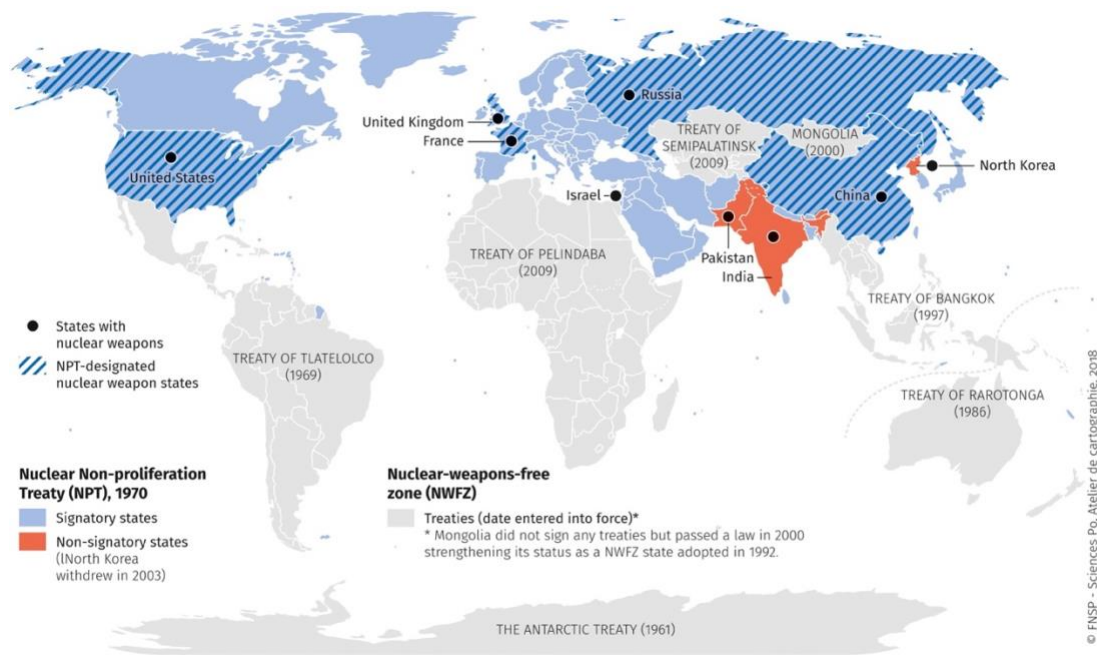
² "Treaty on the Non-Proliferation of Nuclear Weapons (NPT)". United Nations, Office for Disarmament Affairs. <<https://www.un.org/disarmament/wmd/nuclear/npt/>>

³ "With a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices." Article III, NPT

Comprehensive safeguards agreements are legally binding agreements concluded by the IAEA with non-nuclear-weapon States that have ratified the Nuclear Non-Proliferation Treaty (NPT) and treaties on nuclear-weapon-free zones. Under this type of agreement, the Agency has the duty to check that nuclear material is not destined to the creation of weapons or to other military purposes. And on the other side, these agreements give the state the right of conducting their peaceful nuclear activities without causing any concern to the international community. Under the NPT, the five nuclear-weapons states are exempt from having IAEA safeguards agreements. But all five have nonetheless signed voluntary safeguards agreements, allowing the IAEA to impose certain safeguards.

At the moment at world level, nine nations possess a nuclear weapons arsenal, as above mentioned, China, France, Russia, United Kingdom and the United States, but also other four countries that are not party to the NPT: Israel (even though the government has never officially declared to possess a nuclear arsenal)⁴, Pakistan, India, and North Korea. Therefore, some countries that have not joined the Treaty, do possess nuclear weapons: India and Pakistan for instance, have never joined the NPT, as well as Israel, while North Korea acceded to the treaty in 1985 but then left it in 2003 and conducted nuclear tests in 2006, 2009, 2013, 2016, and 2017. And even though since 2020 North Korea has not conducted nuclear tests anymore, the production of fissile material and the development of ballistic missiles has continued. The status of these nations regarding nuclear weapons is not officially recognized and accepted by international organizations, but it is taken into consideration in the strategic plans of the NWS⁵.

Figure 1. Nuclear proliferation and disarmament, 2018



Source: compilation based on United Nations Office for Disarmament Affairs (UNODA), www.un.org/disarmament, *Bulletin of the Atomic Scientists*, 69 (5), September-October 2013.

The Treaty on the Non-Proliferation of Nuclear Weapons is generally subject to one critique: its being discriminatory, since it only recognizes “nuclear weapon states” those

⁴ The State of Israel possesses at least 90 nukes but never signed the NPT nor the TPNW.

⁵ Sung Chul Jung, (2017) Nuclear aggressors, nuclearizing targets: nuclear weapon development and preventive conflict, *International Relations of the Asia-Pacific*, vol. 17, no. 1, p. 139. <<https://bit.ly/3Fq00I3>>

five that tested nuclear weapons before 1968, while all the others are considered as non-nuclear-weapon states that can only join the pact if they renounce to any kind of nuclear weapons. The five NPT nuclear weapons states argued that their legitimate right to possess nuclear weapons was enshrined in the treaty without time limits, while non-nuclear weapon states believed they had given up weapons long before, in exchange for a commitment to the nuclear disarmament.

As Figure 2 shows, Russia and the US, even though they have reduced their arsenals (from 70 thousand during the cold war to the current 12 thousand), they still possess over 90 per cent of global nuclear weapons. Both countries are developing expensive programmes to replace and modernize their nuclear warheads, missiles, and their production facilities. China as well is undergoing an important modernization of its nuclear sector and India and Pakistan follow the same line. At the bottom of the table, North Korea shows an enhancement of its military nuclear programme which is justified as part of its national security strategy⁶.

It is relevant for this work to also consider the position of the NATO Alliance towards the presence of nuclear weapons on several nation states. The official position is their aim for a nuclear-weapons-free world, nonetheless, since they exist and countries hold them, NATO accepts them as a functional deterrent to preserve peace and avoid aggressions. In 2021 it was estimated that in Europe five different NATO members host nuclear weapons for a total of 100. This concept is called *nuclear sharing*: NATO member countries that do not have nuclear weapons participate in the planning for the use of nuclear weapons by the alliance. The armed forces of those countries will therefore be involved in delivering nuclear bombs if necessary. The participating countries make joint decisions on nuclear weapons policy, maintain the technical equipment needed for their use, and store them within their borders. The Non-Proliferation Treaty would no longer be in effect in the event of a war.

Of the three NWS that belong to NATO, only the United States (the other two are the UK and France) has given weapons for nuclear sharing: about 100 weapons are deployed in six bases in five European members of the Atlantic Alliance: Aviano and Ghedi (Italy),

⁶ At the end of the Cold War, North Korea was desperately searching diplomatic leverage and security assurances, which led to the acceleration of the nuclear program. After decades of tension with the USA and broken promises from both sides, North Korea has developed enough its nuclear sector, as well as its missile capabilities. The process of de-nuclearization of North Korea is an important but long-term process which might only be solved with the introduction of sanctions, some pressure from the Chinese government and of course diplomacy, but still this path may take a lot of time.

Büchel (Germany), Incirlik (Turkey), Kleine Brogel (Belgium) and Volkel (The Netherlands). This number has shrunk since the start in 2009, partly caused by the reduction of storage capacity.

Figure 2. World nuclear forces, January 2021⁷

Country	Deployed warheads	Other warheads	Total 2021	Total 2020
USA	1 800	3 750	5 550	5 800
Russia	1 625	4 630	6 255	6 375
UK	120	105	225	215
France	280	10	290	290
China		350	350	320
India		156	156	150
Pakistan		165	165	160
Israel		90	90	90
North Korea*		[40–50]	[40–50]	[30–40]
Italy**			20	
The Netherlands**			20	
Belgium**			20	
Germany**			20	
Turkey**			20	

Source: SIPRI Yearbook 2021, Korda/Kristensen - Federation of American Scientists (2021)

On January 22, 2021, a new treaty entered into force, the Treaty on the Prohibition of Nuclear Weapons (TPNW)⁸, increasing the divide between nuclear-armed states, all investing in the future of their nuclear forces, and all the other countries fighting for

⁷ * The figures for North Korea are highly uncertain and are not included in the global totals. Those figures are SIPRI's estimates of the number of warheads that North Korea could potentially build with the amount of fissile material it has produced. There is no publicly available evidence that North Korea has produced an operational nuclear warhead for delivery by an intercontinental-range ballistic missile, but it might have a small number of warheads for medium-range ballistic missiles.

** NATO countries hosting US nuclear weapons.

Kristensen, H.M. & Korda, M. (2021). United States nuclear weapons, 2021. *Bulletin of the Atomic Scientists*. Vol. 77, no. 1, pp. 43–63.

“Global nuclear arsenals grow as states continue to modernize” in: SIPRI. (2021).

<<https://www.sipri.org/media/press-release/2021/global-nuclear-arsenals-grow-states-continue-modernize-new-sipri-yearbook-out-now>>

⁸ The TPNW is the product of a UN conference of the General Assembly in 2017 to negotiate a legally binding instrument to prohibit nuclear weapons. It comprehends a set of prohibitions according to which a state should not “develop, test, produce, acquire, possess, stockpile, use or threaten to use nuclear weapons”. It was signed by 86 states member to the UN, and it was ratified by 52. Iran has not yet signed nor ratified the treaty, even though it participated to the negotiations held in New York in 2017 and voted for its adoption.

“Treaty on the prohibition of nuclear weapons”. United Nations, Office for Disarmament Affairs.

<<https://www.un.org/disarmament/wmd/nuclear/tpnw/>>

complete nuclear disarmament as the NPT had promised.⁹ The main objective of the TPNW is to delegitimize not only the use of nuclear weapons but also their possession itself, which is justified by the nuclear powers as being necessary for a world security based on deterrence, i.e. on the reciprocal capacity to retaliate a possible nuclear attack. Nonetheless, continuing to claim that nuclear weapons are vital to the safety of their holders, but unacceptable to the rest of the world, is only going to encourage more proliferation, as the case of North Korea showed.

The nine countries with nuclear weapons and their allies opposed the call for the creation of this new treaty and did not participate in the proceedings. The TPNW, indeed, remains quite weak regardless of its entrance into force. It is intended to be considered as a moral and legal starting point towards a long-term effort to achieve nuclear disarmament, but it is still difficult to predict the impact that it will actually have on these crucial issues.

1.2. National security and international law

International treaties work because they embody a norm, a multilateral aspiration. For instance, the negotiation process that led to the 2015 nuclear deal with Iran was characterized by a joint decision process: there was an issue, and the parties jointly decided to address the problem and to solve it through a process of negotiation leading to a common decision that was valued and accepted by all the parties. A treaty indeed, in order to work, should be well constructed to reflect the wishes of the states, without any incentive to defect from the agreement. The goals should be simply expressed, and their achievements measurable. The treaty should be very well constructed and clear, and the outcome should be the satisfaction of the countries involved. In addition, an effective monitoring and verification system is a fundamental element to ensure its success over time.

Moreover, international law and politics are based on a fundamental basic principle, the *pacta sunt servanda* principle (in Latin, “agreements must be kept”), based on the idea that pacts and agreements are to be respected once they are signed. The hardship of the process of negotiation itself that leads to the signing of the agreement entails a moral obligation to respect that deal and furthermore, to respect it as a symbol of the stability

⁹ “Global nuclear arsenals grow as states continue to modernize”. In: *SIPRI*. (2021)
<<https://www.sipri.org/media/press-release/2021/global-nuclear-arsenals-grow-states-continue-modernize-new-sipri-yearbook-out-now>>

of all international relations. Furthermore, it is not sustainable to undergo a continuous process of unravelling previous pacts at every government change in a delicate field such as the nuclear one, which does not regard only Iran, but many other countries are involved or affected globally by nuclear proliferation.

Countries on the international scenario interact with the goal of enhancing their national security, which could be understood also as how much military capacity a state has. Indeed, more military power is often equated with more security, in order to minimize the possibility that a state or a group of states will coalesce against it, defeat it, or just harm it¹⁰.

From the strategic point of view, is it better for a group of states to create and later maintain a negotiating framework or not? The real question here is whether it is preferable a situation in which Iran is unrestrained from acting freely or whether it is better to have a regulated framework that establishes the way in which Iran has to behave. Even though this might seem an obvious question to answer, it is not. Indeed, in specific situations certain actors are too difficult to come to terms and to have them later respect the agreements signed. Nonetheless, in all those cases in which an agreement is reached and sealed, it becomes a self-evident Occam's razor: it is fundamental for a country, for instance a great nation like the US, to be aware of the importance of maintaining and preventing the unravelling of agreements, like the one under question.

Moreover, to give reason to this point, the Joint Comprehensive Plan of Action was endorsed by the Security Council Resolution 2231 of 2015 that specifically underscores that “Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Security Council’s decisions”¹¹ and later “calls upon all Members States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the JCPOA, [...] and by refraining from actions that undermine implementation of commitments under the JCPOA”¹². Exactly something that President Trump decided to refrain from unilaterally in 2018, as it is going to be better explained later in this work.

¹⁰ Kissinger 1979; Morgenthau 1978.

¹¹ Chapter V, Article 25 of the Charter of the United Nations states that “The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.” <<https://legal.un.org/repertory/art25.shtml>>

¹² Security Council Resolution 2231 (2015) Adopted by the Security Council at its 7488th meeting, on 20 July 2015. p. 3

Clearly, it is preferable an international agreement as specific as the one signed in 2015 with Iran rather than anarchy¹³, but the situation now with respect to a decade ago is different and the players at the negotiating table may be less prone to go back to it.

Therefore, the question we ask ourselves is: in which conditions is it possible to pull out the validity of an international deal resulting from a negotiation process to the extent that the costs are not greater than the benefits of this decision of renouncing to the agreement?

The decision-making process and policy outcomes at the international level are influenced by the power and preferences of the several stakeholders involved in an issue, who try to induce others towards a certain policy or another. Power, the ability to persuade others, depends on different criteria in different contexts. Specifically, on the Iranian nuclear issue, power reflects a complex combination of conditions that give decision-makers more or less ability to persuade and coerce. Power relationships can be based on military threats, or on economy, domestic political influence, culture, or religion... But the interesting aspect is that power in this case is not evenly distributed among the stakeholders. For instance, according to Bruce Bueno de Mesquita, the Ayatollah of Iran and the Supreme Council¹⁴ have vast more power to influence Iranian nuclear policy rather than other actors like the United States (the Ayatollah has even a formal veto right on any policy adopted by Iran). On the nuclear issue in Iran, there are different stakeholders that are trying to influence the decision-making process and international regulations: the Iranian government's leaders, Iran domestic political interests, Middle Eastern governments (those interested in the activities of Iran, especially Saudi Arabia and Israel as we will see), and the rest of the international community. If we analyse the power that each of these four groups possess, the idea of having no nuclear programme whatsoever has the highest level of support by the actors involved, rather than the support for other nuclear policy proposals¹⁵. Therefore, this proposal of having no nuclear

¹³ Anarchy is based on the idea that every state is on its own, living in a world where no international body can be relied on to enforce treaties or peace between states (Waltz 1979; Milner 1998; Powell 1994) and in this sense has to be avoided in favour of compromise and cooperation.

¹⁴ The Supreme Council here mentioned is the *Supreme Council of the Cultural Revolution*, a conservative-dominated body created at the time of Ayatollah Khomeini. The President of Iran is the chairman of the Council.

De Mesquita, B.B., (2009) *Principles of International Politics*, p. 56, Fourth Edition, CQ Press.

¹⁵ This is the general idea, but the decision-making process in each situation cannot automatically be calculated. In all foreign policy situations leaders decide to give more importance to external pressure or rather domestic interests or a mix of the two, changing the outcome.

Ibidem. See Figure 2.4 The Power and Preference of Four Key Groups of Stakeholders, p. 57, in De Mesquita, B.B., (2009) *Principles of International Politics*, Fourth Edition, CQ Press.

programme at all, pressured by the different powers, will potentially always dominate Iran's choice on the nuclear sector.

One problem that arises in the field of international affairs is whether and to what extent a country's leadership takes in consideration also domestic interests and international ones when formulating policies. The question that arises then in these cases is about the possible consequences of ignoring or else considering, foreign and domestic audience in those policies. In the Iranian case as we will see in specifics later, the leadership has changed its behaviour over time on the nuclear issue, due to the internal and foreign context. By having this in mind, it is possible to better understand the reasons behind certain policy decisions.

1.3. The Iranian nuclear programme

Iran as signatory of the NPT, has a clear sovereign right of developing a civilian nuclear energy capacity, which is the official position of the Iranian government about its nuclear programme¹⁶. Nonetheless, domestically the desire is to pursue more than that in terms of capability and this is the worrying factor of the international community, a risk that has recently become more real than ever.

Iran started its nuclear experience approximately at the end of the Sixties when it also entered the Non-Proliferation Treaty. In 1979 during the Islamic revolution in Iran¹⁷, the nuclear program underwent a long period of interruption and restarted at the end of the Eighties, by signing agreements with Asian countries. The critical debate over the actual purposes of the Iranian nuclear program came up into the international agenda around 2002 when local groups of opposition revealed the existence of two plants that had been

¹⁶ Article IV of the NPT cites that signatory states have an "inalienable right to the peaceful use of nuclear energy."

¹⁷ February 11, 1979, represents the start of the Islamic Revolution and the start of tensions between Iran and the United States. The Revolution, led by forces of opposition against the monarchy guided by the Ayatollah Ruhollah Khomeini, removed the Shah that had ruled since 1941 and transformed the country from a monarchy into a Shiite Islamic Republic whose constitution is based on the koranic law, the Sharia. The Iran-US relationship was permanently injured by the hostage crisis at the American Embassy in Tehran of October 1979. Probably tensions with the US would have been minor if the hostage crisis would not have happened.

up to that moment unknown (Arak and Natanz sites, the second one specifically dedicated to the enrichment of uranium¹⁸).

One specific critique was moved against the nuclear deal that was later reached to control the Iranian programme: to allow Iran to continue enriching uranium goes directly against US policy, which does not accept the right to enrich as a part of the NPT, especially if a country has participated in clandestine nuclear weapons development. In the interim agreement of 2013¹⁹, the P5+1 and Iran did not agree on the Iranian “rights” in the nuclear field, but they acknowledged that Iran already had a developed program and would insist on preserving some enrichment capability. As a result, the parties agreed to negotiate practical limits as well as additional safeguards on ongoing Iranian enrichment activities at its Natanz and Fordow facilities as part of the broad parameters of the final deal in order to reduce Iran's nuclear weapons potential.

It is complicated to understand the precise intentions and motivations of the Islamic Republic of Iran, both for the structural complexity of the security policies of the IRI and the internal division of its political elite. When dealing with the nuclear issue in Iran we need to make a premise on the entity of the problem, as explained by the Professor of International Relations Joachim Krause²⁰. This thesis takes for granted several concerns regarding the Islamic Republic of Iran which are here below enlisted:

1. “Iran has a sizable enrichment program which is out of proportion to the legitimate, peaceful needs of the existing or projected Iranian civil nuclear program.
2. Iran is pursuing the option of a heavy water moderated natural uranium reactor.
3. Iran has shown an interest in technology that might be usable for the separation of plutonium from spent fuel.
4. Iran has been involved in acquiring nuclear weapons technology.

¹⁸ Uranium enrichment can be used for civilian energy purposes, but it is not required for that use. However, it is necessarily required to build a nuclear weapon. Indeed, different other countries have used alternative technology to develop civilian nuclear energy. Natanz is a uranium enrichment facility and during inspections in 2003, IAEA found here particles of highly enriched uranium (HEU). Iran justified the discovery of the contaminated elements saying the fault was of the supplier country, which was not named.

¹⁹ The Joint Plan of Action reached in 2013 was the starting point to arrive in 2015 with the Joint Comprehensive Plan of Action.

²⁰ Krause, J. (Ed.). (2012). *Iran's Nuclear Programme*. Taylor and Francis. Introduction.

5. Most of Iran's R&D, construction and enrichment efforts have in the past been carried out under conditions of secrecy, and they are to an increasing degree, being carried out in underground facilities.
6. No one can state with certainty that Iran's declared nuclear activities encompass everything that is actually going on in the nuclear field in Iran.
7. Iran is pursuing ballistic missile technology for military purposes (short-range, medium-range, intermediate-range).
8. Leading Iranian politicians, not just President Ahmadinejad, have made repeated statements according to which wiping out Israel is a legitimate strategic option.
9. Leading Iranian politicians, in particular President Ahmadinejad, have touted the state as the main source of resistance to and defiance of the United States and the international community in general; without nuclear weapons, such defiance cannot be maintained for long.
10. In dealing with the international community and with multilateral institutions, Iran, in particular since the beginning of the Ahmadinejad presidency²¹, has employed strategies that are familiar from the times of Iraq under Saddam Hussein or Serbia under Slobodan Milosevic. Resolutions by the UNSC have been disregarded, the main players and institutions of the international community have played off against each other, and lengthy procedures and complicated policy processes are exploited in order to gain time.”

Over the years since 1979 with the fall of modern Iran, the Islamic Republic clearly has been trying to develop its own deterrent capabilities²², but it is also arguable that the goal could be that of defending itself from any eventual attack from the United States and its allies, through the creation of a nuclear weapon.

²¹ Mahmoud Ahmadinejad, an Iranian conservative politician, served as the sixth President of Iran from 2005 to 2013. He took a religious hard line, revoking reforms of previous moderate leaders and supported the nuclear program. In 2013, Hassan Rouhani was elected as Ahmadinejad's successor, completely modifying the Iranian approach on the issue with the other representatives of the international community.

²² Although Iran has repeatedly denied its interest in acquiring nuclear weapons or the capability to produce them, the development of a nuclear weapon would serve the IRI's interests as a deterrent, openly acknowledged by Iranian officials already in the 1980s, when they expressed the need for such weapons due to Iran's concerns about perceived threats from Iraq and Israel.

Sebenius, J. K., & Singh, M. K. (2012), Is a Nuclear Deal with Iran Possible? An Analytical Framework for the Iran Nuclear Negotiations, *International Security*, Vol. 37, No. 3, p. 60.

<https://www.belfercenter.org/sites/default/files/files/publication/IS3703_Sebenius%20Singh.pdf>

Therefore, even though we might easily consider Iran to be a country with ill intention, its behaviour and support to different militant organizations such as Hamas, Hezbollah, the Mahdi militia in Iraq... as well as its missile programme, could be understood as the two pillars in their military strategy of deterring and defending itself, with the idea of self-preservation from external attacks and at the same time promotion of its own interests in the region²³, an approach that could be understood as “forward defence” or “offensive defence”. The idea behind the work of Hamidreza Azizi, a scholar of the German Institute for International and Security Affairs (SWP), is based on the fact that “forward defence” does not represent a new military doctrine, but a new evolved version of “deterrence”²⁴. And since 1979, Iranian military strategy has undoubtedly changed and evolved with the centrality of this concept of “deterrence”.

In 2017, Ali Akbar Dareini, researcher for the centre for Strategic Studies of Tehran and Iranian geopolitics analyst, published the study *Legitimate Deterrence. A Thrilling Story of Iran’s Nuclear Program* highlighting that Iran is being wise: according to him, if the IRI really wanted to possess nuclear weapons, it would have exposed itself to external attacks. Instead, their wiser desire is to hold the technology and capacity necessary to that end, without possessing the weapon. From this, his idea of “legitimate deterrence”. Iranian leaders decided in the 80s, during the Iraq war (1980-1988), that the IRI had to be stronger in order not to be oppressed and they subsequently decided to develop the missile and the uranium enrichment programs to make of this new nuclear capacity an incentive, but not to produce a bomb. The goal was that of improving their position at regional and international level and serve as a deterrent against foreign attacks.

Another important notion is the “strategic depth”: Iran has explained its direct military presence outside of its borders as a necessity to counter threats at the source before they reach Iranian soil, e.g., their support for non-state allies and proxies, to protect itself from the perception of being surrounded by hostile powers, the so-called “strategic isolation”.²⁵ In this light, scholars have been trying to find the reason for the IRI’s behaviour and two different schools of thought have emerged. On the one hand, this rush to pursue nuclear

²³ Milani, M. M., (2009). Tehran’s Take: Understanding Iran’s U.S. Policy, *Foreign Affairs*, Vol. 88, No. 4, p.60.

²⁴ Azizi, H. (2021). The Concept of “Forward Defence”: How Has the Syrian Crisis Shaped the Evolution of Iran’s Military Strategy?. *Geneva Centre for Security Policy (GCSP)*.
<<https://dam.gcsp.ch/files/doc/iran-forward-defence-strategy-en>>

²⁵ Borsatti, L. (2021). *L’Iran al tempo di Biden*. Castelvecchi Editore. p. 27

capability is the symptom of a will to become a hegemon in the region and challenge the international community, especially the US. Therefore, a fully-fledged nuclear weapon would be the strategic mean to reach regional dominance and change the status quo.

On the other hand, this behaviour could be understood as a defensive mechanism of a weak country in a defensive position and disadvantage.

On Iranian soil, at the moment there are several nuclear sites officially destined for the creation of nuclear energy for civilian use but internationally suspected to be used also for research on uranium enrichment. Inspectors of the International Atomic Energy Agency (IAEA) visiting the country confirmed in the past of not having found any clear sign of an active military nuclear program. For instance, in the *Final Assessment on Past and Present Outstanding Issues regarding Iran's Nuclear Programme*²⁶ of 2015, briefly after the signing of the JCPOA, Yukiya Amano, AIEA general director at that time, stated:

“The Agency assesses that a range of activities relevant to the development of a nuclear explosive device were conducted in Iran prior to the end of 2003 as a coordinated effort, and some activities took place after 2003. The Agency also assesses that these activities did not advance beyond feasibility and scientific studies, and the acquisition of certain relevant technical competences and capabilities. The Agency has no credible indications of activities in Iran relevant to the development of a nuclear explosive device after 2009.

The Agency has found no credible indications of the diversion of nuclear material in connection with the possible military dimensions to Iran's nuclear programme.”²⁷

Nonetheless, current IAEA Director General Rafael Mariano Grossi has expressed its concern about the lack of transparency, documentation, and completeness regarding Iran's safeguards²⁸ declarations that undermine the capacity of the agency to ensure the peaceful nature of the programme²⁹.

The Iranian willingness of obtaining the so-called *nuclear latency* is quite evident: nuclear latency refers not necessarily to the possession of a nuclear weapon, but to having the

²⁶ Final Assessment on Past and Present Outstanding Issues regarding Iran's Nuclear Programme (2015, April 2) *IAEA Board of Governors* <<https://www.iaea.org/sites/default/files/gov-2015-68.pdf>>

²⁷ Ibidem, p. 15.

²⁸ See note 3 on *Comprehensive safeguards agreements*.

²⁹ Iran's decision in February 2021, to halt the implementation of its nuclear-related commitments under the JCPOA and the Additional Protocol, which enables IAEA broader access, has hampered verification and monitoring activities. Mr Rossi stated: “the presence of multiple uranium particles of anthropogenic origin at three locations in Iran not declared to the Agency, as well as the presence of isotopically altered particles at one of these locations, is a clear indication that nuclear material and/or equipment contaminated by nuclear material has been present at these locations,”

In: Liou, J. (2021). IAEA Director General Urges Iran to Resolve Issues Related to Four Undeclared Locations, *IAEA*. <<https://www.iaea.org/newscenter/news/iaea-director-general-urges-iran-to-resolve-issues-related-to-four-undeclared-locations>>

necessary theoretical knowledge and know-how, technologies, facilities, materials, expertise, resources, and other capabilities necessary to potentially build one, without full operational weaponization.³⁰

Nuclear hedging is instead the most extreme version of a nuclear weapon pursuit: the determination to reach the capacity to indigenously produce nuclear weapons in a realistic span of time, alongside an important measure of restraint in how far to proceed along this path. The first to define nuclear hedging was Ariel Levite in 2002: “a national strategy of maintaining, or at least appearing to maintain, a viable option for the relatively rapid acquisition of nuclear weapons, based on an indigenous technical capacity to produce them within a relatively short time frame ranging from several weeks to a few years”³¹. A certain level of latency does not clearly stand for nuclear proliferation, but when there is the intention and clear effort at the basis then we can really talk about hedging.

A slightly different approach is instead *nuclear exploration*: essentially, a flirtation with the possibility of having nuclear weapons, rather than a deliberate hedging strategy. This does not describe the Iranian scenario.

According to US Secretary of State Mike Pompeo, “renewing the arms embargo³² (included in the Resolution 2231 and to be expired in October 2020) will exert more pressure on Tehran to start behaving like a normal nation”. But why is Iran considered to be an enemy? Is it giving real proof for being considered a dangerous country for the region?

The US goal is to contain Iran, since passive acceptance is off the table. This challenge presents itself easier in the case of a non-nuclear state with respect to a nuclear-capable Iran, for this reason the current Administration is working towards the renovation of a setup that might control the IRI.

³⁰ Definition from: Pilat, J.F. (2019), *Nuclear Latency and Hedging: Concepts, History, and Issues*, Woodrow Wilson Center.

³¹ Ariel, E.L., (2002) Never say never again: nuclear reversal revisited', *International Security*, vol. 27, no. 3, p. 72.

³² This arms embargo imposed by the UN on Iran, and present in UNSCR 2231, should have expired on October 18, 2020, exactly 5 years after the signing of the 2015 deal. It limits arms sales to and from Iran. The US, nonetheless, was not happy about its eventual expiry, convinced that it would give Iran power to destabilize the regional status quo. The US proposed a draft resolution on August 14, 2020, in which the UNSC, acting under Article 41 of the UN Charter, would have ruled that the arms embargo should "remain in effect until the Security Council determines otherwise." Only two votes were cast in favor of the US draft resolution, which was not adopted. See *paragraph 2.1.4* for more information.

Especially between the Islamic Republic of Iran and the United States of America, there has been an atavistic distrust and fear of this Iranian aspiration that led the Obama administration towards the accomplishment of the nuclear deal of 2015. Analysed in retrospect, the negotiations of the last decade show that mutual mistrust has represented the greatest obstacle to any agreement, in addition to the radicalism of the Islamic Republic, or Washington's intransigence. Any technical solution, however brilliant and feasible, must also face a lack of political trust.³³ Whether it is cause or effect, some hard realities reinforce the existing mutual negative perception between the US and Iran. After all, in the past the American actions led to the deposition of Iranian politician Mohammad Mossadegh and instalment of an unpopular Shah for decades; American sanctions on Iran have been tightening; in addition to an Iranian leadership that supports both Hamas and Hezbollah and may support the nuclear programme development, whose peaceful nature was not repeatedly confirmed by the International Atomic Energy Agency, despite major efforts and warnings. The list of worrying points in their relationship is long. Therefore, it becomes difficult to tell whether American-Iranian negotiating difficulties come from flawed negotiating processes or rather from more crucial conflict between the two powers.

As scholar J. Bolan stated, we do not know if and when Iran will actually seek to develop its own nuclear weapon, but for sure like other states at the global level, it may be willing in the future to do so. Therefore, this means it seeks to have "a latent nuclear capability or what is often referred to as the *Japan option*"³⁴ which is the capacity of quickly being able to build this type of weapon in the moment of need of a nuclear deterrent. The *Japan Option* is another definition of *nuclear latency* because Japan is regarded as a "paranuclear" state, with complete technical ability to manufacture a nuclear weapon in a short period of time and such latent capability is considered a circumvention to the Nuclear Non-Proliferation Treaty that does not prescribe it.

Another definition worth of mention in this field of research is the so-called *breakout capability* which refers to the timeframe estimated for Iran to produce enough weapons-

³³ Alongside with trust, another important element at the basis of an important negotiating process is credibility. It is detrimental for the United States, in facing Iran, that it has largely acquiesced the nuclear weapons capability of North Korea, after repeatedly declaring that it would have been "unacceptable." US credibility indeed, is also strengthened (or diminished) by the actions and policies in other scenarios.

³⁴ Bolan, Christopher J. (2013), *The Iranian Nuclear Debate: More Myths Than Facts*. *Parameters*. Vol. 43, No. 2, p. 81.

grade enriched uranium fuel for a single nuclear weapon³⁵. For instance, Japan possesses a stockpile of separated plutonium that could be useful for the quick creation of a bomb thanks to its civil nuclear infrastructure and experience. As well as Iran, which may be seeking this breakout capability, with its low-enriched uranium and its capacity to enrich further to weapons-grade.³⁶ Indeed, were Iran free to develop a nuclear weapon, it would take it a relatively short amount of time, approximately 12 to 24 months in total (with the full implementation of the JCPOA. Before the deal and currently, this breakout time increasingly shortened).

This gives rise to another type of question: if other countries like Iran are in the position of building a nuclear weapon in a short period of time and like Iran, they could easily pose a threat to the international arena, why then the possible nuclearization of Iran is regarded as particularly dangerous and in need to be tackled?

The Iranian leadership has frequently pointed out that while the nuclear program in the IRI is continuously punished and subject of concern, nonetheless, it has not officially been demonstrated to be non-peaceful. On the other side, the United States is offering its military, economic, political help to nuclearized states (as Israel, India, Pakistan) that have not signed the fundamental treaty and do not welcome international inspections from the IAEA in their nuclear sites. This argument would give reason to the Iranian officials' fears that America's underlying goal is to limit Iranian power and foment domestic discontent that may eventually undermine the existing administration in Tehran. Moreover, Argentina, Brazil, Egypt, Israel, Pakistan, Syria, Venezuela, and other countries with advanced civilian nuclear programs, declined to participate in Additional Protocols with the Agency and all these states are not subjected to the same level of scrutiny as Iran.³⁷

Indeed, it is important to raise the issue of the “inflation threat” on the Iranian nuclear issue. Public debate has accentuated, with alarming claims about the threat of Iran’s ability to produce nuclear weapons and frequently, improbable worst-case scenarios have been taken as realistic possibilities of its ability to conduct a nuclear breakout. This

³⁵ Thielmann, G. and Wright, R. (2014) The Trouble With “Breakout Capacity”, *Slate*. <http://www.slate.com/articles/news_and_politics/foreigners/2014/06/iran_u_s_nuclear_negotiations_in_vienna_why_it_s_critical_to_understand.html?via=gdpr-consent>

³⁶ Waltz, K.N. (2012). Why Iran Should Get the Bomb: Nuclear Balancing Would Mean Stability, *Foreign Affairs*. <<https://www.foreignaffairs.com/articles/iran/2012-06-15/why-iran-should-get-bomb>>

³⁷ Ibidem.

approach might come from a negative exclusive emphasis on material resources and technologies that Iran is trying to acquire. However, the building of a nuclear weapon is a process that greatly depends also on a political, strategic, organizational level, and it does not only rest on a form of technological determinism.³⁸

Nevertheless, it is far more possible now than in the past, that the Islamic Republic of Iran can actually achieve nuclear capability, either way when the original deal's limits will expire in October 2030 or in case a new enhanced deal's timelines ceases to be valid in the future.

However, from the western powers' point of view the willingness to block in advance any possibility of having in the future a nuclearized Iran is well understandable. Indeed, let's assume the worst, namely that Iran will eventually be able to reach a fully-fledged nuclear capability and become a real threat to the Middle East and the entire global community. This would represent for the Islamic Republic the effective possibility to expand its regional and political influence in the region.

Additionally, a nuclear-armed Iran would also increase the level of uncertainty on another aspect: it would favour nuclear proliferation in the entire region. More neighbouring states, such as the countries of the Gulf Cooperation Council, but also other main actors in the MENA region, are developing plans to produce nuclear energy. Scholars translate this with *strategic nuclear hedging*, meaning to dispose of the technology just in case the Iranian aspirations cannot be stopped and a need for self-defence emerges.

Therefore, the reasonable question that follows would be: should these countries adopt a strategy of "bandwagoning" or rather "balancing"³⁹? Should these regional actors work for deeper integration and dialogue with Iran to balance its ambitions and the threat it represents, or rather continue with the fight against the Republic and their attempt of reducing its nuclear ambitions?

For instance, a side positive note highlighted by Professor Krause of the possibility of deeper integration is that "a nuclear-armed Iran would also tend to decouple the Middle East from a broader politico-military balance that still favours the US".⁴⁰ But considering the Non-Proliferation Treaty, the correct line of action would be to promptly intervene at

³⁸ Reardon, R. J. (2017) Threat inflation and the Iranian nuclear program, *Energy Research & Social Science*, Vol. 24, pp. 36-41.

³⁹ Stephen M. Walt, in his *Balance of Threat* theory, stated that alliances of states are conditioned by the threat that they perceive from other states. Walt explains that in general states "balance" by allying together against a perceived threat. Instead in the case of a group of weaker states, they tend to "bandwagon" with the perceived threatening state in order to maintain their security.

⁴⁰ Krause, J. (ed.) (2012). *Iran's Nuclear Programme*. Taylor and Francis, Introduction chapter.

the insurgence of a proliferation crisis in development, even with the use of the force if necessary. Indeed, in the past, the softer approach towards Iran showed to be ineffective. Even though before the so-called Arab revolutions broken out in 2011, the approach of containment towards Iran was already the dominant direction, this trend has become prevalent even more so in the aftermath.⁴¹ And after more than 30 years of punitive measures and no sustained engagement, Iran is not less dangerous to its neighbours and to US regional interests than before.

Today it is indeed quite common the opinion that considers wrong and ineffective the use of the force, namely through military action, in dealing with the Iranian nuclear ambition, and it is currently “off-the-table”. An actual attack against the regime would not halt the nuclear activity but rather have the opposite effect, since Iran is led by rational leaders that would logically push the country towards self-defence and deterrence techniques. Furthermore, an attack could push Iran to withdraw from the NPT, the loss of the existing limited IAEA access in Iran, and a significant reduction of support for sanctions by international actors.⁴²

Containment is based on a different type of approach from the use of force; one that is considered the best viable option for states like Iran, where peaceful nor hostile methods are effective, as scholars Kaye and Lorber have explained. However, key elements of George Kennan's original notion of containment from his 1946 *Foreign Affairs* article, particularly regarding diplomacy and alliance management, have largely been lost because of a misguided focus on punitive measures against Iran (namely aimed at preventing Iran from fostering terrorism, expanding regional influence, undermining Arab-Israeli peace efforts and of course acquiring nuclear capability).

The United States during the Cold War period proved to be very successful in their strategy of containment against the expanding power of the USSR; nonetheless, this positive experience cannot be currently duplicated in the case of Iran, where containment started at the moment in which Iran ceased to be an ally of the American power in 1979 and transformed into the famous Islamic Republic led by Ayatollah Khomeini. The United States has not yet applied a genuine containment strategy to Iran. A more

⁴¹ Kaye, D. D. & Lorber, E. (2012, March 14) Containing Iran: What Does It Mean?, *Middle East Policy*, Vol. 19, no. 1, pp. 51-63.

⁴² In comparison, the use of the force was among the options of the American administration in the previous round on negotiations, before 2015. Indeed, direct actions could have proven effective in delaying the Iranian nuclear program and could have directly improved the no-deal option for the US, but it would have also presumably endangered the scope of negotiations to the point of being almost useless. Thus, attention should be taken in the way in which defensive steps are taken and publicly formulated.

successful and comprehensive containment strategy on the Iranian situation would require far more extensive direct engagement with Iran in order to attempt to lessen its behaviour on the long-term. American policies for the political and economic development of regional actors could help change the perception that Washington's relationships are centred solely on defence cooperation with unpopular governments that lack legitimacy. This would be more in line with the way containment was practiced in the early years of the Cold War.⁴³ If we have to assess the American attitude of containment towards Iran over the years, "US policies toward the regime have consistently favoured pressure over engagement to isolate Iran and prevent it from pursuing behaviour inimical to US interests"⁴⁴.

Kaye and Lorber have studied whether the Iranian issue and the containment approach of the US can be comparable with the successful strategy adopted during the Cold War towards the Soviet Union. In fact, the two examples can be compared. The two eastern powers do not allow for permanent reconciliation. Since 1979, Iran has developed a hostile view and approach towards the West that has made it difficult to come to peaceful terms. Kaye and Lorber state that secret and public interaction between Iran and the US were just the occasional interruption of this cycle of punitive measures, but such efforts did not result in any prolonged US-Iranian dialogue; political factors on both sides continuously sabotaged attempts to redefine the relationship.

Nonetheless, this research states that "Iranian behaviour to date suggests that the regime can be responsive to external stimuli in the interest of survival and has often acted in ways that are at odds with its ideology"⁴⁵. And going back to the aspect of deterrence, regardless of how well one thinks it may work, it seems that the leadership, as well as in the Soviet case, is sensitive to both costs and opportunities imposed by external actors. The reason for it may be the fact that the rational leadership works indeed on a cost-benefit approach in the process of decision making.

In 2015, the countries involved were able to reach a successful agreement with Iran, a deal that had the potential to last over time, only because all the parties could get something out of the deal that was in their interests, by benefitting them.

⁴³ cf. American diplomat George F. Kennan's cold war policy of containment.

⁴⁴ Kaye, D. D. & Lorber, E. (2012, March 14) Containing Iran: What Does It Mean?, *Middle East Policy*, Vol. 19, no. 1, p. 53

⁴⁵ *Ibidem*, p. 56

What is then the correct or better approach towards the Islamic Republic of Iran? Different viable options have proven to be inefficient after clashing with the absence of mutual political trust. Moreover, for the IRI internal political differences on the nuclear compromise are only a surrogate for a wider question: how should the country really behave towards the international community in this matter? According to common views, the country should aim towards the guarantee and legitimization of its role as regional power, and correspondingly also the reduction of tensions with the West. Alternatively, this contraposition with western powers could continue, but with the guarantee for Iran given by the possession and use of nuclear technology that the country may hold, also for military purposes. Specifically, this second approach could explain the ambiguity of the Iranian leadership's behaviour, which leads to certain consequences: the country is not that far from possessing that technology and knowledge, it has never been so politically isolated as it is now on the international scene, and it is paying the economic cost of its ambitions and position⁴⁶.

Moreover, which approach is best is not a matter of opinions but rather of rate at which the different stakeholders are willing to trade costs or benefits in exchange for policy concessions and this takes place gradually though negotiation and the force of diplomacy. The cost and reward approaches are at the basis of the international actors' relationship towards Iran. Indeed, analysts underline the potential role of costs and incentives which have the power to change Iranian behaviour, if employed in conjunction with a more enlightened diplomacy. Nonetheless, even the most skilled, informed diplomat cannot unlock a deal if the no-deal option appears superior to one or both sides. If the Iranian regime sees the nuclear weaponization or at least nuclear capacity – which is the no-deal option – as vital both for its defence and regional influence, neither improved process nor modest sanctions are likely to produce an agreement among the parts. Instead, suitably higher costs that are meaningful to the regime, and/or a more valuable deal, constitute the necessary conditions for an agreement. Then, higher diplomacy will have the potential to work and be successful, converting cooperative possibility into reality.⁴⁷

The approaches towards Iran have been several and diverse over the years: the Security Council first and then also the US unilaterally have adopted economic sanctions against

⁴⁶ <https://www.treccani.it/enciclopedia/il-programma-nucleare-iraniano_%28Atlante-Geopolitico%29/>

⁴⁷ Sebenius, J.K. (2011), Negotiating with Iran: Cultural and Historical Insights. *Negotiation Journal, Review Essay*, vol. 27, pp. 493-497. <<https://doi.org/10.1111/j.1571-9979.2011.00320.x>>

Iran; while Russia and China have tried to persuade the IRI through rewards to become cooperative and several negotiations have taken place.

The bottom line is that Iran is an indispensable player who must necessarily be engaged to resolve regional crises; instead seeking to ostracize and isolate Tehran will only exacerbate regional instability. For this reason, we can say for sure that Trump's strategy based on unilateralism and withdrawal, was self-defeating and non-efficient on every level.

After the IAEA at the beginning of 2003 detected the absence of transparency in the Iranian nuclear programme, to avoid an international crisis, it was precisely the E3 (Germany, the UK and France) that started negotiations with the Iranian government to reach an acceptable compromise on the issue. Therefore, in October 2003 and in November 2004 two deals were signed, giving Iran a theoretical right to invest in enrichment activities. Nonetheless, the various international attempts to find a deal that could be accepted by all the parties involved proved to be inefficient up to the arrival of Barack Obama at the White House in 2009, who decided to change approach. He decided to opt for a different strategy based on direct negotiations without any preconditions. Indeed, with the goal of preventing Iran from obtaining a nuclear weapon capability, this approach led to a positive step in this direction.⁴⁸

In this case we talk about *multilateral negotiations*, involving more than two parties, as we are going to see in specifics in Chapter 2 of this work. They involve the creation of coalitions around the table of the negotiations and the parties confront each other in regular meetings. These can happen within the framework of specific international organizations or fora; otherwise, as in this case, with the creation of an *ad hoc multi-party negotiation*, meaning outside of international organizations, without strict rules of procedure.

One last element to keep in consideration when dealing with the possibility for Iran to develop a nuclear capability and then a weapon, is the famous *fatwa* pronounced by the Supreme Leader at the end of the 90s. A fatwa is a religious non-binding legal opinion on a point of Islamic law (Sharia). The famous Supreme Leader of Iran, Ali Khamenei, announced a fatwa against the acquisition, development and use of nuclear weapons, by considering it as a serious sin "prohibited by Islam" (in Arabic *haram*). The fatwa

⁴⁸ Redaelli, R. (2012). Il programma nucleare iraniano. *Atlante Geopolitico 2012*. Cited in: <[30](https://www.treccani.it/enciclopedia/il-programma-nucleare-iraniano_%28Atlante-Geopolitico%29/></p></div><div data-bbox=)

pronounced by Supreme Leader Ayatollah Ali Khamenei, states that the Islamic law is “against the acquisition, development and use of nuclear weapons” that could harm many innocent people. Moreover, Khamenei in 2015 declared that Iran is not willing to hold nuclear weapons because it is also illogic:

“We are not after nuclear weapons. And this is not because they are telling us not to pursue them. Rather, we do not want them for the sake of ourselves and our religion and because reason is telling us not to do so. Both Sharia and ‘Aql [related to logic and reason] fatwas dictate that we do not pursue them. We do not need a nuclear weapon either in the present time or in the future. A nuclear weapon is a source of trouble for a country like ours [...]. So, nuclear achievements are very important and pursuing this industry and industrializing the country is a very important task. This should receive attention.”⁴⁹

This fatwa dates to the mid-1990s, but the first time it was publicly announced was in October 2003, with a following official statement in August 2005 at the presence of the IAEA in Vienna. This pronouncement was reiterated by the Iranian authority, but the point is that its reliability remains uncertain. Indeed, if pressure against Iran was to become intolerable, the Khamenei’s fatwa could cease to be an obstacle for the nuclear development in Iran. In 2015 the Supreme Leader stated that:

“The Americans say they stopped Iran from acquiring a nuclear weapon. They know it's not true. We had a fatwa (religious ruling), declaring nuclear weapons to be religiously forbidden under Islamic law. It had nothing to do with the nuclear talks.”⁵⁰

At the beginning of 2021, the Supreme Leader Ali Khamenei, encouraged the US to lift sanctions imposed on Tehran, but President Joe Biden did not seem willing to make the first move unless Iran did not show some changes, bringing the situation to a stalemate position benefitting neither side, as we will explore later on in this work.

“While diplomatic efforts may succeed in bringing about a lasting agreement that constrains the scope and pace of Iran’s nuclear efforts, Tehran will retain a low level of latency and the ability to acquire nuclear weapons relatively quickly should it decide to do so”⁵¹.

⁴⁹ From the speeches of Ayatollah Khamenei. “Reason is telling us not to pursue nuclear weapons” (April 9, 2015). <<https://english.khamenei.ir/news/2303/Reason-is-telling-us-not-to-pursue-nuclear-weapons>>

⁵⁰ Staff writers (18 July 2015). "Ayatollah Ali Khamenei criticizes 'arrogance' of the United States following nuclear deal". *The Telegraph*. Retrieved 24 August 2014. <<https://www.telegraph.co.uk/news/worldnews/middleeast/iran/11748176/Ayatollah-Ali-Khamenei-criticises-arrogance-of-the-United-States-following-nuclear-deal.html>>

⁵¹ Bowen, W. & Moran, M. (2015) Living with nuclear hedging: the implications of Iran's nuclear strategy, *International Affairs*, Vol. 91, no. 4, pp. 687–707 <<https://doi.org/10.1111/1468-2346.12337>>

Is there any sense in acquiring an effective lasting agreement? Not only, the pursuit of this kind of agreement implicitly allows for the recognition and legitimization of the Iranian nuclear proliferation, which at the time of the JCPOA negotiations it was one of the main issues on the opponents' agenda.

1.4. Regional political implications of the JCPOA

Considering possible future evolutions, as we will explore in the following chapters of this work, we believe that nuclear diplomacy can realistically achieve a lot. Apart from the re-enactment of the 2015 nuclear deal, it can also lead then to upgrades including controlling enrichment and breaches, supervising advanced centrifuges, extending the ballistic missile limitation, and timetables. Furtherly, even though the current goal of the international community seems that of preventing the Iranian aspiration of achieving nuclear capability and eventually become a common danger, the focus should be put also on the geopolitical and economic gains.

It is commonly known that Iran pursues a higher influence in the region. This is one of the reasons why local and international actors have always feared the possible creation of a nuclear weapon in the Islamic Republic, giving Iran the leverage and power to expand its influence. Indeed, Iran has been involved in different regional theatres in the Middle East by supporting non-state actors and militia groups. For instance, it is backing Hezbollah in Lebanon, which was actually set up by Iran's Revolutionary Guards in 1980s. Iranian militias are present in Iraq, where in 2014 they helped stop the Islamic State advance eastwards, and in support of Hamas in the Gaza Strip with their fight against Israel, actually obstructing any possibility of Arab Israeli reconciliation. To mention some other examples of their presence and interference in the Middle Eastern area, Iran supports the regime of President Bashar al-Assad in the Syrian civil war, and their mutual military alliance goes back to 1982. In addition, in its rivalry against Saudi Arabia, the great Sunni power in the Gulf, Iran is fighting a proxy war in Yemen by supporting the Houthis in the control of the Yemeni capital Sana'a since 2014.

Evidence shows that an approach based on the only isolation and punishment of the regime might not be the best solution for the stability of the region. Moreover, this regional question along with the missile issue were already unanimously excluded from

the past negotiations, and to complicate the current situation, according to the IRI, an agreement already concluded cannot be renegotiated over time.

Indeed, an interesting point regards whether the Iranian question only revolves around its nuclear program or not. Even though western public opinion circles always around new alerts on how Iran gets increasingly close to a “nuclear bomb”, the real issue that the US and its allies have against the IRI is another one: they are worried about its conventional missile arsenal associated with its regional influence, two elements that lead to the opposition of the Iranian power over the Middle East against the American control over the region. Therefore, this might mean that the scary issue on the nuclear capability that Iran could achieve is just an expedient to limit the country on other more real issues. The question then regards the actual necessity of such a hard deal to reach in so many years of difficult technical and political negotiations that led to the signature of 2015. The answer, according to analysts, is of imperial nature: the control of an important and vast region that is contended among large and medium-sized powers. And to determine that control is not the decision of single leaders and presidents – even though as we will see later, they are highly influential in the development of relations and negotiations between countries – but rather the security systems like the Pentagon and CIA, the State Department and the Treasury, the true decision-makers of the several American administrations.⁵²

Therefore, with Iran winning on the regional side, over the recent decades the US have decided to hit it with a series of sanctions and coercive measures, linked in particular to its oil export and financial transactions. In 2021 once again the goal with the revival of negotiations is that of putting Iran under pressure with a new deal to be respected. The western goal is to force Tehran to negotiate to reduce its regional influence and the possibility of dominance on the Middle east area.

⁵² Borsatti, L. (2021). *L'Iran al tempo di Biden*. Castelvechi Editore. pp. 21-22

CHAPTER 2: The Nuclear Deal of 2015

The Joint Comprehensive Plan of Action's original goal was simple: to limit and monitor what the international community saw as the most serious aspect of the Iranian policy – the proliferation dangers of its nuclear programme – in exchange for relief from long-standing international sanctions. In this chapter we will try to understand the main steps that led to the deal and its structure in detail, in order to understand later how it could be modified now and what has changed since its approval in 2015.

As we have previously stated, Iran is a Non-Nuclear Weapon State (NNWS), party to the Nuclear Non-Proliferation Treaty (NPT), which has been accused of committing violations of its comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA).

The nuclear negotiations started in 2003 in the E3 format, involving the three countries belonging to the EU (the United Kingdom, France and Germany) – the first supporters of a diplomatic way – together with Iran, and they were facilitated by the European Union, meaning that in 2004 the EU High Representative for Foreign Affairs and Security Policy Javier Solana joined the process. Later on also the other three parties (China, Russia and the United States) entered the multilateral scenario with the common goal of preventing Iran from becoming a nuclear power.

The issue of nuclear proliferation and subsequent diplomatic response in Iran started in 2003. Iran had restarted to develop its nuclear program – originally initiated by the Shah – during the mid-1980s, under the supervision of the International Atomic Energy Agency, in accordance with the NPT. In 2003, however, some groups of opponents of the theocratic regime denounced the existence of nuclear plants and programs not officially declared by Iran. On June 6 of the same year, an IAEA report confirmed this accusation, and the administrative council adopted a resolution requiring Iran to stop all uranium enrichment activities and to cooperate with the inspectors of the IAEA itself. Although Iran initially accepted the terms of this resolution, further violations were reported in the following years. For this reason, on July 31, 2006, the UN Security Council adopted Resolution 1696, which required Iran to terminate all activities related to uranium enrichment, but the Republic continued to fail to fulfil these obligations. After the failure of a first negotiation attempt of the so-called P5+1, the Security Council unanimously approved Resolution 1737, which imposed new sanctions on the Islamic Republic,

including the freezing of the bank accounts of organizations and individuals involved in the nuclear programme. This decision was taken in the light of a new report from the IAEA, according to which Iran had not yet completely stopped activities related to its nuclear programme and had not yet fulfilled the requirements contained in several Security Council resolutions.⁵³

During the eight years of presidency of Mahmoud Ahmadinejad between 2005 and 2013, the Iranian contraposition with the west and with Israel became quite harsh and the diplomatic way temporarily halted⁵⁴. Due to Iran's decision of resuming enrichment in 2005 and refusal to pause it, negotiations between Ahmadinejad's government and the P5+1 group failed to solve the problem. Eventually, only in 2013, Tehran's Majlis decided to substitute Ahmadinejad for his tough stance against the West which could undermine the system. Indeed, little before the election of his successor, moderate President Hassan Rouhani, the former national security advisor and nuclear negotiator, the Islamic Republic of Iran shows first signals of willingness to negotiate. Rouhani saw the nuclear issue as the "beginning point" for the revival of US–Iran relations⁵⁵. And the first important step of rapprochement was the signing on January 12, 2014, of the provisional Joint Plan of Action by the P5+1, the anticipator of the more comprehensive solution, the famous JCPOA of 2015, object of this thesis⁵⁶. This first framework of 2014 was the starting signal of willingness by the Islamic Republic of Iran to slow down its nuclear program's progress and allow international inspections for verification. The following eighteen months were characterised by negotiations among the parties to come up with a final enduring deal.

In this table below it is possible to understand the evolution of the nuclear negotiations and frameworks that regulate this sector up to 2015. From this point on, we are going to take into consideration only the period after the signing of the 2015 comprehensive nuclear deal.

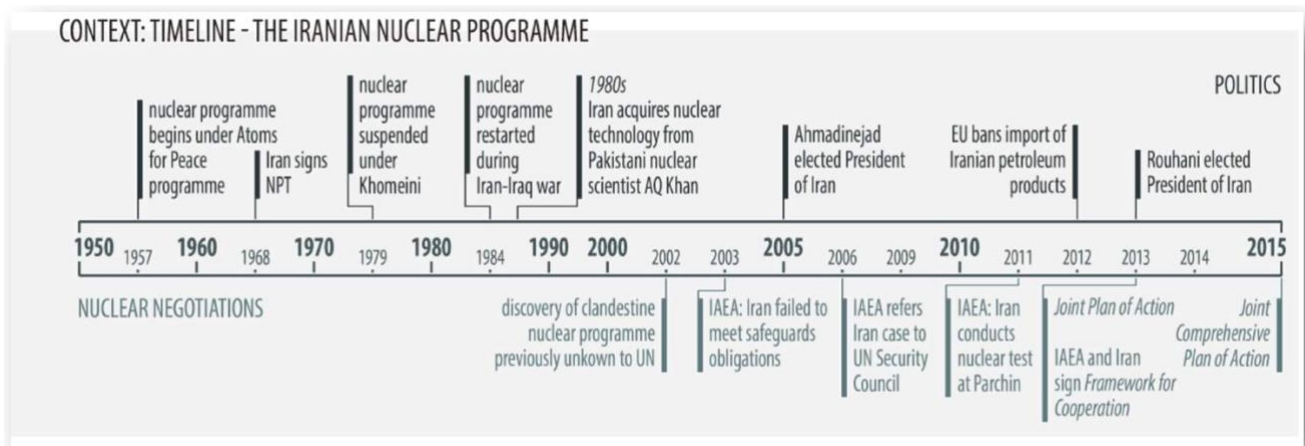
⁵³ Pasquali, S. (2020) *Il Ruolo del Presidente degli Stati Uniti in Politica Estera: Il Caso Studio Iraniano (2008-2020)*, Luiss University [thesis project]

⁵⁴ The relationship between Iran led by President Ahmadinejad and the USA was particularly conflictual in this period. Ahmadinejad criticized the USA approach towards them and stated that sanctions "cannot dissuade Iranians from their decision to make progress. [...] On the contrary, many of their successes, including access to the nuclear fuel cycle and producing of heavy water, have been achieved under sanctions."

⁵⁵ Ignatius, D. (2013). Edited transcript: An interview with Hassan Rouhani, *The Washington Post*. <<https://www.washingtonpost.com/blogs/post-partisan/wp/2013/09/25/transcript-an-interview-with-hassan-rouhani/>>

⁵⁶ Website The Obama White House <<https://obamawhitehouse.archives.gov/the-press-office/2014/01/16/summary-technical-understandings-related-implementation-joint-plan-actio>>

Figure 3. Timeline - Iran Nuclear profile⁵⁷



Source: European Parliamentary Research Service

After this brief focus over the long process that preceded the 2015 nuclear deal, below we will go through the content of the JCPOA and what has happened in the following decade.

2.1. The 2015 JCPOA

In 2015, after years of multilateral negotiations, nuclear diplomacy obtained a great result with the entering into force of the Joint Comprehensive Plan of Action regarding the Islamic Republic of Iran's nuclear programme. The JCPOA, also known as Iran nuclear deal or in Persian "Barjam"⁵⁸, was signed on July 14, 2015, between the P5+1, the five permanent members of the UN Security Council plus Germany, together with Iran, and the European Union as chair. In this way, diplomacy made it possible to prevent Iran from pursuing a nuclear weapon and at the same time to prevent any international will to take military action against Iran, an idea that certain actors thought to be the necessary and incomparable option to reach the first goal. The parties during the long negotiations were able to come up with a shared formula, the concept that summarizes all the basic elements that lead to the settlement of the dispute: *lifting for limitation*. Indeed, the JCPOA posed a certain amount of limits to the Iranian nuclear programme and at the same time lifted

⁵⁷ Pawlak, P. (2016) The nuclear agreement with Iran. *European Parliamentary Research Service* <<https://epthinktank.eu/2016/01/20/the-nuclear-agreement-with-iran/>>

⁵⁸ "Barjam" is the name of the JCPOA in Persian: برنامه جامع اقدام مشترک, Romanized: "barnāme'ye jāme'e eqdāme moshtarak". Sometimes it is defined as "Barjam 1" as being the first signed declaration between Iran and the United States (along with the other western representatives). It would have also allowed Teheran to redesign its place at the global level, with a functional pretext in the nuclear issue, and at the same time to re-enter the international financial context.

international sanctions. The Joint Comprehensive Plan of Action in 2015 was endorsed and then adopted by the UN Security Council through the very long and detailed Resolution 2231 (passed on July 20, 2015, the longest resolution ever endorsed by the UNSC) which lifted any sanction previously imposed on Iran as long as the responsibilities of the deal were met by Tehran⁵⁹.

The E3/EU+3 envisioned that the implementation of the JCPOA would have gradually allowed them to acquire trust in the Iranian program's solely peaceful nature. The JCPOA reflects mutually agreed-upon limits that are congruent with practical needs, as well as agreed-upon constraints on Iran's nuclear program, including enrichment and R&D. The JCPOA tried to answer the concerns of the E3/EU+3, also thanks to the complex systems of verification and request of transparency. Moreover, with a partner like Iran involved, a country that detains from the inspectors of the UN a great deal of sensitive information, it was fundamental to draft a deal that would clarify and specify a system of verification, as we will explore below.

If we consider public opinion in the United States of America at the time of the approval of the deal, it resulted being divided between Democrats on one side supporting the JCPOA as President Obama's own achievement, while Republicans on the other side criticizing the accord, for it made too many concessions to the Iranians and according to them, not enough economic pressure. On another side, Israel together with Bahrein, Saudi Arabia, and the United Arab Emirates, three GCC countries, feared this deal would give the state of Iran greater power and influence in the area rather than pressure and compellence.

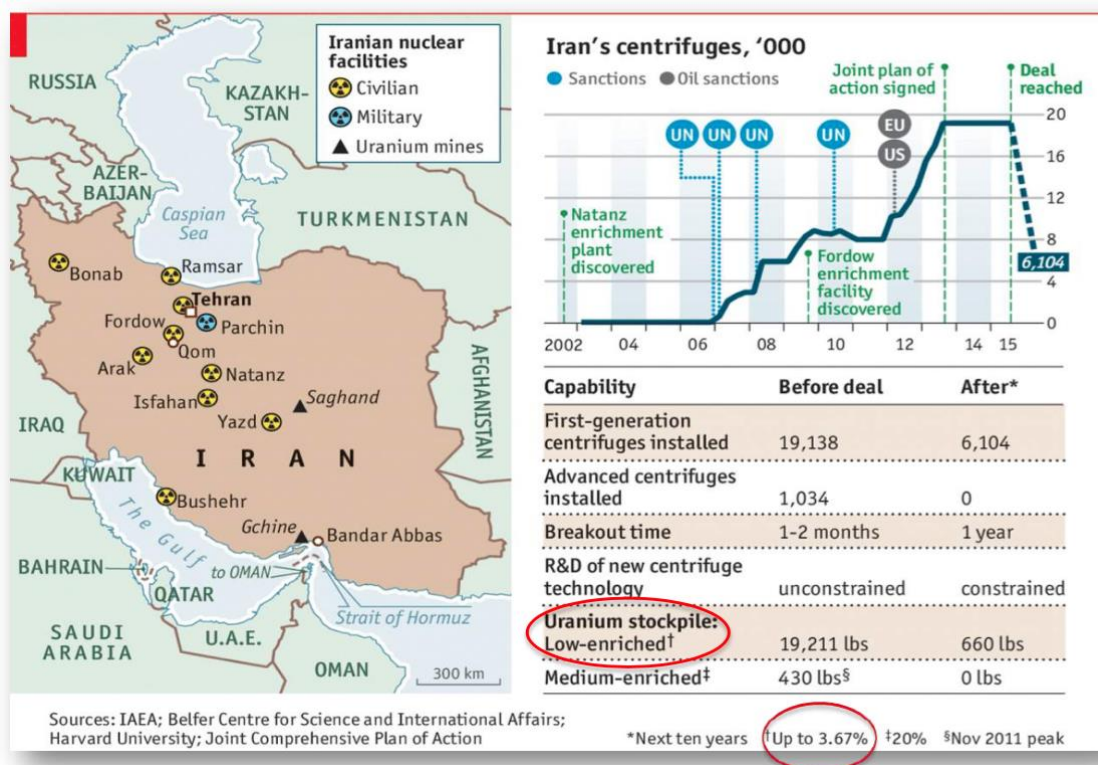
In this chapter, after the analysis of the specific content of the agreement we will try to understand why it did not fully work. This agreement, considered to be a milestone for politics and diplomacy, was also in many ways criticized. It is an agreement as detailed as it can get, since the parties at the table did not trust each other, but at the same time not specific enough to answer to a series of issues. We could say that this agreement actually started a long period of debate on the Iranian nuclear issue.

The 2015 JCPOA is a multi-year, arms control agreement designed to abridge Tehran's nuclear ambitions. It is a comprehensive strong agreement: even though no single aspect prevents Iran from obtaining a nuclear weapon, the limits and the monitoring system together establish a complete framework that should keep nuclear weapons out of Iran's

⁵⁹ See UNSCR p. 14 “*SANCTIONS*” for specifics on sanctions removal.

reach for at least 15 years or even more. Indeed, the deal put on Iran certain limits on the number and type of centrifuges, on the kind of reactors and the quantity and quality of uranium that the country can enrich, in light of periodical inspections of nuclear sites to prove the compliance with the deal, all of this in exchange for a gradual reduction of sanctions. These are sanctions that were at the beginning imposed on Iran by the United Nations when in 2005 it was declared in non-compliance with UN Resolutions and in absence of transparency towards the IAEA regarding its nuclear programme.

Figure 4. Iran's nuclear sites



Sources: IAEA, Belfer Centre for Science and International Affairs; Harvard University; JCPOA

In Geneva and Vienna, the P5+1 discussed in long technical sessions the number of centrifuges to be left operative in Iran to have a much more contained enrichment of uranium, instead on other negotiating levels the position of Iran in the post-deal period was discussed. All of this has to be seen in an exchange logic: indeed, the IRI ensured to keep away for a definite span of time from a level of enrichment that could produce an atomic weapon (uranium enrichment is indeed fundamental for the creation of an atomic bomb); the west on the other side, ensured to suspend sanctions. Nonetheless, as

paragraph number 37 of the text of the JCPOA states⁶⁰, if sanctions were to be reinstated wholly or partially, Iran would see them as a reason to stop complying with its commitments under the deal in whole or just in part.

As it is possible to notice from Figure 4, the main points of the deal summarized include the number of first-generation centrifuges installed which was more than halved with the signing of the deal (from 19,138 to 6,104) as well as the elimination of advanced centrifuges and the lengthening of the breakout time. The stockpile of low-enriched uranium has decreased from 19,211 to 660 pound.

The agreement could be a win-win solution for everyone if it was successfully implemented. It promoted the national security interests of the United States, the international community, and the Middle East. It improved nuclear non-proliferation by protecting the NPT's integrity and incentivized Iranian participation.

Nonetheless, the situation has increasingly changed now. If in the years before the signing of the agreement there was hope to convince Tehran on limiting its activity in the nuclear sector in exchange for the lifting of sanctions, which actually proved to be effective, now since 2018 with the American withdrawal from this accomplishment, the parties involved find themselves in a new phase where Iran has acquired new leverage and it is not willing to give up concessions to the US so easily.

The very detailed text of the JCPOA is 159-page long with five annexes and it is divided in main sections. Below we are going to explore them in detail to understand the implications and demands of the deal for the IRI.

2.1.1. Enrichment, R&D and uranium stockpiles⁶¹

According to the agreement, Iran accepted to eliminate its reserves of medium-enriched uranium and for what concerns the stockpile of low-enriched uranium (3.67 percent enriched uranium-325, the necessary level to fuel nuclear power reactors) Iran has accepted to cut these reserves down by 98 percent and to keep them under the limit of 300 kilograms total for 15 years⁶². The excess enriched uranium in Iran should be sold,

⁶⁰ “[...] *Iran has stated that if sanctions are reinstated in whole or in part, Iran will treat that as grounds to cease performing its commitments under this JCPOA in whole or in part.*” (Paragraph 37, Dispute Resolution Mechanism, JCPOA) Refer to the full text of the JCPOA available at: <<https://www.europarl.europa.eu/cmsdata/122460/full-text-of-the-iran-nuclear-deal.pdf>>, and later on in this chapter.

⁶¹ Website Arms Control Association <<https://www.armscontrol.org/factsheets/JCPOA-at-a-glance>>; <<https://www.armscontrol.org/2015-08/section-3-understanding-jcpoa>>.

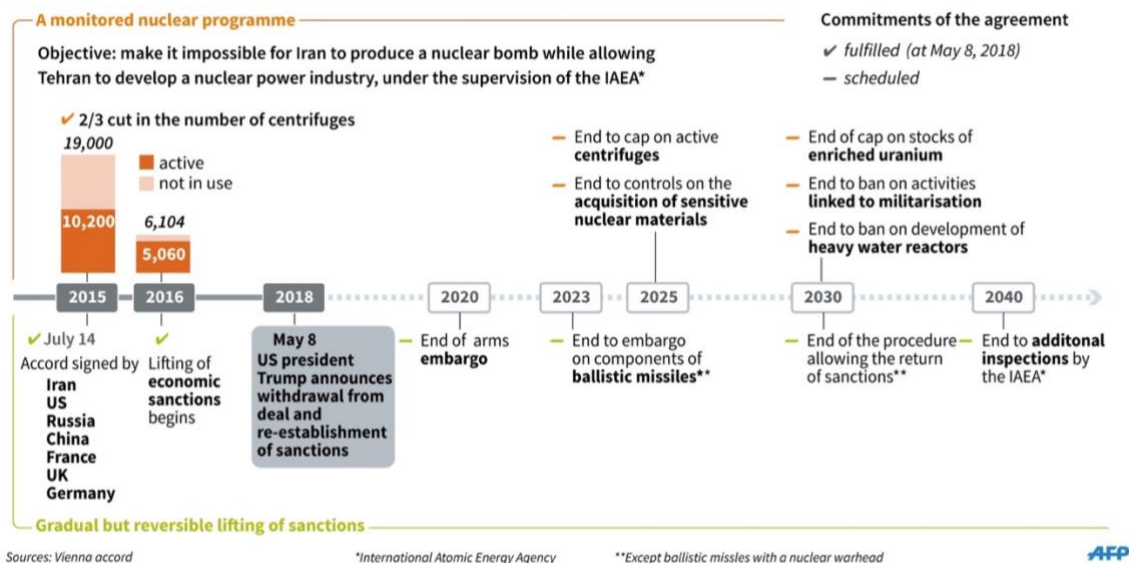
⁶² The limit of 300 kg of LEU is a quarter of the required amount (with HEU) sufficient for a nuclear bomb.

sent abroad for storage, or diluted to reach levels of natural uranium. All uranium materials not allowed by this agreement should be eliminated or shipped outside of the country.

It is the abolition of high-enriched uranium (HEU) for more than 10 years that has substantially blocked the path towards the creation of a nuclear weapon; the type of uranium-325 enriched above 20 percent, to be used for bombs or in research reactors. As we have mentioned above, in this way with the restrictions in place, the breakout time for Iran has increased to reach 12 months from the pre-deal 2-3 months of time, which is the minimum time for Tehran to obtain enough HEU for a weapon⁶³. And this 12-months breakout time should be frozen for a decade at least, during which the country is highly monitored by the IAEA.

The breakout capacity, however, is not only influenced by the levels of enriched uranium stockpiles, which is only one element to be taken into consideration. Also, the number of operative centrifuges influences breakout.

Figure 5. The 2015 Iran nuclear deal



Source: Vienna Accord

Indeed, as regards centrifuges, the deal of 2015 foresaw their reduction by two thirds for 13 years (from 19,000 of them to 6,104, of which only 5,060 operative for the enrichment of uranium) of IR-1 machines⁶⁴ for 10 years and the dismantling of centrifuges in excess

⁶³ Approximately, Iran would need 25 kilograms of HEU enriched at more than 90% to build a bomb. These calculations of breakout time refer only to the necessary time to obtain the material, missing the subsequent process of weaponization.

⁶⁴ IR-1 centrifuges are the first type of centrifuges (*first generation centrifuges*) in Iran, the first generation. Therefore, less efficient and modern with the respect to the other types.

(which were more than 13,000), to be stored under the supervision of the IAEA. For 15 years after the signing, as we have already stated, the IRI should have enriched uranium-235 at a maximum of 3.67 percent as well as the indication of conducting enrichment processes only at the Natanz facility. Over the same period, it would have been forbidden to build any heavy water nuclear reactor.

For 10 years the production of centrifuges other than the inefficient and old IR-1 ones would have been forbidden. The deal envisioned for all advanced centrifuges a specific limitation for the length of a decade. Since the interim agreement, Iran agreed not to operate with the advanced centrifuges (such as IR-2M centrifuges which are much more efficient than the previous ones and agreed to store them under seal).

As regards instead the Fordow facility, the nuclear deal implied the transformation of a certain number of centrifuges into a research centre for stable isotope production for medical purposes with the involvement of the Russian side. This transformation entailed the prohibition, for the length of 15 years, for uranium to enter the facility. Other facilities as well had to be converted in order to avoid the risk of nuclear proliferation.

Another important point under the attention of the JCPOA is the limitation of the activities of Research and Development in the nuclear field. Iran was allowed to conduct research at the Natanz facility only (the only one allowed for both R&D and enrichment) where inoperative centrifuge machines and other idle machines from different sites have been stored under IAEA surveillance⁶⁵. Here at the Natanz Pilot Plant facility, research is conducted also with one single unit of the IR-4, IR-5, IR-6 and IR-8 types of machines, that the deal allowed Iran to keep for eight and a half years, fuelled with uranium gas and avoiding any type of enriched material.

The core of the Arak Reactor instead had to be removed or disabled, or else replaced to reduce plutonium output for weapon use, certified by the Joint Commission. The indication is to stop any process with spent nuclear fuel for the length of 15 years and beyond, with the usual commitment of shipping out the residual spent nuclear fuel.

The deal of 2015 focused also on the importance of abolishing any heavy-water reactor for 15 years, and the accumulation of such element.

⁶⁵ These seals are a complex system that informs the International Atomic Energy Agency (IAEA) in the event of tampering in Iran military sites.

2.1.2. Monitoring and verification

This section is particularly important for the entire agreement. To monitor and verify Iranian compliance to the accord, the International Atomic Energy Agency had regular access to all the nuclear facilities in Iranian territory. Nonetheless, according to the deal, IAEA inspectors could only access agreed sites by the JCPOA and had to obtain a special permit from Tehran to inspect new sites (undeclared sites inspection by IAEA, for 15 years). According to this section of the deal, inspectors should have daily access to nuclear facilities, including enrichment sites, as well as ongoing monitoring of Iran's supply chain. Given these constraints, Iran's attempt to cheat by using disclosed facilities is highly unlikely. Any illicit operation would have been readily identified or be contingent on Iran's decision to abandon the NPT in pursuit of the bomb. This regime was criticized by sceptics of the JCPOA for not giving IAEA inspectors "anytime, everywhere" access. On the other side, Iran would not have accepted a deal that included demands for inspectors to have unrestricted access to its sites, and such access moreover is superfluous. Under the JCPOA, the IAEA has quick access to any site if it becomes necessary for different reasons. Even if Iran initially may try to deny access, the Joint Commission will ensure that the Agency is able to visit sites within 24 hours.

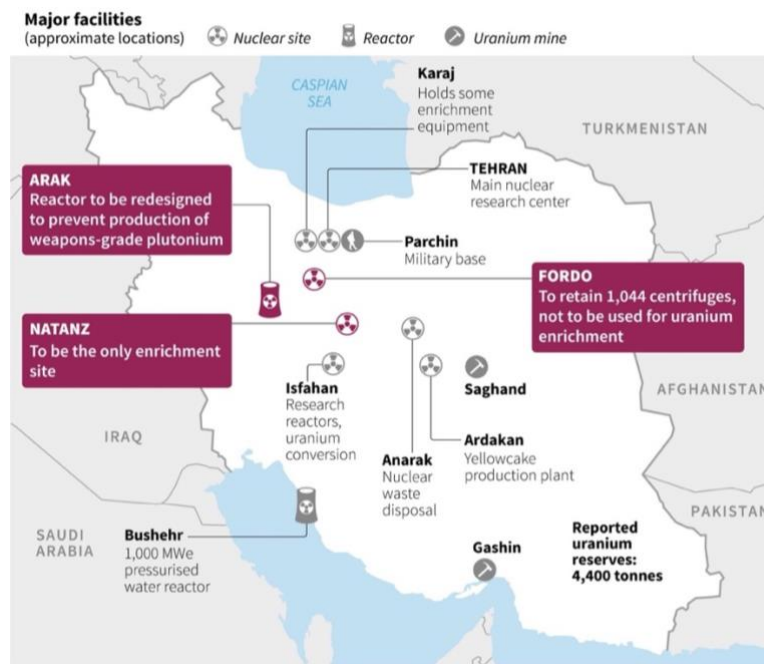
Since 2015, IAEA has certified ten times the adhesion of Iran to the commitment taken under the nuclear deal. These inspections also concern uranium mines, mills, and yellowcakes⁶⁶ for 25 years since the signing of the deal. For the lengths of 20 years instead for the monitoring of centrifuge production facilities. And the permanent prohibition of specific weaponization activities.

Another interesting point in this section is the implementation of an additional protocol to the *Safeguard Agreement* regarding the Iranian situation⁶⁷. In the previous chapter we have already explored what safeguards agreements are. For the purpose of monitoring and verification, in 1974 the Iranian Safeguards Agreement entered into force, since then allowing the IAEA a certain amount of freedom in the access and inspection of nuclear sites and plants (the Fordow and Natanz uranium-enrichment plants, the heavy-water reactor at Arak, the Isfahan fuel fabrication site, and the Tehran Research Reactor).

⁶⁶ Yellowcake is a processed oxide of uranium, extracted from mines and concentrated from uranium ore: used as the raw material for commercial nuclear materials, especially this substance can be used to prepare fuel elements in nuclear reactors.

⁶⁷ See Note 3 for CSA.

Figure 6. Iran's nuclear facilities



Sources: IAEA, NTI, ISIS, World-nuclear.org

In Iran there is only one operating nuclear power reactor for commercial use: the Bushehr Nuclear Power Plant (BNPP) for the production of electricity. It was built with Russian assistance and started to operate at full capacity in 2012. Although the JCPOA makes no mention of the Bushehr nuclear complex, Iran in accordance with regulation, has to ship out all spent fuel from Bushehr to Russia and refrain from reprocessing it for 15 years.⁶⁸

The Additional Protocol here refers to a voluntary legal document that gives further liberty to the Agency in their work to check that there is no undeclared operation and that all activities have a peaceful scope for civil use. In general, the IAEA strongly suggests all countries member to the NPT to implement an Additional Protocol agreement, in order to strengthen the non-proliferation regime. In the Iranian case, this document was signed

⁶⁸ According to the Atomic Energy Organization of Iran, when the BNPP will be completed with the other units under construction, nuclear power will produce 8-10% of the country's electricity. Nonetheless, this does not concern the international community since it a light water reactor, easy to secure, with spent fuel that is difficult to reprocess for weapons, making it “proliferation resistant”. Gallucci, R.L. (2006) North Korea, Iran, and the Proliferation of Nuclear Weapons: The Threat, U.S. Policy, and the Prescription... and the India Deal, p. 25. From: *How to Make America Safe: New Policies for National Security*, ed. Van Evera S., Cambridge (2006) <https://www.tobinproject.org/sites/tobinproject.org/files/assets/Make_America_Safe_North_Korea_Iran_Nuclear_Proliferation.pdf>
Country Nuclear Power Profiles, Islamic Republic of Iran, *Atomic Energy Organization of Iran — Department of Nuclear Planning and Strategic Supervision*, updated 2020. <shorturl.at/oAQU3> <<https://cnpp.iaea.org/pages/index.htm>>

in 2003 and voluntarily implemented only between 2003 and 2006. With the entering into force of the JCPOA, the implementation of the Additional Protocol became automatic: this framework has no sunset clauses⁶⁹ and it will last indefinitely until Iran withdraws from the NPT. This agreement gives the opportunity to the inspectors of the IAEA to visit any site of their willing, even those they do not have official access. In this way, the final monitoring and verification outcome is much more complete and gives time to the international community to respond to an eventual nuclear attempt from Iran's part.

Without the nuclear deal in place, IAEA inspectors would automatically lose access to Iran's facilities and nuclear materials, giving the IRI a better chance to covertly manufacture a nuclear bomb. But with the signing of the Additional Protocol there are certain guarantees about the continuation of these monitoring and verification procedures even beyond the comprehensive deal. Anyone concerned that Iran would wait the expiry of the deal to construct a weapon, may take comfort in the IAEA's Additional Protocol's greater access to sites (both declared and not) and the continuously provided information. Over the past 5 years, up to February 21, 2021, inspectors of the IAEA were able and had to check nuclear sites even through non-programmed controls thanks to the voluntary application of the Additional Protocol to the Treaty of Non-Proliferation. In case of termination of this procedure due to an Iranian decision, the breach to the deal would be severe. However, up to now it was always possible to find a compromise between the IAEA and the Iranian government.⁷⁰

2.1.3. Joint Commission and Dispute Resolution Mechanism

In Annex IV of the JCPOA, the signatory countries envisioned the creation of a Joint Commission for the length of 25 years, comprising representatives of the 8 total actors and voting members (P5+1, that is China, France, Germany, Russia, the United Kingdom, the United States, plus the European Union and Iran) with the functions of overseeing the procurement channel and IAEA's access to certain sites, and work as dispute resolution body and decision maker in specific matters of delay or approval⁷¹. The High

⁶⁹ For further information see paragraph 2.2 *The "sunset clauses" issue*

⁷⁰ For instance, on February 23, 2021, IAEA general director Rafael Grossi reached an understanding with the Iranian government to mitigate the effects of certain government measures for the length of three months. Therefore, the UN agency was still able in this way to show the international community that the nuclear programme in Iran remained peaceful and the collaboration was not interrupted. But at the same time, Iran did not stop its enrichment programme beyond the JCPOA limits, since sanctions were still in place at one month after Biden's settlement in Washington.

⁷¹ For further information refer to the Full text of the JCPOA, Annex IV – Joint Commission <<https://www.undocs.org/S/2015/544>>

Representative of the Union for Foreign Affairs and Security Policy (also called ‘High Representative’) was designated to coordinate this Joint Commission.

The Joint Commission also retains the power of approving any purchase of the IRI of materials or technologies that could be used in the nuclear sector. The Commission has the duty to check, approve and verify that said materials are used in the correct way and facility. This is the so-called Procurement Channel – established for 10 years by the JCPOA in Annex IV article 6 to give Iran a legitimate route to procure goods and services for its now-limited nuclear programme.

The Joint Commission should meet on a quarterly basis in New York, Vienna, or Geneva, and within seven days whenever a JCPOA participant would have contacted the coordinator with a specific request.

The Dispute Resolution Mechanism in the JCPOA (see *Paragraph 36* of the same deal) is the first resort, but according to this annex of the JCPOA, in case there are continued concerns for non-compliance, and the Joint Commission is not able to solve the issue through the dispute resolution process, any complaining party can refer directly to the UN Security Council to reinstate sanctions that were lifted by the JCPOA.

In specifics, the first step of the DRM is therefore the referral to the Joint Commission that has 15 days (extendible by consensus) to answer to the complaining party. In not solved, the second step for the complaining participant is to refer to the Foreign Ministers of the P5+1 or to an Advisory Board composed of three members, that have 15 days as well (extendible by consensus). After this 15+15 step, the Joint Commission may have another chance to solve the issue for further 15 days, at the end of which the participant whose claim was not yet solved, can stop following its obligations under the nuclear deal. At this moment, the fourth passage entails the referral directly to the UN Security Council for “significant non-performance”, as previously stated, which has a total of 30 days to draft a resolution for the decision to continue *lifting* sanctions. Those five permanent members of the Security Council can veto it, blocking the resolution and triggering the “snapback mechanism”. In this way sanctions could be reimposed.⁷² The DRM is a diplomatic mean to maintain an open conversation between the parties before the issue is taken before the United Nations Security Council again. In international treaties these types of multi-tiered DRMs are frequent. Prior to starting arbitral or judicial procedures,

⁷² Hickey, S. (2020) A quick guide to the JCPOA Dispute Resolution Mechanism, *Center for Arms Control and non-proliferation* <<https://armscontrolcenter.org/a-quick-guide-to-the-jcpoa-dispute-resolution-mechanism/>>

they force the parties to either negotiate in good faith to resolve their disagreement, engage in mediation or conciliation, or follow different steps.

In this section is therefore interesting to delve into the so-called “snapback mechanism”, a clause present within the 2015 deal that allows to reinstate all multilateral sanctions in the case in which a member fails compliance. In the case of the US in 2020 complaining and wanting to reinstate sanctions by vetoing a new resolution for the continuation of the suspension of sanctions, the “snapback mechanism” could be triggered. Nonetheless, in 2020 the US could not invoke the “snapback” provision because it had already withdrawn from the JCPOA in 2018, so it did not have the legal right anymore.⁷³

According to the Iranian side, the re-imposition of sanctions might be considered as grounds to abandon the deal.

This mechanism has been partially triggered over the years to force discussions among the members, but it was always suspended during the process.

2.1.4. Implementation plan

As it is possible to find in Annex V, the agreement underlines different actions to take over time, the so-called “Implementation Plan”. On July 14, 2015, the so-called *Finalization Day* of the JCPOA triggered Iran and the US to start domestic review processes⁷⁴. Moreover, the entering into force of the deal also forced Iran to begin providing the International Atomic Energy Agency with necessary information to conduct its investigation on past activities connected with the development of nuclear weapons, to be concluded by October 15.

On the *Adoption Day* of the deal, on October 18, 2015, exactly 90 days after the UNSC Resolution 2231 passage which endorsed it (which happened on July 20), Iran and the

⁷³ The Russian ambassador to the UN Vassily Nebenzia stated that the US “has lost any right” to ‘snapback’ UN restrictions under Resolution 2231. It “failed to meet obligations under Resolution 2231 by withdrawing” from the JCPOA and “it has no right to extend an arms embargo on Iran, let alone to trigger snapback.” Statements from the other actors involved make it clear that they will counter any American attempt to extend the arms embargo. <<https://www.armscontrol.org/act/2020-06/news/us-aims-extend-iran-embargo>>

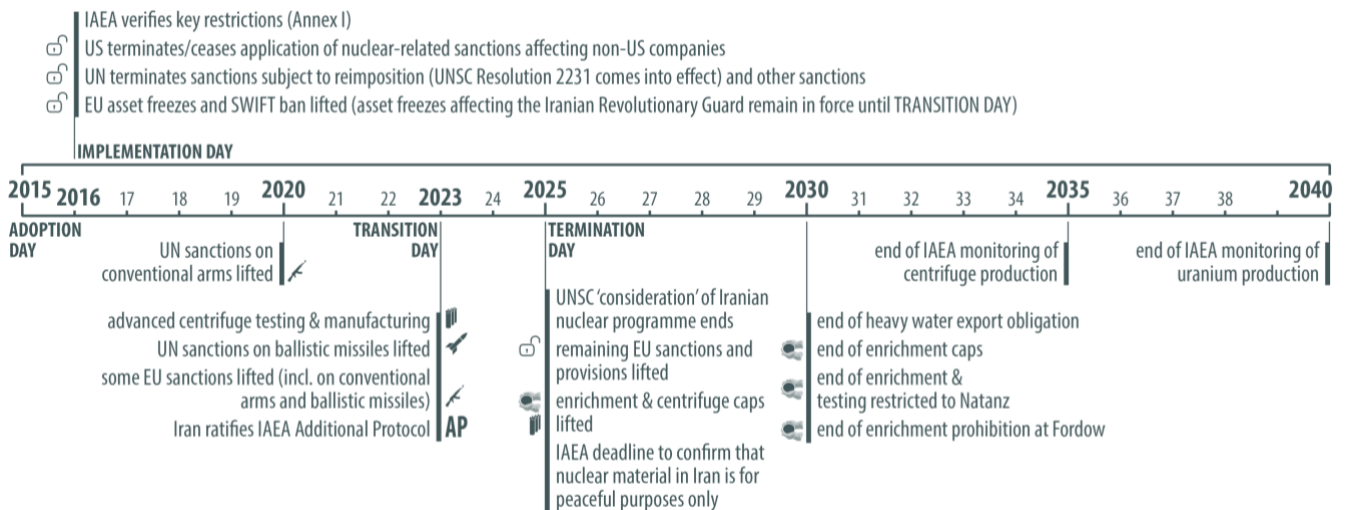
⁷⁴ Both US and Iran underwent specific domestic processes. On the American side, Congress had a 60-day review period under the Iran Nuclear Review Act, which began on July 19, to analyze the accord before voting on a resolution to accept or disapprove the deal. President Obama then had 12 days to veto the law, after which Congress had 10 days to try to override the veto. The President could not waive sanctions during the whole review process, which lasted a maximum of 82 days. On the other side, on July 21, the Iranian Majlis agreed to an 80-day review period. The agreement was examined by a parliamentary committee. The Iranian parliament had the option to vote against the deal.

P5+1 started taking steps to meet the commitments for the full implementation of the JCPOA.

Another important day was January 16, 2016, *Implementation Day*, when the IAEA certified that Iran had taken the necessary steps to limit its nuclear programme and had improved the monitoring process. This IAEA's report automatically activated sanctions removal from the US, the EU, and the UN (UN sanctions terminated even though they were still subject to re-imposition in case of non-compliance). As regards the UN, the arms embargo and ballistic missile limits should have continued to be present for 5 and 8 years respectively.

The plan of the 2015 JCPOA envisioned other future steps: *Transition Day*, planned to happen in October 2023, eight years from the Adoption Day and *Termination Day* in October 2025, ten years after. The former would trigger the lifting of missile restrictions from the UN, the ratification of the Additional Protocol⁷⁵ of Iran, the termination of any residual nuclear sanction and the US removal of certain entities from their sanctioned list. The latter day instead, would mark the end of Resolution 2231 and the closure of UNSC nuclear file on the IRI⁷⁶.

Figure 7. Length of imposed obligations and restrictions



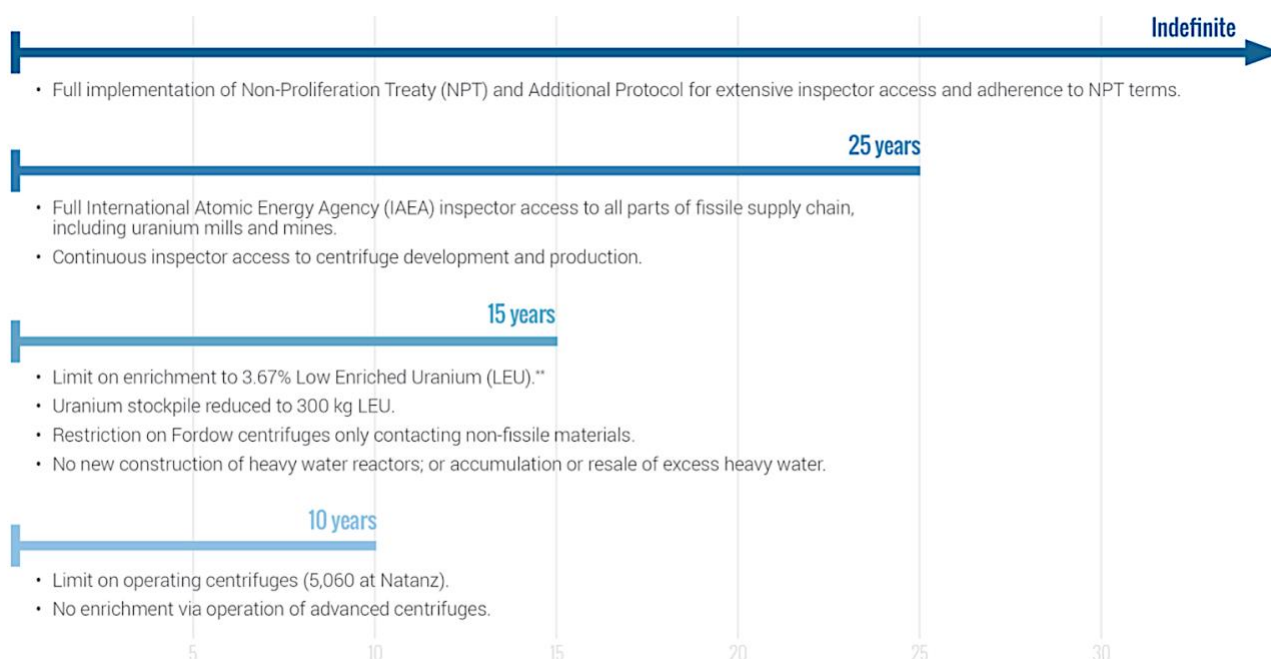
Source: JCPOA, IAEA, UNSCR 2231

⁷⁵ The Additional Protocol concedes wide control powers to the IAEA, but it was suspended on February 23, 2021. See “Model Protocol Additional to The Agreement(S) Between State(S) And The International Atomic Energy Agency For The Application Of Safeguards”, IAEA.

<<https://www.iaea.org/sites/default/files/infcirc540.pdf>>

⁷⁶ Davenport, K. (April 2020). Timeline of Nuclear Diplomacy With Iran, *Arms Control Association*, <<https://www.armscontrol.org/factsheets/Timeline-of-Nuclear-Diplomacy-With-Iran>>

Figure 8. Joint Comprehensive Plan of Action: Implementation



Source:

<<https://www.thirdway.org/graphic/timeline-of-joint-comprehensive-plan-of-action-jcpoa-implementation>>

As it is possible to notice from the above Figure, while some of the JCPOA's main nuclear constraints would expire after 15 years from implementation, the idea was to keep certain constraints in place to keep Iran's nuclear program under close scrutiny and provide early notice to the international community in the case of a move toward nuclear weapons. Technically, Iran was committed to continue its compliance with the JCPOA in not pursuing activities to developing a nuclear weapon even beyond the 15 years limit, as well as continuing with the intrusive monitoring and verification system under Iran's additional protocol, and surveillance of centrifuge production facilities (for 20 years) and uranium mines and mills (for 25 years) should all remain in place, in addition to Iran's NPT commitment not to aim for nuclear weapons development.

Already at the moment of implementation, several analysts have underlined some critical points: first of all, the above-mentioned fifteen years limit, the ban on building new reactors becomes voluntary. In addition, despite dismantling almost all the uranium reserves, the enrichment infrastructure would remain in place, expandable after the tenth year of implementation of the agreement. After ten years it would also be possible to replace parts of the old centrifuges with more advanced models. Finally, the agreement did not address the question of what Iran did with its program until 2003.

The JCPOA is a strong agreement in terms of nuclear non-proliferation, yet imperfect since it does not solve completely the problem given that, fifteen years after the entry into force of the JCPOA, Iran could restart its uranium enrichment programme.

Moreover, as we will explore in the next chapter, the US and the international community should develop new nuclear non-proliferation policies that apply to the entire region. If other nations in the region make comparable pledges, Iran may be more prepared to abide by some constraints, such as restricting enrichment to 3.67 percent for a longer period of time.

This process may even boost regional confidence in Tehran's peaceful intentions, provide regional monitoring, and nuclear fuel to all Middle Eastern countries interested in nuclear power.

The JCPOA could have represented a strong barrier to Iran acquiring nuclear weapons, but in case it will become once again fully operative in the near future, it will have a better chance of succeeding in the long run if more attention is paid to nuclear issues in the region. These questions are going to be the matter of interest of the next chapter.

2.2. The “sunset clauses” issue

As we will better understand in the following paragraph of this thesis, President Trump's decision to withdraw from the deal was influenced by his concern for several aspects of the deal, including the so-called “sunset clauses” of the JCPOA. These provisions specify when the different limitations imposed on Iran's nuclear program will expire, with the purpose of preventing Iran from acquiring nuclear weapons for a long time.⁷⁷ The US concern is based on the risk that Iran will increase enrichment centrifuges after 10 years and then increase low-enriched-uranium volume after 15 years, since the sunset clauses allow that. Nonetheless, these clauses were among the most important achievements during the two-year negotiations.

This time constraint became an issue of concern for the other parties both during nuclear talks and in the aftermath of the JCPOA, fearing that after the expiry of the scheduled time and the normalization of Iran's nuclear activities, Tehran will continue to significantly increase its programme, therefore eliminating all previous efforts. The US

⁷⁷ Vaez, A. (2017) The Iranian Nuclear Deal's Sunset Clauses: Why They Are Not a Path to a Bomb, *Foreign Affairs*. <<https://www.foreignaffairs.com/articles/iran/2017-10-03/iranian-nuclear-deals-sunset-clauses>>

therefore attempted in every way to question this clause, up to the final decision of withdrawal.

It was the criticism itself about certain aspects of the deal that helped legitimizing Trump's strategy towards the deal.

As it was possible to understand from the previous paragraph, the "sunset clauses" and temporal limits of the 2015 JCPOA are going to expire soon. It is therefore of the utmost importance to revive this deal and eventually prolong limitations to ensure its purpose on the long-term. This will be better analysed in detail in chapter three of this work.

2.3. American withdrawal and Iranian escalation

President Trump's decision in 2018 was a serious one with great consequences. He considered the JCPOA to be favouring too much the IRI while putting in an unfavourable condition the United States. For that reason, he decided to withdraw to negotiate a better deal, but he ended his presidential term without accomplishing any step in that direction. Indeed, as it happens in any multilateral agreement, the JCPOA was not perfect, but all the parts had honoured their commitments, in particular Iran that had limited the enrichment of uranium and had undergone the required inspections.

President Trump, in line with its siding with Israel, took a series of foreign policy decisions in a pro-Israel key, among which the end of JCPOA and peaceful relations with Iran. In 2018 he announced that the USA would withdraw from the 2015 agreement that he described as a "horrible, one-sided deal that should have never, ever been made" which was "very badly negotiated"⁷⁸. Nonetheless, the US at the time of withdrawal were not able to show any evidence of Iranian noncompliance with the JCPOA, and Iran remained in full compliance with the deal for the year after US withdrawal.

Mr. Trump then decided to reinstate economic sanctions on the Iranian regime through the Executive Order 13846. Moreover, the US administration requested from Iran a new set of conditions:

- never have an ICBM, cease developing any nuclear-capable missiles, and stop proliferating ballistic missiles to others;
- cease its support for terrorists, extremists, and regional proxies, such as Hezbollah, Hamas, the Taliban, and al-Qaeda;

⁷⁸ Felton, L. (May 8, 2018) Read Trump's Speech Withdrawing From the Iran Deal. *The Atlantic* <<https://www.theatlantic.com/politics/archive/2018/05/full-transcript-iran-deal-trump/559892/>>

- end its publicly declared quest to destroy Israel;
- stop its threats to freedom of navigation, especially in the Persian Gulf and the Red Sea;
- cease escalating the Yemen conflict and destabilizing the region by proliferating weapons to the Houthis;
- end its cyber-attacks against the United States and our allies, including Israel;
- stop its grievous human rights abuses, shown most recently in the regime’s crackdown against widespread protests by Iranian citizens;
- stop its unjust detention of foreigners, including United States citizens.⁷⁹

One of the practical representations of the new American stance, was US Secretary of State Mike Pompeo’s creation of the Iran Action Group in August 2018 to coordinate their new policy towards the IRI. This Group is “an elite team of foreign policy specialists” that seek to implement “a campaign of maximum diplomatic pressure and diplomatic isolation”, what President Trump defined to be an “economic war”, in practice directly affecting Iran and its population.

Brian Hook, the head of the Group and Special Representative for Iran, stated that their new Iran strategy aims to safeguard America's national security, the security of its allies and partners, and to help the Iranian people have a better future, an entire proposal that was perceived by the Iranian counterpart as aggressive⁸⁰.

On the Iranian side, compliance with the deal continued for a year beyond the American withdrawal in 2018 in the hope that at least Europe would continue fulfilling the commitments of the JCPOA. Indeed, the IAEA was able to demonstrate Iranian “good faith” (*bona fides*) in 15 consecutive reports of the Agency, including 5 that were issued after the American withdrawal⁸¹.

But the first sign of Iranian distancing from it happened after May 8th, 2019, one year after the US withdrawal. On May 8th, 2019, former President Rouhani through the Iranian

⁷⁹ From the archives of Trump White House, (2018) “President Donald J. Trump is Ending United States Participation in an Unacceptable Iran Deal” <<https://trumpwhitehouse.archives.gov/briefings-statements/president-donald-j-trump-ending-united-states-participation-unacceptable-iran-deal/>>

⁸⁰ From Al Jazeera Website, (2018) “Pompeo forms Iran Action Group for post-nuclear deal policy” <<https://www.aljazeera.com/news/2018/8/16/pompeo-forms-iran-action-group-for-post-nuclear-deal-policy>>

⁸¹ Information of December 2020. “Dialogue with Mohammad Javad Zarif”, *ISPI*. Available at: <<https://www.youtube.com/watch?v=-fmkcB37JfE&t=12s>>

Supreme National Security Council announced that the government did not feel obliged anymore to fulfil the limits of the JCPOA (essentially the reserves of 3.67 percent enriched uranium and heavy water) and he conceded 60 days to the other signatories to fulfil their obligations, especially those regarding oil and finance, to counterbalance the negative effects of US sanctions. He also recalled paragraphs 26 and 36 of the JCPOA regarding non-compliance. Paragraph 26 in the *Sanctions* section cites:

“The EU will refrain from re-introducing or re-imposing the sanctions that it has terminated implementing under this JCPOA, without prejudice to the dispute resolution process provided for under this JCPOA. There will be no new nuclear- related UN Security Council sanctions and no new EU nuclear-related sanctions or restrictive measures. **The United States will make best efforts in good faith to sustain this JCPOA** and to prevent interference with the realisation of the full benefit by Iran of the sanctions lifting specified in Annex II. The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from re-introducing or re-imposing the sanctions specified in Annex II that it has ceased applying under this JCPOA, without prejudice to the dispute resolution process provided for under this JCPOA. The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions. **Iran has stated that it will treat such a re-introduction or re-imposition of the sanctions** specified in Annex II, or such **an imposition of new nuclear-related sanctions, as grounds to cease performing its commitments under this JCPOA in whole or in part.**”

Paragraph 36 instead, regarding the *Dispute Resolution Mechanism* that was already explored in paragraph 2.1.3. of this work, in the eventual non-compliance of one actor as in this case with the US, cites:

“If Iran believed that any or all of the E3/EU+3 were **not meeting their commitments under this JCPOA**, Iran could refer the issue to the Joint Commission for resolution; similarly, if any of the E3/EU+3 believed that Iran was not meeting its commitments under this JCPOA, any of the E3/EU+3 could do the same. The Joint Commission would have 15 days to resolve the issue unless the time period was extended by consensus. [...] Either the complaining participant or the participant whose performance is in question could request that the issue be considered by an Advisory Board, [...] that should provide a non-binding opinion on the compliance issue within 15 days. [...] **If the issue still has not been resolved** to the satisfaction of the complaining participant, and if the complaining participant deems the issue to constitute significant non-performance, **then that participant could treat the unresolved issue as grounds to cease performing its commitments under this JCPOA in whole or in part and/or notify the UN Security Council that it believes the issue constitutes significant non-performance.**”⁸²

As former Minister of Foreign Affairs in Iran Javad Zarif stated, Iran can stop implementing the deal as a remedy for the incompliance of another member. Since the Joint Comprehensive Plan of Action was negotiated on mutual mistrust, they foresaw

⁸² See Paragraphs 26 and 36 in the full text of the Joint Comprehensive Plan of Action.

mechanisms to allow one side to refrain from compliance if the others do not live up to their obligations.⁸³ Therefore, Tehran claimed to be acting in respect of this article, and in full compliance with the deal, because despite its measures to expand capability and its uranium stockpile, if another party does not equally comply, Iran can "cease performing its commitments".

At first this distancing happened gradually and then through a series of reversible passages, every two months, escalating with two sudden changes. The first momentum was the killing in Iraq of Iranian general Qassem Soleimani⁸⁴ by the US on January 5, 2020. In this occasion Tehran announced it would not have accepted anymore restrictions on the number and type of centrifuges in function of their uranium enrichment plan. Nonetheless, after the important loss for the IRI, IAEA inspectors, that continued to have access to the nuclear sites, confirmed that Iran had not gone beyond the 4.5 percent of uranium enrichment, against the 3.67 percent arranged by the deal, but still well below the 20 percent critical threshold that would speed up the process towards a hypothetical nuclear device⁸⁵.

The second event that affected the Iranian decision to distance itself from compliance was the killing on Iranian soil of the nuclear physicist Mohsen Fakhrizadeh⁸⁶ on November 27, 2020. He was a scientific senior official in the Iranian nuclear programme and his death was blamed on the Israeli secret services, the Mossad⁸⁷. Israel had estimated that after the elimination of Fakhrizadeh the new breakout time had enlarged from 3 months to 2 years⁸⁸. In this way, this action by Israel would have been justified as a precaution in view of what he could have been able to accomplish for the Iranian nuclear sector, and therefore with the goal of depriving the IRI of specific competences.

⁸³ Refer to "Dialogue with Mohammad Javad Zarif", live streaming December 3, 2020. *ISPI, MED Dialogues*. Min. 17.00 <<https://www.youtube.com/watch?v=-fmkcB37JfE&t=12s>>

⁸⁴ Qassem Soleimani was a commander for many years of the al-Quds Forces, an IRGC section responsible for extraterritorial and clandestine military operations.

⁸⁵ The report states that Iran accumulated reserves of uranium beyond the limits of the JCPOA: 2.500 kilograms of 4.5 percent enriched uranium against the 300 kilograms of 3.67 percent enriched uranium allowed by the deal.

See IAEA report "Verification and monitoring in the Islamic Republic of Iran in light of United Nations security council resolution 2231 (2015)", (November 11, 2020) *IAEA* <<https://www.iaea.org/sites/default/files/20/11/gov2020-51.pdf>>

⁸⁶ Mohsen Fakhrizadeh was part of the Islamic Revolutionary Guard Corps since the Iranian revolution of 1979 and managed the Organization of Defensive Innovation and Research at the Ministry of Defence. He was thought to be by US and Israeli intelligence the head of the military section in the Iranian nuclear programme.

⁸⁷ Borsatti, L. (2021). *L'Iran al tempo di Biden*. Castelveccchi Editore. pp. 14-15

⁸⁸ See Figure 9: The Iran deal: then and now. Breakout time.

If the JCPOA was to be respected by each side, it would have guaranteed a breakout time of one year, against the few months of the pre-deal period.

After the death of this so-called “father of the Iranian nuclear programme”, the Parliament together with the Guardian Council⁸⁹ adopted a new law in defiance with the rules of the nuclear deal, that had been up to that moment respected by the middle eastern country. In December 2020, the new law called “Strategic Action Plan to Lift Sanctions and Protect Iranian Nation’s Interest”⁹⁰ passed for increasing the percentage of enriched uranium-235. Specifically, this new law gave to the Atomic Energy Organization of Iran (AEOI) power to start uranium enrichment at 20 percent⁹¹ and the suspension of the Additional Protocol along with the threat of expulsion of any international nuclear inspector, that had had a wide possibility of inspection up to that moment. This law was to be adopted and implemented in the case in which American sanctions were not lifted by the start of February 2021, a direct challenge to the new US President Joe Biden. This process started over a few weeks with the aim of compelling the US to revoke all sanctions, but according to the Iranian leadership it was never meant to be irreversible, but reversible in case US and EU would have returned to compliance (meaning sanctions removal, normalization of economic relations and no request of new conditions). Iran would then rescind its actions taken in light of paragraph 36 of the JCPOA.

On January 4, 2021, the AEOI started uranium enrichment at 20 percent at the Fordow plant. According to then Foreign Minister Javad Zarif, this action was in line with both Iranian Parliament and paragraph 36 of the JCPOA.

Since February 2021, moreover, Tehran has "seriously compromised" the IAEA's surveillance of nuclear-related sites such as uranium mines, conversion facilities, and centrifuges. For instance, in June Iran withdrew all remaining IAEA cameras equipment, depriving the international community of crucial knowledge of Iran's advanced centrifuge manufacture, making it difficult to conduct a later study of the country's nuclear infrastructure.

⁸⁹ The Council of Guardians is the organ that validates, or blocks laws drafted by the Majlis and also selects candidates for presidential elections. It is composed of 6 experts of Islamic law nominated by the Supreme Guide, together with 6 jurists selected by parliament. The Council of Guardians is dominated by the so-called ultraconservatives or Principlists, those that most strictly observe the founding ideological ‘principles’ of the Islamic Republic of Iran, therefore it is comprehensible that there is not much space for ideological renovation in the future of the IRI.

⁹⁰ For the full text of the law in English: <<https://www.niacouncil.org/publications/iranian-parliament-bill-on-nuclear-program-full-text-in-english/?locale=en>>

⁹¹ On December 31, 2020, Iran notified the IAEA about its intention to start enriching uranium up to 20 percent, well beyond the JCPOA limit (3.67 percent) and the 4.5 percent already reached in violation of the Agreement. In Fordow, inspectors found 137 kilograms of Uranium-235 (coming from the Natanz plant) enriched at 4.1 percent.

The eventual future decision of Tehran to actually build a nuclear weapon would constitute a high risk for the country that may face a preventive attack to its nuclear plants. Iran seems to have the technological capacity of fabrication of a nuclear weapon, if wanted to do so, since it demonstrated its ability of 20 percent uranium enrichment from the established 3.5 percent⁹², which is a more complicated passage to reach with respect to the upgrade from 20 to 90 percent enrichment, the necessary percentage to build a nuclear weapon. It must be considered that enriching uranium is a slow process when the degree is low, but then accelerates: it takes a long time to reach 20 percent, while it takes less time to reach higher (and dangerous) levels.

This decision was clearly considered critical because it could speed-up the process leading to a weapon.⁹³ Iran has built and deployed thousands of advanced centrifuges, it has produced heavy water and it is developing ballistic missiles that could eventually transport nuclear warheads. In case the country is able to reach the *nuclear breakout*, it would take it at least eighteen months to produce the bomb, according to estimates, and only if there is the political will to do so.

Figure 9. The Iran deal: then and now.

THE IRAN DEAL: THEN AND NOW			
	PRE-DEAL	DURING THE DEAL	POST-U.S. WITHDRAWAL
BREAKOUT TIME*	2-3 MONTHS	12+ MONTHS	~3 MONTHS
URANIUM ENRICHMENT	11,000 kg, up to 20% enriched	300 kg, up to 3.67% enriched	~3000 kg, up to 20% enriched
MONITORING, VERIFICATION, & INSPECTION	Limited cooperation with IAEA	Additional Protocol & other technical arrangements allowing unprecedented IAEA access	IAEA access limited as of Feb. 23, 2021

*Breakout time refers to the amount of time it would take for Iran to accumulate enough fissile material for a nuclear weapon.

Source: Center for Arms Control and Non-Proliferation

⁹² Natural uranium contains Uranium-235, a fissile material. It can be concentrated (enriched) up to 3.5 percent, which is the level of enrichment of uranium allowed, necessary and sufficient for research, health, and electricity purposes, for commercial nuclear power plants. Instead, enriched uranium with a purity of 20 percent or more (highly enriched uranium – HEU) is used in research reactors.

⁹³ Bar’el, Z. (2021) Analysis | Before the Nuclear Talks, Iran and U.S. Are Sparring Over Who Will Blink First. *Haaretz*. <shorturl.at/mxDX4>

As it is possible to understand from the above Figure, the JCPOA was effective in the constraint of Iran's nuclear programme. Not only Iran has once again reached a much shorter breakout time as in the pre-deal period, but it is now even closer to a nuclear weapon than the day President Trump entered office in 2017. The Iranian nuclear programme has continued to progress: since the Majlis declaration about the new enrichment plan in 2021, Iran continues to advance in terms of technology. According to a spokesman for Iran's Atomic Energy Organization, testing of a new advanced IR-9 centrifuge has begun, as well as testing at the Arak reactor. In addition, the IAEA released an irregular report declaring yet another significant breach by Iran in the sector of uranium metal production for the Tehran research reactor.⁹⁴

Trump did not give any space of manoeuvre to the Iranian side, but with the presidential change, new opportunities have opened up for Iran, that wants to present itself at the new negotiations in a stronger position. Nonetheless, the technical capability that the country has demonstrated to have reached now, does not yet mean that it possesses the political willingness to act on it, a hypothesis that was excluded in 2003 by the Supreme Guide Ali Khamenei with the famous *fatwa* on the nuclear weapons⁹⁵.

What would have happened for Iran in the case of continued compliance with the nuclear deal by the Trump administration? If the US had not left the JCPOA, the Iranian society would have experienced a short-term economic boom. This is why the Rouhani leadership focused on the good outcome of the deal, which would have also helped the government in the internal political development and in the reduction of the Guardians of the Revolution's influence. Probably, in the case of no withdrawal by the US, the IRGC would have tried to benefit more from it focusing on the economic advantages of the deal.⁹⁶

We can already conclude that this analysis along with the evidence of the past years shows that a successful diplomatic agreement among the parts in this sector is feasible and can be effective. Nonetheless, the current geopolitical scenario has changed and at this moment a solution that serves both American and Iranian interests is needed.

⁹⁴ Shavit, E. & Shine, S. (2021) A Return to the Nuclear Agreement? Contacts between the United States and Iran. *The Institute for National Security Studies*. <<https://www.inss.org.il/publication/vienna-talks/>>

⁹⁵ See paragraph 1.3. *The Iranian nuclear programme*

⁹⁶ Borsatti, L. (2021). *L'Iran al tempo di Biden*. Roma: Castelvecchi Editore, pp. 60-61.

Proceeding into the next chapter, we can give an assessment of what was reached in 2015 and start analysing prospects for future developments.

Reengagement in 2021 and onward is necessary and a renewed nuclear deal is still possible. The actors are not in compliance anymore but the 2015 JCPOA accomplishment is the proof that a deal is still feasible even though not easily. That agreement included sufficient breakout periods, constraints on the pathways to the bomb, and a robust verification process that could be reproduced or enhanced. But the biggest issue with the JCPOA's content was its sunset clauses⁹⁷. Future negotiators should find a better framework that can give Iran higher incentives in exchange for a longer-term or no-sunset deal.

⁹⁷ Vaez, A. (2017) The Iranian Nuclear Deal's Sunset Clauses: Why They Are Not a Path to a Bomb, *Foreign Affairs*. <<https://www.foreignaffairs.com/articles/iran/2017-10-03/iranian-nuclear-deals-sunset-clauses>>

CHAPTER 3: The USA and the future of the JCPOA

In this chapter the current American and European stance towards the revival of deal and towards the Islamic Republic of Iran will be analysed. We will also try to understand how the situation can evolve towards the future with the possible involvement of other actors and neighbouring countries; and discover how much a leader can influence the diplomatic path with the other actors involved in the negotiations (as the 2013 government change in Iran from conservative Pr. Ahmadinejad to reformist Pr. Rouhani, opening the way for negotiations on the nuclear agenda). The American position alone has modified in different approaches towards the issue during the last six years, in parallel to the three different administrations that have had to deal with Iran and the nuclear matter. For instance, one of the mistakes of the past American administrations with regards to the Iranian nuclear issue was that Washington exaggerated the meaning of peaceful nuclear energy and the right of Member States to the 1968 NPT to develop and use it. The US should have rather pointed to the risks associated with nuclear energy.

On the other side, recognition should be placed on the European Union (and the E3), that between 2003 and 2015 played an important role in the negotiation phase and later on after the American withdrawal of 2018 from the JCPOA, the E3/EU were able to keep it alive creating a bridge between US and Iran, allowing now under the Biden administration a new engagement process. Moreover, the continued fostering of good economic relations with the Union has prevented Iran from pursuing nuclear capability.

3.1. The Biden Administration: continuity or discontinuity?

At the beginning of 2021, with the arrival of President Joe Biden at the White House, it was not clear whether his actions in foreign policy matters would be more in continuity with the Obama Administration (2009-2017), when at the time Biden occupied the position of Vice President, or if his actions would have continued in line with the approach of President Trump towards the Middle East. During Biden's electoral campaign, he made it clear that the approach of his presidency would be that of reconciliation in the Middle East and of re-joining the Iranian deal. If his approach is similar to the one adopted by the Obama administration, the strategy of dialogue is the best hope, differently from the tendency of division adopted by President Trump, who wanted something almost unrealistic to obtain.

In 2009 by taking over the American Presidency, Barack Obama emphasized his willingness of “engagement” as a way of ensuring Iran of their commitment to find a negotiated solution to the crisis rather than aiming at regime change. In this way, Obama reduced the credibility around the risk of a military attack, even though this option remained “on the table”. President Obama based his choices at the White House on the process of US disengagement from this region and movement towards the Far East. In this light, he opted for a diplomatic agreement being consistent with his values and with this plan, differently from what happened later. The two key elements of the diplomatic success during the Obama administration were the legitimization of the Iranian right to enrich uranium and the adoption of a less aggressive dialectic by the United States. Donald Trump, by not respecting these two conditions, eliminated completely the possibility of new negotiations to improve the deal, since the start of his election campaign.

In 2021 the US under President Biden is under a much better position because it is ready to discuss a diplomatic option forward, nonetheless, since the first weeks after President Biden’s oath at the White House, the situation has reached a stall: neither party wants to take action first. On one side, the US does not want to remove all the sanctions enacted during the previous administration and cannot do it from a Congressional point of view, in this way losing leverage on the regime. On the other side, the Islamic Republic of Iran is not yet willing to go back to the compliance of the original 2015 deal until the United States shows first some change from their part.

Moreover, the US “maximum pressure” approach towards Iran has highly affected the Iranian view of the American stance. But the election of President Joe Biden might be able to reverse this trend. With former Iranian President Hassan Rouhani there could have been the possibility of reaching some sort of agreement before the June 2021 presidential elections in Iran and the consequent change of leadership with the conservative Ebrahim Raisi⁹⁸. Former President Rouhani wished to be remembered as the president who had been able to conclude an agreement and diplomatically come to peaceful terms with both Democratic Presidents Barack Obama and Joe Biden. Unfortunately, the situation was not ready to come to terms before the elections in Iran in 2021, with the hardliners eager

⁹⁸ Former President Hassan Rouhani completed two mandates and could not be re-elected at the 2021 presidential elections. He was elected President of the IRI in June 2013 and after four years he was reconfirmed for a second turn in May 2017.

to win those elections and to later accomplish the removal of US sanctions under their term in office.

Negotiations among the two countries are inevitable. At the beginning the question was whether Biden should start as soon as possible or better wait and make use of the American leverage represented by the imposition of economic sanctions on the middle eastern country. During his campaign, Biden announced that his Administration “will make it a priority to set Iran policy right”, by re-entering the US into the deal signed in 2015 and making every actor involved go back to full compliance with the agreement. The main issue is represented by the American request of a preventive Iranian return to its obligations as a condition for the full American compliance. Nonetheless, it is important to note that Iran had continued to comply with its duties for an entire year after the abrogation of the deal by President Trump. Since the arrival of the new president at the White House, the main question has therefore also regarded whether to return directly to the 2015 nuclear deal and therefore to re-establish the *pacta sunt servanda* principle: in this case the actor withdrawing first cannot impose new conditions for revival of the deal, as required by Iran to the US. Or whether to open up new *around the table negotiations* that would give the possibility to the US to return with new requests, such as the resizing of the ballistic missile programme, that the IRI considers an indispensable and non-negotiable defence mechanism, and a reduction of its influence in the middle east region.

President Trump’s policy on the Iranian issue proved not to be the optimal solution to the problem. Nonetheless, differently from the common position, there are some experts that think a second Trump term would have benefitted the Islamic Republic. Faezeh Hashemi, daughter of the former President of Iran Ali Akbar Hashemi Rafsanjani (who was president between 1989 and 1997; he died in 2017), stated that the current policies in Iran have dragged down the country and only President Trump would have pushed the Iranian leadership towards a regime change. According to Faezeh Hashemi, “if Trump’s pressure would have continued, we [the Iranian leadership] would have been forced to have change in some policies. And the change would have benefitted the people”, also describing the US Democrats’ approach towards the Iranian establishment softer than needed.⁹⁹ There

⁹⁹ Fazeli, Y. (2021) Daughter of Iran’s ex-president Rafsanjani says she is boycotting upcoming elections, *Al Arabiya English* <<https://english.alarabiya.net/News/middle-east/2021/04/14/Daughter-of-Iran-s-ex-president-Rafsanjani-says-she-is-boycotting-upcoming-elections>>

are some exponents that support her views pushed by the desperate need to see some internal political change and hoped Donald Trump's maximum pressure could eventually lead to a positive phase for Iran.

But there is also that wider part of Iran that is happy with the American change of leadership: his politics caused increased corruption, unhappiness and violence generated by repression. But all of this happened in line with the past, in continuity with what happened even before the Trump term. The Islamic Revolutionary Guard Corps has become even stronger thanks to sanctions, being the first beneficiary of trafficking and contraband, also escaping the prerequisites of transparency for the international financial transactions.¹⁰⁰ Other four years of "maximum pressure" would not have been useful to bring down the Islamic Republic but would instead have boosted suffering and economic problems for the people of Iran.

As regards the American population instead, there is some opposition to the JCPOA, but it is not a majority by any means, and the issue of the Iran nuclear deal has become increasingly more popular in the United States over the last four years. By looking at opinion polls, majorities of Americans support this agreement because the withdrawal under President Trump and the "maximum pressure" campaign were perceived to have failed quite decisively. There have been some efforts by representatives of the Republican wing with a few Democrats led by the chair of the Senate Foreign Relations Committee, Robert Menendez, to try to stop any attempt of the current presidency to re-join the deal, by putting in some amendments to legislation that would require the Biden administration to report to Congress, but the way in which the deal is structured allows it for the re-entrance by the United States through executive orders alone¹⁰¹. Already in the past during the Obama administration, Menendez found himself in the same position, not sharing the way in which the president behaved with respect to international issues. According to the senator, Obama would only notify Congress of the decisions taken by

¹⁰⁰ This is one of the reasons why the IRGC is hostile towards direct foreign investments that would have been favoured by the JCPOA and would have required higher financial transparency. IRGC is also opposed to the Iranian adhesion to the requested standards of the Financial Action Task Force (FATF), the intergovernmental organization that markets against money laundering and terrorism financing. In 2020 Tehran entered the FATF "blacklist" after some years of suspension to favour policy change attempts and reforms. In this way, on February 21, 2020, Iran incurred in new international sanctions together with North Korea.

Borsatti, L. (2021). *L'Iran al tempo di Biden*. Roma: Castelvecchi Editore. Pp. 53-55.

¹⁰¹ Slavin, B. in: Engaging Iran. European and transatlantic perspectives on the JCPOA and security in the Gulf. In: *EUI European University Institute & ISPI - Italian Institute for International Political Studies*, (6 March 2021) [online]. Minute 15. Available at: <<https://med.ispionline.it/agenda/engaging-iran-european-and-transatlantic-perspectives-on-the-jcpoa-and-security-in-the-gulf/>>

the White House rather than consult with the lawmakers first. Consequently, Menendez often hindered former President Barack Obama in the processes that particularly needed the approval of Congress and often opposed the White House position in several questions, among which the Iranian nuclear deal.¹⁰²

Senator Menendez, together with Lindsey Graham, a loyal Trump Republican, are now leading a group of 43 senators (28 Republicans, 14 Democrats and an independent one) asking the Biden administration to use any possible power, both diplomatic and economic, to obtain from Tehran much wider concessions with respect to those related only to the nuclear issue. According to the bipartisan group, Washington should use the *leverage* they obtained thanks to the sanctions imposed by Trump to obtain victories in the other scenarios: the missiles programme and the Iranian policy of support to its allies in the region (state actors, such as the Bashar al-Assad regime in Syria, or non-state actors such as Hezbollah in Lebanon and the active militias in Iraq, Syria, and Yemen), two aspects that the US really cares to tackle.¹⁰³

In practice nonetheless, there has not been much progress in the first months of Mr Biden's presidency with respect to Trump's approach to the nuclear deal. More progressive democrats are complaining about the similarity of the foreign policy decisions between the two presidents. According to John Krzyzaniak, research analyst for Non-Proliferation and Nuclear Policy, both democrats and republicans would prefer a more comprehensive deal with no going back to the original one of 2015.¹⁰⁴ 140 lawmakers sent a letter to the new Secretary of State Antony Blinken urging him to go for a new deeper deal, in this way actually shifting the American position to a more complicated spot.

In this moment of change, there is a viable possibility of shaping the situation towards different evolutions. But it will then be up to the next following American administrations to decide how to act and which approach to follow in the long run with the IRI.

In a specular way, both Iran and the US have a similar internal situation since they both have an issue with the opposition represented by the conservatives not agreeing with the

¹⁰² Desiderio, A. & Toosi, N. (2021) The road to Joe Biden's foreign policy runs through Bob Menendez. *Politico*. <<https://www.politico.com/news/2021/03/01/biden-foreign-policy-bob-menendez-472097>>

¹⁰³ Perteghella, A. (April 2021). La ripresa del negoziato sul nucleare iraniano e il ruolo dell'Italia nella costruzione di un'architettura di sicurezza regionale, *Osservatorio di Politica internazionale, ed. ISPI*. <<https://www.ispionline.it/sites/default/files/pubblicazioni/opi0094not.pdf>>

¹⁰⁴ Nouwens, M., Krzyzaniak, J. & Wright, T. (2021) Reviving the Iran nuclear deal: prospects and challenges. *The International Institute for Strategic Studies*. Podcast, episode 69 Sounds Strategic, min 06.48 <<https://www.iiss.org/blogs/podcast/2021/04/iran-nuclear-deal-missiles>>

deal, esteemed as a failure. Nonetheless, both leaderships want to reach a deal on the nuclear issue, but none of the two is willing to make the first step towards the other. According to the current Supreme Leader of Iran, Ali Khamenei, the best course of action would be for the US to remove sanctions, with the following return to compliance from Iran's part on the original deal of 2015.

Unfortunately, current US President Joe Biden has opposite views since he believes Iran has to stop the uranium enrichment plan first and as a consequence, the US will re-enter the deal after their withdrawal of 2018. This problem with the revival of the JCPOA is the so-called “you first” approach: a conundrum that can only be solved on a “compliance for compliance” basis with the subsequent return to the 2015 nuclear deal and the process of negotiation of a second nuclear pact, “lengthening and strengthening” the previous one.

Some elements could nonetheless prevent the return to this “compliance for compliance”. For instance, following the killing of Iran's top nuclear scientist Fakhrizadeh in November 2020, the Iranian parliament passed a law forcing the government to speed up nuclear activities, including the enrichment of uranium to a higher level closer to that required to provide the necessary amount of fissile material for a weapon. If sanctions relief is not reached, the law also calls for limiting United Nations IAEA inspectors' access.

New US Secretary of State Antony Blinken has declared that the US would have re-entered the deal once Iran got back to full compliance. However, as a response Iran invoked paragraph 36 of the JCPOA¹⁰⁵ to demonstrate their continued compliance with the deal even if they were infringing the limitations that the deal imposed.

There is the possibility that the Biden administration will eventually be able to accomplish its objectives with diplomacy. How can this happen? President Biden is currently surrounded by people that worked in the 2009-2017 administration of President Barack Obama, during which the P5+1 was able to close the JCPOA with Iran. Therefore, Joe Biden is surrounded by people who are familiar with the nuclear negotiations and the deal.

On the other side, the Islamic Republic of Iran, formerly led by President Hassan Rouhani until the elections of June 2021 and now led by President Ebrahim Raisi, together with Supreme Leader Ayatollah Ali Khamenei, who declare together not to be available to discuss and negotiate with the American counterpart if there is no change from their side.

¹⁰⁵ See in section 2.5 about paragraph 36 of the Joint Comprehensive Plan of Action.

From the Iranian point of view, the US is twice guilty: not only it withdrew unilaterally from the deal, but by being part of the United Nations Security Council, it also did not respect and comply with the provisions of an important resolution, Resolution 2231 implementing the JCPOA. For these reasons the Iranian counterpart believes in the need for the US to act first¹⁰⁶.

Nonetheless, the two countries might be eventually able to sign together an agreement that goes beyond the JCPOA and that could bring back after more than forty-two years peace among them. After all, in the past, before 1979, the two had been great allies, with the US benefitting a lot from its influence in Iran to become increasingly present in the Middle East area.

3.2. Viable strategies of mutual reengagement

A new strategy for the American agenda of re-engagement with Iran over 2021, should be based on a clear path and objectives with respect to the Iranian policy:

1. the prevention of success for Iran in the run for nuclear weapons;
2. containment of the impact of its regional policies which are not in line with American interests;
3. the de-escalation of tensions that prolong further instability and proxy competition in the Middle East region.¹⁰⁷

At the moment the actors involved have not yet found a new strategic roadmap for balancing the situation, but analysts have identified viable options for the Biden administration to start the process towards negotiations with Iran and improvement of relations. First, the current administration could reinstate temporary waivers for Iran to export oil in spite of all US sanctions¹⁰⁸. Second, it could support the request of the IRI for funds from the International Monetary Fund for financing the fight against the Covid-19 pandemic in the country¹⁰⁹. Even though the IMF technical assessment envisioned Iran

¹⁰⁶ Refer to “Dialogue with Mohammad Javad Zarif”, live streaming December 3, 2020. *ISPI, MED Dialogues*. <<https://www.youtube.com/watch?v=-fmkcB37JfE&t=12s>>

¹⁰⁷ Goldenberg, I., Ewers, C. E. & Kaleigh, T. (August 2020). Reengaging Iran, Middle East Security, *Center for a New American Security*. <<https://www.cnas.org/publications/reports/reengaging-iran>>

¹⁰⁸ See *paragraph 3.3* for specifics on US sanctions towards Iran.

¹⁰⁹ In 2020 Iran requested a loan from the International Monetary Fund to help manage the Covid-19 crisis, a further problem for the country already economically affected. As explained below in this thesis, the E3+EU should compel the Biden administration to support that request, as well as to ensure that humanitarian aid continues to flow unhindered while Washington prepares to rethink its sanctions policy.

as a country in need for funds to address the balance of payments crisis, such request was blocked by the Trump administration. Indeed, those money would fund the trade deficit of the country, reason why the current administration should approve it to address the humanitarian consequences of the American sanctions, as well as to push the IMF to financially support those countries in need due to the current crisis. Third element, the US administration could ease Iran's access to its current foreign exchange reserves. Iran has indeed attempted to gain access to its frozen assets. With the United States remaining the final arbiter, Iran can currently enjoy free and easy access only to an estimated 10 percent of its reserves, putting extreme pressure on the currency and causing significant inflation rates that harm ordinary Iranians. The Biden administration could provide these countries, including allies such as Germany and South Korea, with the necessary clearances to allow central and commercial banks to easily process payments on behalf of Iranian account holders.¹¹⁰

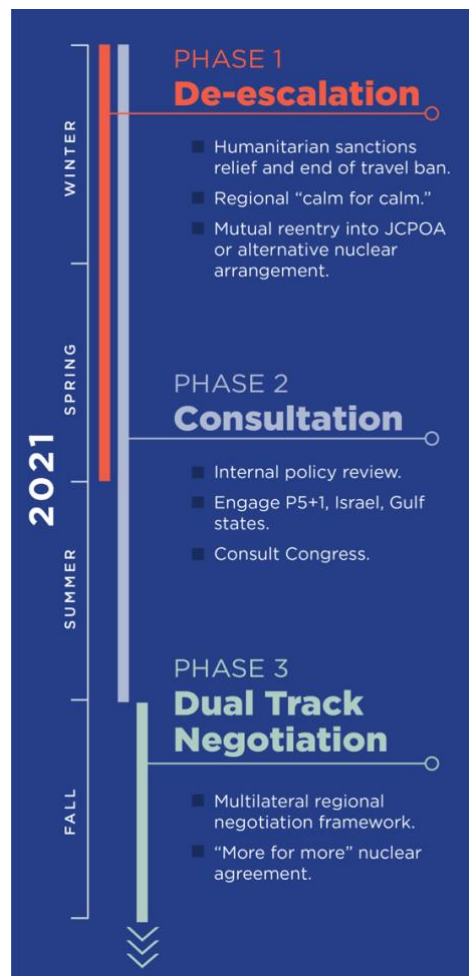
Realistically, we can expect in the future a synchronized process where both sides simultaneously come back into the deal even though the timetable and the steps are not yet clear. In spring 2021 the Biden administration was in the verge of proposing a clear plan of sanctions relief in exchange for Iran suspending the 20 percent uranium enrichment. This would have represented a first step from both sides.

As visible from Figure 10 below, there are viable strategical paths, but the parts are not yet ready for actual reengagement. This proposal from three researchers of the *Center for a New American Security* envisages three different phases: de-escalation, consultation, and dual track negotiation. The first phase, **De-escalation**, should be based on confidence-building light measures from the American part, such as those above mentioned, and the ideal “calm for calm” approach¹¹¹ in the region while at the same time making it clear for the Iranian counterpart that provocative proxy attacks or actions in Gulf states or against US forces must stop as well as their higher uranium enrichment processes.

¹¹⁰ Batmanghelidj, E. and Shah, S. (2021) Three Solutions to Biden’s Nuclear Stalemate with Iran. *Politico*. <<https://www.politico.com/news/magazine/2021/02/05/biden-nuclear-iran-foreign-policy-466120>>

¹¹¹ The “calm for calm” approach would be essentially private diplomacy, with just short remarks noting regional de-escalation. Iran was willing to reach such a declaration in the second part of 2019 during negotiations with the Trump administration, mediated by the French government.

Figure 10. A Strategy for Reengaging Iran¹¹²



Source: Center for a New American Security

In the nuclear sector there could be viable options of agreement:

- 1) a quick reentry of the US and Iran into the JCPOA with mutual rollback of steps taken in breach of the deal's rules;
- 2) some limited US sanctions relief in exchange for a freeze or moderate rollback of Iran's nuclear program, short of full resumption of JCPOA;
- 3) a complete return to the JCPOA, with an amendment for longer sunset clauses in exchange for greater sanctions relief (as Option 1 but with new obligations for the IRI and higher sanctions relief);
- 4) immediate negotiation, without confidence-building, on a more comprehensive new "big for big" deal.

¹¹² Goldenberg, I., Ewers, C. E. & Kaleigh, T. (August 2020). Reengaging Iran, Middle East Security, Center for a New American Security. <<https://www.cnas.org/publications/reports/reengaging-iran>>

After several months from the nomination of current president Biden and the governmental change in Iran, the first two options are already off the table even though they would have seemed the simplest ones on the negotiating level, but least efficient. The third seems now impossible from the Iranians' point of view and more difficult to be negotiated in a short period of time. The fourth option at the beginning would for sure have led to a no-deal outcome between the US and Iran. Stalling and lengthening the timetable might lead towards no progress for years and the closure of opportunity that the new US administration had opened. In the starting negotiation process actors should actually be ready to try multiple options and see which path is preferable. This first phase would allow for the parts to test the ground and see which is the desired direction by the other negotiators. And from a de-escalatory phase, it is important to lay the basis for a stronger and longer framework.

The second phase, **Consultation**, should happen simultaneously to the first phase by engaging the international arena and US Congress in open debates and discussions regarding the goals and the strategy for a long-term solution to the concerns around nuclear and regional issues as well in Iran. This phase was translated into reality in the series of negotiations that are taking place in Vienna, as we will see, also including Iran in the around-the-table talks. This phase was facilitated by the election of President Biden even though the new Iranian government may have slowed down the process on the other side.

The Consultation phase is the longest one and it would also entail the engagement of other international actors aside from the P5+1, Iran, and the European Union, such as the Gulf states (especially Saudi Arabia) as well as Israel and other players from the Middle East. They would need to discuss the critical parts of the JCPOA and the need for the US to demonstrate its diplomatic commitment which has shifted since Inauguration Day of January 2021.

It is important to recognize nonetheless that a regional framework is far more complicated than the nuclear one and that this phase will face several difficulties since it touches various competing interests.

The third phase instead is characterized by the **Dual Track Negotiation**, namely the formulation of a long-term path to follow, reached through two different parallel tracks.

One track should focus on the “more for more” agreement¹¹³ regarding the nuclear programme, and engaging the P5+1, while the second on a regional framework and de-escalation at regional level, including Iran and important geographical actors, as well as the P5+1. This third phase can be successful towards the final goal only if both tracks proceed at the same path, but at the same time, complicated issues and stalemates on the regional issue cannot freeze progression on the nuclear file. We recognize therefore that a negotiation with the nuclear-only focus would be unsustainable without also dealing the regional issue.

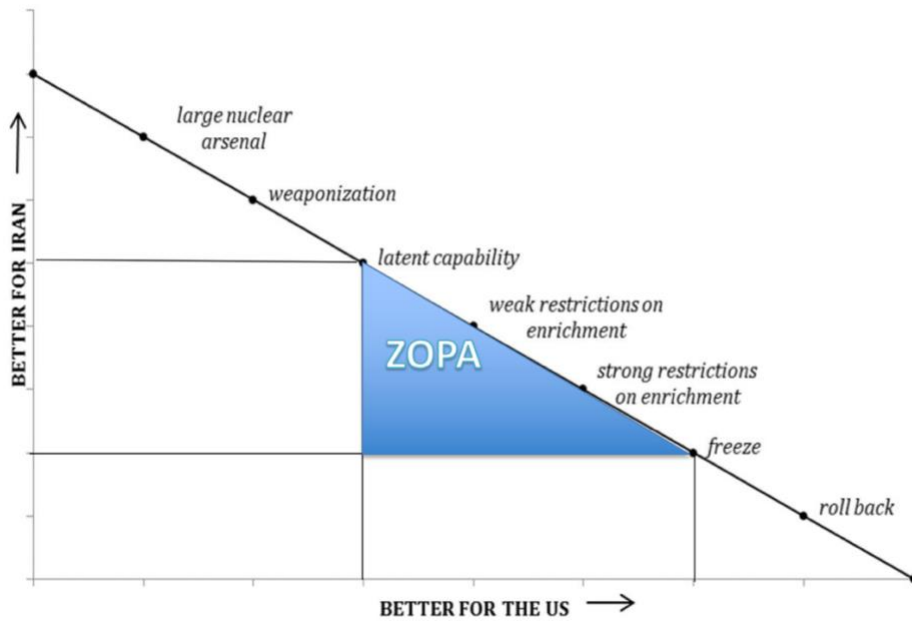
The new administration showed interest in undertaking this path towards reengagement, but it should also be aware of the need of testing different viable options depending on the status of the Iranian nuclear program and the developments of early diplomatic talks with Iran and other international actors. It is also important to understand that such a project would take a great deal of time, several years, to become operative.

3.2.1 The Zone Of Possible Agreement

The deal of 2015 represents the proof that a deal among the parts in this field is possible. Once we have assessed that a mutual deal is feasible, we have to design the most viable method to achieve one. The goal in any negotiation is to focus on the ZOPA, which is the “Zone of Possible Agreement”, that area where both parties agree, have the same opinion and everyone benefits from the final deal. The idea is to create a favourable environment to a mutually acceptable nuclear deal, that avoids both military war and a nuclear-armed or nuclear-capable Iran.

Figure 11. Basic Graphical Representation of the US-Iranian Nuclear Negotiations

¹¹³ A “more for more” agreement would address important issues on sunsets, policies at the regional level, and the ballistic missiles question, but also provide for greater sanctions relief and economic help provided to Iran.



Source: *International Security Journal*¹¹⁴

The above graph represents the case of negotiations between Iran and the US towards the deal of 2015. This graphical representation of the framework is based on two different axes: the horizontal axis indicates US value, while the vertical axis represents the Iranian regime value. Moving "up" means increasing value for the Iranian regime (with higher "value" implying more fully matching Iranian regime goals), while moving "right" means doing the same for the US. A downward sloping "border" runs between these axes, illustrating a stylised spectrum of possible outcomes for Iran's nuclear program.

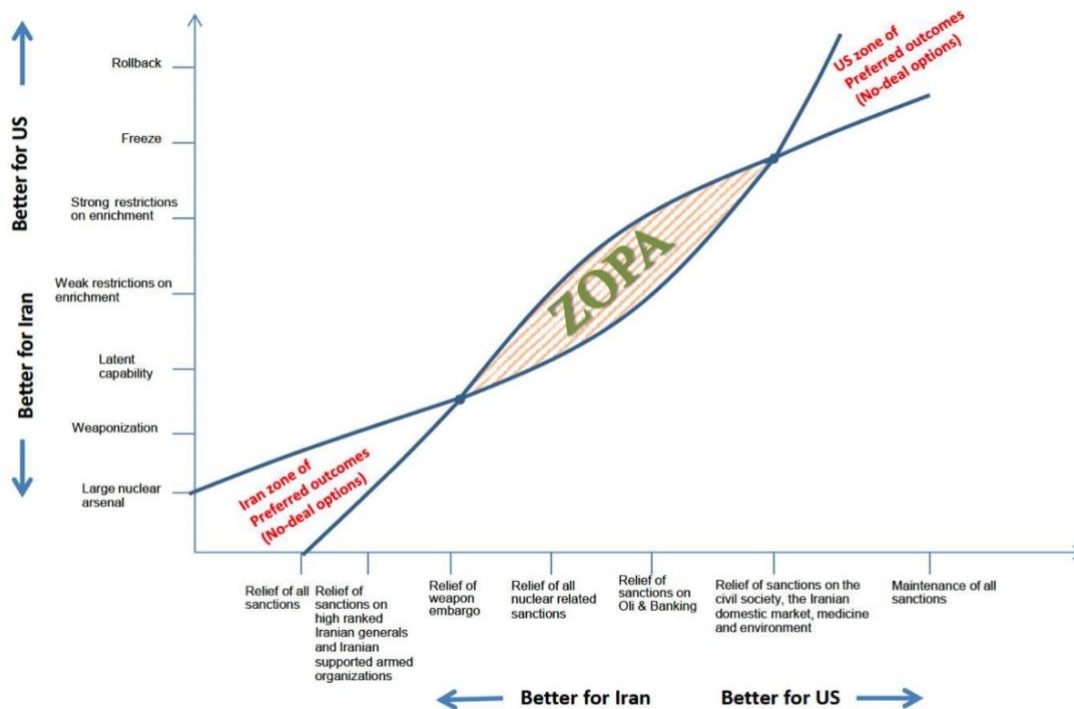
Typically, each party has a clear idea of its own limits (i.e., "its end" of the ZOPA), but there is a lot of confusion regarding the other's. If one side the delegation is certain it will win in court, or if it believes it can break a strike swiftly and cheaply or is determined to find a more appealing alliance partner or do better alone, there can be no ZOPA in the starting negotiations. To open a ZOPA it would necessitate taking steps to change these above-mentioned views, which often entail changing the realities. In these and other complicated scenarios, the need for each party to reach an agreement is that the deal must appear to be preferable to the no-deal option in terms of each party's subjectively perceived interests.¹¹⁵ The no-deal options here are two: war between US and Iran or a

¹¹⁴ Sebenius, J. K., & Singh, M. K. (2012), Is a Nuclear Deal with Iran Possible? An Analytical Framework for the Iran Nuclear Negotiations, *International Security*, Vol. 37, No. 3. https://www.belfercenter.org/sites/default/files/files/publication/IS3703_Sebenius%20Singh.pdf

¹¹⁵ Ibidem, p. 54.

nuclear armed Iran with capability. In this process each party will have its own perception of the location of a ZOPA as well as the other's limits. The usual bargaining tactics may exacerbate the situation, with negative consequences. Policymakers must examine how bad a particular outcome is and what costs they are ready to bear in order to get a better result (where "better" is judged according to the costs of the deterrence actions). In other words, both parts aim at creating a superior framework to the best non-negotiated option. The two most used instruments by the United States and allies in the effort to change the IRI's strategy are sanctions (generally, cost-imposing measures) and incentives (generally, provisions that are intended to benefit Iran's leadership as well as any value-adding measures of any kind). At the same time, the US could offer value-adding incentives for Iran that in the framework they would be translated as an upward shift of the deal frontier and, depending on the type of incentive, could extend both up and right in the diagonal as shown by the shaded triangle.

Figure 12. a different view of the Zone of Possible Agreement for US-Iran



Source: Farahmand, M. (2016). *Explaining the Iran Nuclear Deal: A Case of Mutual Agreement After a Decade of Gridlock.*

Of course, this will not coincide with the delegations' starting opinion but rather with an intermediate position.

The challenge in this specific situation which makes the negotiation process much more complicated, is represented by the opposite view on the sanctions implemented by the Trump administration in addition to those already in place as envisaged by the JCPOA of 2015. These have made it difficult or even impossible for the IRI to obtain the economic benefits linked to the sanction lifting of the deal itself. Moreover, from the Iranian point of view all the sanctions imposed by President Donald Trump should be removed. The US opinion is instead based on the fact that only sanctions that had been lifted with the entering into force of the JCPOA, should be once again removed. With the presidential change in the US, the new administration is being asked to suspend those additional sanctions imposed by Donald Trump that did not violate the nuclear deal. This represents a political complication for current President Joe Biden, considering that the internal political scenario is characterized by a significant bipartisan opposition that objects the removal of those sanctions not associated to the JCPOA (essentially those limitations that sanction the Iranian support for terrorism as we will better explore below).

A primary focus on the negotiation process and tactics (such as the correct tone, venue, communication style, level of secrecy, use of back channels or third parties, and so on...) cannot work without an underlying “zone of possible agreement”. Tough, skilled diplomacy can succeed in opening and enlarging a zone of agreement. If, despite these attempts, no zone of prospective deal can be developed, the policy attention must move to the difficult choices among non-negotiated options.

3.2.2 The 2021 Vienna talks

The negotiations that started in Vienna at the beginning of 2021 are a clear example of *shuttle diplomacy*: the American delegation residing in a different location from the others, that instead of engaging in direct open dialogue with the Iranian delegation, communicates with the other representative members of the JCPOA that in turn refer to Iranian delegates. In practice, the talks are being mediated by the E3 (Germany, France, and the United Kingdom) together with Russia and China, by transferring recommendations to Robert Malley, the US special envoy for Iran, and his US negotiation team in another room because Tehran is not yet able to directly talk with the counterpart unless the nuclear deal is restored first.

This type of negotiation is peculiar: diplomatic delegations are divided in three working groups that meet in parallel. While the first group has the duty of discussing and negotiating the lifting of sanctions (and the consequent return of the US to full compliance

with the deal), the second group focuses on the cessation of nuclear activities undertaken by Tehran since 2019 (and the consequent return of Iran to full compliance with the deal); a third group discusses the exact process of removal of sanctions from the US and the stop to the nuclear program in Iran, which is specifically the part that creates problems to the process.¹¹⁶ While the US stick with their position of no sanctions removal until they get real proof of the full Iranian return to compliance, on the other side, Teheran is standing still in its position of request from the US to act first. Only once sanctions will be removed, Iran will be prone to go back to the deal. And the IRI is also requesting some sort of “verification” of that sanctions removal before proceeding. After being subjected to extensive monitoring and verification as envisaged by the JCPOA, Tehran is now demanding the same from the other parties' obligations, including for what concerns sanctions removal. As former minister Zarif stated, Iran is still waiting for the American demonstration of good faith towards the deal, the “bona fides” that never came up, especially with the abrogation of 2018.

The American position echoes a similar situation of 2016 when Washington lifted sanctions on Iran only after confirmation from the IAEA that Tehran had complied to its part of the deal. The Iranian position is instead justified by the fact that it was the US to violate first the deal, by withdrawing in 2018 and therefore, it is their responsibility to make the first step to remedy.

The talks that have been going on in Vienna have seen as protagonists the most important faces in the international diplomatic field: Josep Borrell, the High Representative of the European Union for Foreign Affairs and Security Policy since 2019, Ali Bagheri Khani,¹¹⁷ representing Tehran since September 2021, the German representative Heiko Maas with French colleague Jean-Yves Le Drian, the British Foreign Office chief Dominic Raab, China with Wang Yi, and Russia represented by Sergej Lavrov.

The revival of the 2015 framework has never been given for granted, due to the geopolitical tensions on different fronts. And with these circumstances, it is likely that in the coming months there will be a lack of decision while still participating to the Vienna talks' diplomatic framework. Nonetheless, with diplomacy their aim is to come up with a

¹¹⁶ Perteghella, A. (April 2021). La ripresa del negoziato sul nucleare iraniano e il ruolo dell'Italia nella costruzione di un'architettura di sicurezza regionale, *Osservatorio di Politica internazionale*, ed. ISPI. <<https://www.ispionline.it/sites/default/files/pubblicazioni/opi0094not.pdf>>

¹¹⁷ Javad Zarif, former Foreign Affairs Minister of Iran, represented Tehran from 2013 up to the 2021 elections, therefore he was present during the first part of the recent Vienna talks. Ali Bagheri Khani is the current political deputy at the Ministry of Foreign Affairs of Iran since September 2021.

common point of convergence among the parts starting from the de-escalation of the crisis.

3.3. Sanctions: the US-Iranian case

Sanctioning Iran is part of the punishment approach that is aimed at affecting the political leadership of Iran. Sanctions in the diplomatic world are a method that can become useful as a coercive instrument or a reward. These can be used especially when in negotiations, the parties want to accelerate the process of crisis resolution. Otherwise, these are used to punish non-compliance or signal to the international community those actors that violate international norms of conduct. There are different types of targeted sanctions:

- arms embargoes, to ban the supply of weapons, military-related technology and other forms of military assistance (as the arms embargo of the UN towards Iran);
- financial sanctions, which freeze the assets and block financial transactions with designated individuals and entities (as in the case of Iran under question);
- travel sanctions, which ban the travel of designated individuals or prohibit travel on designated airlines or to targeted regimes;
- commodity sanctions (as the freezing of the oil import from Iran), which prohibits imports or exports of commodities such as diamonds, oil, or timber;
- diplomatic sanctions which deny participation in international events or organization;
- or the withdrawal of the diplomatic privileges of designated individuals of regimes.

In the US case, sanctions can be provided for in both executive and legislative acts. The President can issue an Executive Order (E.O.) in response to an external threat. Congress may later approve a legislation that imposes new sanctions or modify existing ones. While primary sanctions can be applied to US persons and entities, secondary sanctions are applicable to any person or entity independently from nationality, having extraterritorial effectiveness.

At the opposite side of sanctions there is the implementation of specific incentives, as happened in the past with the entrance into force of the JCPOA. As Sebenius and Singh

highlight in their paper¹¹⁸, incentives can be divided into three more specific categories. First, they are the removal of negatives intended as the lifting of sanctions, costs, or other negative measures. Second, the side payments, meaning incentives that are unrelated to the nuclear issue and are aimed to raise the "net value" of Iran. Furthermore, these incentives do not directly benefit the United States, hence they add no value to the deal. Third, joint gains, including incentives that improve the value of a particular agreement for both Iran and US, and can therefore be seen as a mutual "win-win".¹¹⁹

With the goal of signing the nuclear deal in 2015, the P5+1 promised Iran to conclude a preferential trade agreement and other incentives that in general options may be of several types and below some examples are given:

- provision of foreign assistance;
- offering loans on concessional terms;
- providing preferential trade agreements;
- giving diplomatic and political support;
- offering military assistance and cooperation;
- granting access to advanced technology;
- facilitating private investments;
- offering debt relief;
- providing security assurance;
- offering membership in international or regional economic organizations or security alliance;
- promise of lifting negative sanctions (as in the Iranian case where the incentive was the promise to lift certain sanctions in exchange for limitation of the uranium enrichment).

At this moment, the US will have to be willing to go farther in its economic incentives to reach some progress in terms of de-escalation of tensions and advancement of the nuclear renegotiation. This will require more than just sanctions waivers, and the

¹¹⁸ Sebenius, J. K., & Singh, M. K. (2012), Is a Nuclear Deal with Iran Possible? An Analytical Framework for the Iran Nuclear Negotiations, *International Security*, Vol. 37, No. 3. <https://www.belfercenter.org/sites/default/files/files/publication/IS3703_Sebenius%20Singh.pdf>

¹¹⁹ Ibidem, p. 60.

¹¹⁹ Milani, M. M., (2009). Tehran's Take: Understanding Iran's U.S. Policy, *Foreign Affairs*, Vol. 88, No. 4, p.81.

acknowledgement of the Iranian government's core interests would be a symbolic and concrete evidence of an economic "normalization".¹²⁰

Sanctions, on the other hand, can be justified because they may result necessary to solve a situation. Nonetheless, this type of action cannot be considered as a diplomatic mean, but rather a form of low intensity conflict.

In case sanctions do not prove to be sufficient and time becomes of the essence – in fact, as previously mentioned, the breakout time for Iran has increasingly shrunk and it could become a full nuclear weapon state in just a few months – the alternative solution would be military intervention or *laissez faire*, leaving Iran to develop as such.

The signing of the JCPOA had fuelled dreams of peace and collaboration with the West, of prosperous economy and internal political reforms: hopes that never took off because of the extreme caution of banks fearing heavy US sanctions in case of violation of the sanctions. This was one of the main factors that prevented big economic projects to become reality.

Moreover, the American decision to impose sanctions on Iran did not really have the hoped-for outcome. It is not clear whether sanctions worked, firstly because the Islamic regime has not changed its behaviour in the region, and secondly, instead of weakening the leaders of the country, sanctions may have even created an effect of rallies to defend the independence and autonomy of the nation.¹²¹

As it is possible to understand from the table below, the effects of sanctions on the Iranian economy have been far from soft. The country severely suffered from the imposition of sanctions before the implementation of the deal and especially after the American withdrawal with imposition of new limitations from the US side. Instead, it is possible to notice quite high growth levels in the aftermath of the implementation of the JCPOA probably thanks to the benefits and incentives coming with it. This is the reason why now the leadership is willing to return to the negotiating table to prevent further suffering for the Iranian economy and population.

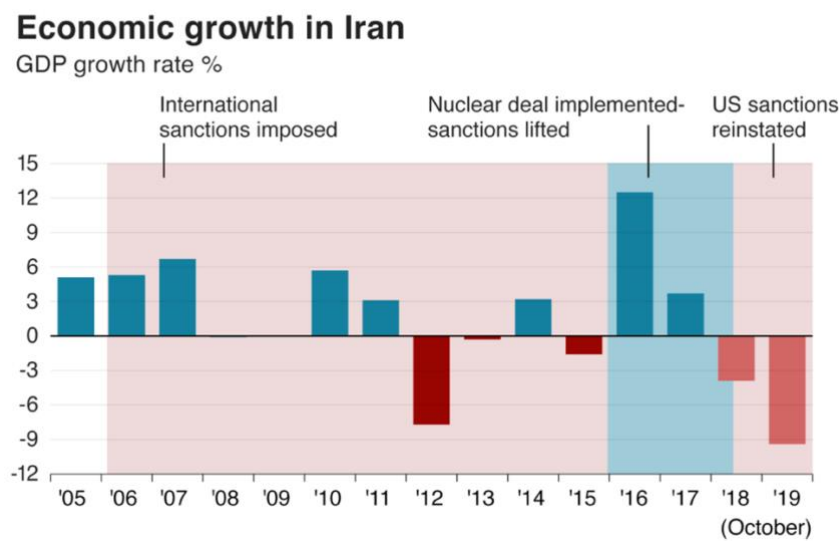
According to the former Iranian Minister of Foreign Affairs, Javad Zarif, the economic sanctions imposed by President Donald Trump have caused a trillion-dollar deficit to the

¹²⁰ Goldenberg, I., Ewers, C. E. & Kaleigh, T. (August 2020). Reengaging Iran, Middle East Security, *Center for a New American Security*. <<https://www.cnas.org/publications/reports/reengaging-iran>>

¹²¹ Sanctioning might not have been the right modus operandi during these years. Among different examples, the proof of that might be the case of Cuba: the US imposed in 1958 a trade and financial embargo on Cuba, which is the most enduring one in modern history, but that has proven to be ineffective.

Iranian economy, damage for which the country is asking for compensation to the US. Specifically, at the end of January 2021, Bloomberg Agency estimated a four-year budget for 2017-2020 defining the four years as the “worst economic crisis since the 80s”, the years of the long Iran-Iraq war¹²². The worst moment for the Iranian economy was registered in 2019 with the GDP shrinking after the removal of waivers for the oil sector by the Trump administration. From that moment it became difficult for Iran to export oil leading the government to push for the export of other goods.

Figure 13. Effects of sanctions on Iranian economy



Source: Central Bank of Iran, IMF

Nonetheless, the economy of Iran has showed resilience against the sanctions and external limits and shocks. Ellie Geranmayeh, a senior policy fellow with the European Council on Foreign Relations, stated that the economy is projected to develop and grow. IMF, the Institute of International Finance, and the World Bank projections show that Iran will reach between 1.5 percent and 3.2 percent growth rates during 2021, while sanctions are still in place. This is possible thanks to the non-oil economy that represents the 85 percent of the total economy of Iran and thanks to the surplus from oil export to China¹²³.

The current situation has completely changed since the negotiations that led to the signing of the 2015 deal: the Iranian middle class is quickly shrinking, with the majority of people

¹²² Motevalli, G. (2020). Four Years of Crisis: Charting Iran’s Economy Under Trump, *Bloomberg*. <<https://www.bloomberg.com/news/articles/2021-01-24/four-years-of-crisis-charting-iran-s-economy-under-trump>>

¹²³ (2021) Biden should look beyond leverage to rejoin the Iran deal, *CNN*. <<https://edition.cnn.com/2021/01/26/opinions/biden-should-look-beyond-leverage-to-rejoin-the-iran-deal-geranmayeh-batmanghelidj/index.html>>

impoverished. A very small class is getting wealthier, proof of the fact that sanctions are not working properly. If the people that control power are getting wealthier, it means that they are able to export oil or manage illicit markets and surpass sanctions¹²⁴.

In negotiating the return to the Joint Comprehensive Nuclear Deal, the Biden administration has to face four different types of sanctions. Below, the specific sanctioning from the US towards the IRI and the current stall situation will be described in specifics.¹²⁵

3.3.1. US JCPOA-related sanctions¹²⁶

The first group of sanctions regards those that were removed from the Obama administration in 2015 after the JCPOA entered into force, but later the Trump administration reinstated them from May 2018 after his decision to withdraw from the deal. The retention of these sanctions would make the US as non-compliant with the text of the JCPOA since they are in violation of the deal, and therefore should be removed for the US to re-enter the deal. The removal of these would make the US once again full member of the JCPOA agreement. This group includes primary sanctions on American companies for the exportation to Tehran of aircrafts and replacement parts (e.g., Boeing) and for the importation in the US of Iranian food products. These sanctions consist also of all those secondary ones that were imposed by the Trump administration on those Iranian economy sectors which were not originally hit by these measures: such as the construction sector, extraction sector, manufacturing, and textile sectors. Therefore, they hit the oil exportation, the petrochemical sector, noble metals, as well as sanctions that impede the Iranian Republic to have access to its own monetary reserves in foreign banks. These sanctions too need to be lifted to bring the United States to full compliance with the accord. Moreover, it is possible that these sanctions imposed by Trump were intended to make it more difficult for a successor president to re-join the deal.

¹²⁴ Podcast transcript, “What We Get Wrong About Iran”, CSIS, February 1, 2022. Available at:

<https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/220201_Alterman_Jason_Rezaian.pdf?17uR.jPQxE2syLBiNYRbvbCn93IJeP2_>

¹²⁵ Motevalli, G. (2020). Four Years of Crisis: Charting Iran’s Economy Under Trump, *Bloomberg*. <<https://www.bloomberg.com/news/articles/2021-01-24/four-years-of-crisis-charting-iran-s-economy-under-trump>>

¹²⁶ Perteghella, A. (April 2021). La ripresa del negoziato sul nucleare iraniano e il ruolo dell'Italia nella costruzione di un’architettura di sicurezza regionale, *Osservatorio di Politica internazionale*, ed. ISPI. <<https://www.ispionline.it/sites/default/files/pubblicazioni/opi0094not.pdf>>

3.3.2. US non-JCPOA-related sanctions

There is a different group of numerous sanctions which are not connected to the Joint Comprehensive Plan of Action, they were applied before the 2018 withdrawal, and they do not violate the deal. Since the start of the presidential term in 2017, the Trump administration has imposed these sanctions on Tehran but without any connection to the nuclear program, therefore they are not in violation of the JCPOA. These sanctions affect for instance those subjects involved in the development programme of ballistic missiles, the Al-Quds brigades of the Islamic Revolutionary Guard Corps (IRGC)¹²⁷, and elements accused of perpetrating violations of human rights or involved in *cyberwarfare* activities. Iran is asking that these sanctions are removed as well by President Biden. Iran indeed is hoping for a return to the 2016 situation, while these sanctions were imposed in 2017, even though their imposition is not in violation of the JCPOA. Iran is indeed asking the President to remove the inclusion of the IRGC on the US Foreign Terrorist Organizations (FTO) list by the State Department. This is a nice example of a possible compromise: the Trump administration applied this particular punishment, however, since it has nothing to do with the nuclear program, the Biden administration does not need to lift it in order to comply with its JCPOA obligations. Nonetheless, the US is said to have offered to lift the FTO designation if Iran agreed to follow-up negotiations on other concerns.

3.3.3. Post-JCPOA US withdrawal sanction

In this paragraph we are analysing those sanctions, more than 700, that were imposed outside of the nuclear deal in 2018 to reinforce Iran's isolation and destabilize its economy. To this section belong indeed all those sanctions subsequent to US President Trump withdrawal and not in violation of the JCPOA because not connected to it but imposed after the decision of withdrawing. These sanctions are directed to subjects accused of violations of human rights, interference in the American presidential elections or subjects accused of being involved in the kidnapping of former FBI agent Robert Levinson. This group of sanctions holds a motivation that is political, therefore relatively

¹²⁷ The Islamic Revolutionary Guard Corps is the branch of the Iranian Armed Forces, created in 1979 after the Iranian Revolution, by will of Ayatollah Khomeini. It is the division responsible for military operations outside of Iranian borders, such as in Iraq, Syria, Yemen, differently from the Iranian Army that controls the internal sovereign territory. The IRGC, also known in Persian as the *Sepah-e Pasdaran-e Enghelab-e Eslami*, is considered a terrorist organization by government of the US, Saudi Arabia and Bahrain. The Al-Quds force is one of the five branches of the Revolutionary Guards and reports directly to the Ayatollah.

simple to suspend or revoke. At the same time, this type of penalties does not affect substantially the Iranian economy and therefore might not be among the priorities of the Iranian delegation at the nuclear negotiations.

Another group of sanctions refers as well to those implemented by the Trump administration after the withdrawal from the deal and not in violation of the same because they do not directly concern areas covered by the agreement. Hereby, technically, these sanctions are not in contrast with the deal, but in this case, they are important for our argument because their existence makes the correct implementation of the JCPOA really challenging, since they prevent Iran to receive the necessary economic compensation deriving from the removal of sanctions as envisaged in the JCPOA.

To give a real example we can refer to the antiterrorism sanction imposed with the US Executive Order 13224¹²⁸ by the Trump administration on the Central Bank of Iran (CBI), on the National Iranian Oil Company (NIOC) and on the National Iranian Tanker Company (NITC, the fleet for the oil exportation) for financing state-sponsored terrorism as part of the "maximum pressure" campaign. These three entities are accused by the government of the United States of funding organizations such as Hezbollah and Hamas (considered terroristic organizations) and of exporting and transporting oil for the Al-Quds forces of the Iranian Revolutionary Guard Corps. These are indeed, in charge of Iran's oil industry, while the Central Bank oversees the country's foreign exchange reserves and profits from oil sales, Iran's essential need in the moment of return to the 2015 deal. These designations prevent the three bodies to engage in international relations with any other entity of any country. Since the Iranian Central Bank manages financial transactions to and from the country and that NIOC and NITC are responsible for the exportation of Iranian oil, this executive order makes it impossible for them to conduct their activities even in the case in which sanctions on Iranian oil (sanctions that are not inconsistent with the JCPOA) were to be lifted. By doing so, together with the sanctioning of 18 Iranian banks, the goal of the previous administration in 2018 was that of paralyzing Iran's financial sector, being aware of the impossibility for the following president to remove altogether those sanctions, mainly for political reasons. Indeed, President Trump knew that Iran's central bank is responsible for funding for Hezbollah and Hamas, and the other two companies ship oil for sale by the IRGC, which was declared a foreign terrorist

¹²⁸ U.S. Department of the Treasury. (September 20, 2019). Treasury Sanctions Iran's Central Bank and National Development Fund. <<https://home.treasury.gov/news/press-releases/sm780>>

organization in the US in April 2019¹²⁹. Hence, it would be politically risky for President Biden to lift these sanctions. The Trump administration worked to "ensnare" the following administration, to have difficulty removing sanctions. Moreover, Iranian representatives are adamant that only with the certain sanction lifting, confirmed through the start of oil exports and movement of funds in the global banking system, Iran will return to the nuclear program as it was before the violation of the terms by the American part.

The success of these current negotiations will probably depend on the suspension of these sanctions. If the Biden administration is intentioned to get back to the deal, this means that at some point it will have to lift all nuclear-related sanctions towards the IRI, and eventually the so-called "poison pill sanctions", those not related to the nuclear deal but consistent with it and within the group of sanctions that Iran wishes to see removed.

To understand the challenge that the negotiating teams will have to face, we take the Bank Sina example. The Trump administration with the US counter-terrorism authorities in 2018 sanctioned it with a terrorism ban. It is not one of the most important Iranian banks, but the IRI might argue that the perpetration of this sanction would be inconsistent with the terms of the original JCPOA. In this specific case, the American team at the negotiating table has to understand whether to give reason to the Iranian request and believe that the Sina Bank terrorism sanctions were meant from President Trump as an obstacle to prevent any future return to the JCPOA, or whether these sanctions are correct, reasonable and need to remain in place.

This is in sum the process that in this part of the negotiation, the teams must face, to come up with a final list of sanctions relief. This phase is demanding and needs attention to analyse in specifics each single sanction.¹³⁰

Moreover, there are further difficulties. There will be challenges at the political level in the American scenario on how to remove those terrorism-related sanctions. The Iranian Central Bank's support to terrorism is evident and the removal of terrorism-related sanctions might represent a challenge within Congress, which is not entirely in favour of the US return to the JCPOA.

¹²⁹ Hirsh, M. (2021) U.S. Mounts All-Out Effort to Save Iran Nuclear Deal. *Foreign Policy*.
<<https://foreignpolicy.com/2021/04/15/iran-nuclear-deal-biden-talks-vienna/>>

¹³⁰ As we have analysed in paragraph 3.2 *Viable strategies of mutual reengagement*

Technically, the restrictions might be lifted through the cooperation of Treasury Department licensing and State Department waivers. However, Iran may possibly be concerned that any suggestion of continued sanctions over terroristic actions will jeopardize any significant foreign bank's willingness to work with the CBI or others in a similar predicament.

3.4. Biden's foreign policy team

Trying to understand whether the American administration in 2021 is really committed to re-engaging in new negotiations with Iran, we will look for actual signs and gestures of willingness and intention. For instance, a clear sign that indicates the new President's willingness to elevate diplomacy in the nuclear field with Iran can be found in the selection of the political team that will deal with it. Indeed, President Biden has chosen as his foreign policy team a group of seasoned diplomats already involved in the 2015 negotiations, such as Antony Blinken, new Secretary of State, and William Burns as CIA director who had the chance to secretly meet with the Iranians in 2013, which demonstrates a strong statement of intent. Moreover, the most involved person in the previous nuclear talks, Ambassador Wendy Sherman¹³¹, the one that led the US negotiation team, was appointed Deputy Secretary of State in the current US administration.

Jake Sullivan, the newly appointed National Security Advisor of the United States who also met in secret talks with the Iranian party in 2013, is optimistic about the revival of the 2015 nuclear accord now, several years later.

But most of all, the clearest signal of willingness to revive diplomacy from the US in this field with Iran comes from the designation of Robert Malley as chief negotiator and leader of the team¹³². He is a lawyer, specialist in conflict resolution and negotiator in 2015 for the JCPOA. At the Vienna talks in April 2021, he clearly demonstrated his ability and intent to develop a roadmap on how to get there. The choice of his appointment was highly contested by the conservatives for his approach considered to be softer, in line with the experience of previous administrations (presidents Bill Clinton and Barack

¹³¹ Ambassador Wendy Sherman led US negotiations for the case of Iran as well as the case of North Korea.

¹³² This represents a strong break with the previous US Special Representative for Iran: Elliott Abrams, one of the right hands of former President Trump. He was accused of playing more as a lawyer for Israel rather than a mediator for the Iranian cause.

Obama). On the other side, he is considered one of the most respected experts of foreign politics; he had even previously assisted the former Secretary of State John Kerry¹³³ in the negotiations with Iran.

Mr Malley, representing the US delegation, would have been prone to offer the counterpart the so-called *Goldilocks-style deal*¹³⁴: a discussed option based on the right amount of sanctions relief to have Iran return to the deal, but not too much to avoid exposing the US presidency to domestic attacks from hardliners, including those elements within the Democratic party that reject any type of concession to Tehran.¹³⁵

The designation of this specific team demonstrates that the current president foresees the Iran issue to remain a significant part of his administration's national security agenda and diplomatic focus.

Former Iranian Foreign Minister Javad Zarif, who worked closely with members of Joe Biden's foreign policy staff, among which current Deputy Secretary of State Wendy Sherman, insists that the turn now is of the United States. They claim that the US pulled out of the accord, and that it is now on to the US to make the first steps to bring the deal back on track, beginning with the easing of sanctions.

It is still in the American interests to slow down the nuclear capacity endorsed by Iran, and it is in the Iranian interests to get sanctions reduction from the US. For this reason, the return to the deal is still possible even though it is very much complicated.

3.5. The European role

US experts often neglect the European role in the JCPOA because they tend to see it exclusively through US-Iran antagonism. Still, the E3/EU played an essential role in facilitating the US' strategic change from opposition to engagement in nuclear diplomacy with Iran.¹³⁶

¹³³ John Kerry was head of the Senate Foreign Relations Committee under the Obama presidency, and he was a strong supporter of the negotiations with Iran.

¹³⁴ In economics the Goldilocks Effect, or Goldilocks Principle, comes from the children's story of The Three Bears and it is the idea that people are inclined to seek 'just the right amount' of something. This principle of "just the right amount" is applied to various disciplines, including diplomacy and negotiation, as in this case.

¹³⁵ Hirsh, M. (2021) U.S. Mounts All-Out Effort to Save Iran Nuclear Deal. *Foreign Policy*. <<https://foreignpolicy.com/2021/04/15/iran-nuclear-deal-biden-talks-vienna/>>

¹³⁶ Alcaro, R. (2021) Europe's Defence of the Iran Nuclear Deal: Less than a Success, More than a Failure, *The International Spectator*, vol. 56, no. 1, p. 57

After the American withdrawal in 2018 from the JCPOA, the European role has been important to prevent the total collapse of the framework. Nevertheless, now the Union must seize the opportunity to induce the revival and strengthening of it. All along, the EU and the European foreign ministers involved, at the time led by Federica Mogherini¹³⁷, have proven to be in favour of a diplomatic settlement and a solution to the issue: they supported the negotiation and implementation of the JCPOA; later on, in 2019 they opposed Trump's approach towards Iran. Their official position at that moment was the following:

“The overarching goal for us is the preservation, continuation and full implementation of resolution 2231 (2015), and of the Joint Comprehensive Plan of Action (JCPOA), which has been described by some in the media as a masterpiece of diplomacy. Thanks to the JCPOA, it was possible to have Iran step back from its moves towards the acquisition of a nuclear bomb.”¹³⁸

Afterwards, they expressed their regret on the decision of the Islamic Republic of breaching the limit on uranium enrichment. For instance, the Joint Statement¹³⁹ of the then E3 leaders, English Prime Minister Theresa May, French President Emmanuel Macron and German Chancellor Angela Merkel, issued in a press release on May 8, 2018, underlined the necessity of remaining on the nuclear non-proliferation path and removal of sanctions even with the withdrawal of the American power, identifying once again the International Atomic Energy Agency of the UN as the institution to control the commitments taken by Iran. On the principles of the international institutions, the governments remember UNSC Resolution 2231 of 2015 as a “key element of the architecture on nuclear non-proliferation at global level, and an important result of multilateral diplomacy that contributes to regional and international security”. Not only, in the same period it was the E3 together with Federica Mogherini that declared the opening of the SVP (Special Purpose Vehicle) to ease trade with Iran (including the sale of oil). With the support of the UN General Assembly in New York, the E3/EU+2 (meaning EU, France, Germany, UK, China, and Russia, without the US) announced the creation of this solution to develop payment channels with Iran, driven by the urgent need for results. In practice, the EUHR Mogherini described it as a:

¹³⁷ Federica Mogherini, an Italian politician, served as High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the European Commission from 2014 to 2019.

¹³⁸ Security Council meeting, June 30, 2020. Germany's Permanent Representative to the UN, Ambassador Heusgen.

¹³⁹ See “Joint statement from Prime Minister May, Chancellor Merkel and President Macron following President Trump's statement on Iran”, (May 8, 2018), press release.

<<https://www.gov.uk/government/news/joint-statement-from-prime-minister-may-chancellor-merkel-and-president-macron-following-president-trumps-statement-on-iran>>

“Legal entity to facilitate legitimate financial transactions with Iran and this will allow European companies to continue trade with Iran, in accordance with European Union law, and could be opened to other partners in the world”.¹⁴⁰

The EU continued improving cooperation with Iran even later with the appointment of a new EU High Representative for the European foreign policy, Josep Borrell, as Coordinator of the Joint Commission of the Joint Comprehensive Plan of Action, who could now be the perfect *facilitator*¹⁴¹ towards a concerted revival of the deal. Europe has the chance to potentially play a central role for once, starting to reduce the negative effects caused by the American sanctions, the extraterritorial ones that prevent several European operators from having commercial relations with Iran.¹⁴² If on one hand the European governments approved some of the sanctions imposed by Trump, on the other, they strongly support now the revival of the deal and the talks with the IRI since sanctions in the following three years after their impositions, have not proven to be successful in their objective.

From the American withdrawal from the deal, Tehran looked at the European countries and their economies as the main interlocutor to privilege because they could be the best option for the Iranian growth and development. Nonetheless, over recent years the E3 have not fulfilled Iranian hopes: while the EU tried to reopen diplomatic conversation with Iran, it was obstructed by London, Paris and Berlin which preferred a containment strategy rather than involvement in diplomatic talks to solve the issues, confirming the need for Iran to look for the future at the eastern side, such as towards China, India, and Russia. For instance, on the economic side, the countries of the European Union were the first trade partners of Iran, but since the imposition of sanctions, China has become the

¹⁴⁰ *European External Action Service*, “Remarks by HR/VP Mogherini following a Ministerial Meeting of E3/EU+2 and Iran”, (24 September 2018) <https://eeas.europa.eu/headquarters/headquarters-homepage/51040/remarks-hrvp-mogherini-following-ministerial-meeting-e3eu-2-and-iran_en>

¹⁴¹ Facilitation is a form of mediation. The facilitator has a soft role based on creating a channel of communication among disputing parties, focusing on ensuring continued discussion and dialogue. Facilitative mediation is based on a strategy that helps the actors correctly identify agreements within the overlapping range of possible nonviolent outcomes (the ZOPA). To make contact with parties, gain the trust and confidence of the parties, arrange for interactions between the parties, identify issues and interests, clarify situation, develop a rapport with parties, supply missing information, develop a framework for understanding, encourage meaningful communication, offer positive evaluations, allow the interests of all parties to be discussed.

Diehl, P. F., & Greig, J. M. (2012). *International Mediation*. Polity Press.

¹⁴² Vaez, A. (2021). The effect of US sanctions on Iran was global – and a global effort must end them. *The Guardian* <<https://www.theguardian.com/commentisfree/2021/jan/22/effect-us-sanctions-iran-global-effort-end>>

first importer from Iran in the energy sector and almost the only buyer of Iranian oil since November 2018 (as well as first importer of other products to the IRI).¹⁴³

What are then, the first steps to be taken towards a full return to compliance? Ideally, were to be Iran in favour of a full return to the deal, the three European countries with the Union should collaborate with the Iranian Republic and the IAEA to develop a clear roadmap for Iran to return to full compliance within the JCPOA. This would mean to develop a timetable for the dismantling of surplus centrifuge cascades and blending down or sending out enriched uranium stockpiles in excess. On the other side, Europe should take action to reverse the economic harm inflicted by US sanctions, which deny Tehran the economic relief that the JCPOA was originally meant to provide. This might be accomplished by collaborating with the business section to support Iran's trade sector. Although the US sanctions were unilateral, they had a global impact. By giving to the business sector the certainty and support needed to operate with the Iranian market, without the fear of retaliation, in the event of sanctions relief this would represent a vital step toward the economic benefit for all the parties. In exchange, as a positive step of the Islamic Republic of Iran towards mutual reconciliation with the US, the UK and the other countries, there could be the release of foreign individuals detained due to questionable political reasons.¹⁴⁴

In occasion of the first indirect encounter among the parties in Vienna in spring 2021, the representatives had the chance to finalize a series of measures on both sides to bring them back into compliance with the deal. The next step would be that of arranging them in a way that allows all the actors to save face¹⁴⁵. This implies the difficult process of sorting out and agreeing to remove or soften some of the sanctions set by former President Donald Trump in 2018 to ensure that the 2015 pact could never be restored, as we have already seen above.

In the end, the future of EU-Iran relations will depend on the credibility of the commitments taken by both the parts¹⁴⁶. Nathalie Tocci, Special Adviser to EU High Representative Federica Mogherini and Josep Borrell, stated that to go back to the deal

¹⁴³ Borsatti, L. (2021). *L'Iran al tempo di Biden*. Castelvecchi Editore. pp. 88.

¹⁴⁴ Ibidem.

¹⁴⁵ *Saving face* in the diplomatic sector is “a shorthand for status and reputation, and as a technique for defusing militarized inter-state crisis, without, however, an explanation of its source and repertoire”. From Nair, D. (2019) Saving face in diplomacy: A political sociology of face-to-face interactions in the Association of Southeast Asian Nations, *European Journal of International Relations*, vol. 25, no. 3, pp. 672–697.

¹⁴⁶ From the words of Peiman Seadat, Director General for Western Europe of the Iranian Foreign Ministry.

and to later make of it a platform for further negotiations, it is fundamental to recover mutual trust, especially the Iranian one towards the West. In this framework, the EU, even more than the E3, has to put forward its added value since Iran used to look up to it. The EU has a certain power for being an institution with negotiation experience, and the coherence that allows it to fulfil an important facilitation role to be exploited.

In conclusion, the story of the nuclear deal between Europe and Iran started with perseverance, trust and achievement but continued with frustration and powerlessness, with a dash of persistence. The E3/EU focused at the beginning on conflict prevention, developing consensus within the IAEA and the UNSC, and eventually forging transatlantic approval. But during the Trump administration their power was essentially damage limitation. From this we gather that even though their impact is necessarily going to be dependent on external variables and actors, the EU does not need to be entirely autonomous to have an impact. The JCPOA case is an unequivocal statement of Europe's status as a security player on second position, albeit one that is not ineffective.

3.6. How realistic is a “JCPOA plus”?

After the exploration of the possibilities of development in this path towards the revival of the nuclear file, in this paragraph we are going to see the other face of the possible evolution of current negotiations: which is the enlargement of the 2015 JCPOA.

First, it is important to note that despite being considered a milestone for diplomacy and having been feasible and acceptable by all the parties for some years, the Joint Comprehensive Plan of Action presents some shortcomings. It is not as “comprehensive” as the name would suggest. Indeed, it lacks the consideration of some of the issues concerning Iran, such as its role as a player in the region. As soon as economic sanctions are lifted, Iran could fund without limitations any revolutionary actor or terroristic group in the area. Iran is known for supporting conflicts in Syria, Yemen, Iraq and elsewhere in the Middle East. Or again, the 2015 deal does not consider at all the lack of respect for Human Rights and fundamental values within the country¹⁴⁷. Not only, the main issue is the fact that it controls the capacity of Iran of acquiring nuclear material, but it almost ignores the country’s ballistic missile programme. These are some of the reasons why US supporters welcomed Trump’s withdrawal in 2018.

¹⁴⁷ Haass, R.N. (2015, April 5). Tutti i dubbi sull’intesa con l’Iran, *La Stampa*, p.21

All these issues in 2015 were kept separated from the main agreement for the sake of reaching one, and a feasible one, but are all problems that concern the local neighbours and the international community and represent a reason for concern. They were put aside, but there is still the need to tackle them, in fact, ideas of a more comprehensive deal, the so-called “JCPOA plus” or “JCPOA 2.0”, have arisen.

The Foreign Minister of Bahrain, Abdul Latif bin Rashid al-Zayani, stated that any amendment to the 2015 Iran nuclear deal should include the issues that have produced concerns in the region. Nonetheless, the possibility of inclusion in the next round of talks other aspects concerning Iran, but that at the same time have nothing to do with the deal signed in 2015, could even put in jeopardy the entire process.

From Western countries there is a belief that it may not be advisable to get to the table once again to work for reinstating compliance for the previous deal, but rather drafting a new sui generis deal, taking into consideration the other issues that the situation entails, i.e., the problem of Iranian ballistic missiles and the regional policy. President Biden himself declared so at the 2021 Virtual Munich Security Conference held on February 19th, the G7 Summit¹⁴⁸:

“The nuclear deal was always meant to be the beginning, not the end, of our diplomacy with Iran. Democrats support a comprehensive diplomatic effort to extend constraints on Iran’s nuclear program and address Iran’s other threatening activities, including its regional aggression, ballistic missile program, and domestic repression.”¹⁴⁹

From the Iranian point of view, a broader agreement is definitely not the ideal option. With the election of Joe Biden at the White House, Iran hoped to smoothly go back to the original deal with no major implications. Iranians are not willing to negotiate on specific issues, that we will better explore below. For instance, the Iranian leadership affirmed that the missiles issue is non-negotiable, but this does not entirely close the doors for negotiation. Let’s for instance consider their declaration about the non-negotiability of uranium enrichment at the beginning of 2000s that evolved later into the signing of the 2015 deal with its limits. We can therefore assume that the missiles issue has some space of negotiation for Iran, as long as it does not transform into a complete waiver.

¹⁴⁸ From the remarks by President Biden at the 2021 Virtual Munich Security Conference: “*That’s why we have said we’re prepared to reengage in negotiations with the P5+1 on Iran’s nuclear program. We must also address Iran’s destabilizing activities across the Middle East, and we’re going to work in close cooperation with our European and other partners as we proceed. We’ll also work together to lock down fissile and radiological material to prevent terrorist groups from acquiring or using them.*”

<<https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/19/remarks-by-president-biden-at-the-2021-virtual-munich-security-conference/>>

¹⁴⁹ President Joe Biden, Democratic Party Platform in July 2020.

Although returning to compliance with the agreement is an urgent matter, Biden also believes in the upgrading of the same, in a "longer and stronger agreement". In future months, an evolution of these events is likely going to happen, probably starting with the return to the 2015 nuclear deal as a starting point. The difficulty will be to see the Islamic Republic of Iran willing to come to terms with those *other threatening activities* that worry the international community. Joe Biden hopes to continue his plan by persuading Ayatollah Khamenei to come to terms, find a solution that solves these issues, in exchange for lifting once again American economic sanctions towards Iran.

Even the three European partners, the E3, which are the traditional conciliators of this narrative, over recent times have moved towards a more impatient stance towards Iran, after the protracting of its activities in the area and in European soil too. If on one side, the country showed compliance for quite some time after the signature, on the other, Iran has never ceased to intervene in its proxy wars, in terrorist attacks, up to the recent threat to enrich uranium as high as 60 percent and therefore putting an end to compliance, all of this as a bargaining mechanism.

In April 2021 in Vienna, the start of a new round of talks has opened to the possibility and hope of the parties of getting closer to a new positive step for the JCPOA in this difficult diplomatic road. Nonetheless, even though it seems that all the parts are willingly working for a successful outcome, the situation is not easy nor smooth.

After the American unilateral exit at the hands of President Donald Trump on May 8, 2018, the US seems once again interested to be part of the deal. Robert Malley, who was an important player in the negotiations of 2015, is the author of a calibrated road map for the negotiation with the IRI based on a perspective that now the Biden team seems intentioned to embrace¹⁵⁰.

The negotiations will have to lead to a new formula that is mutually embraced by the actors in order to fully implement it at a later stage, and one that will allow for the re-establishment of mutual trust. The American side has questioned whether the Iranian regime is willing to return to compliance, that is to respect all the limitations imposed by the agreement. There is the possibility that the Iranian tactic is based on the removal of non-nuclear sanctions from the US first and the assurance of it before any action is taken

¹⁵⁰ Gardner, D. (February 2021). New Iran envoy shows Biden is serious about reviving nuclear deal, *Financial Times*. <<https://www.ft.com/content/eae24633-844a-4bb5-b5a9-28deead96ab7>>

by the IRI, in order to have a better outcome for Iran with respect to what was achieved in 2015.

Tehran is waiting for a negotiated solution that in its view would be represented by the US re-entering the scene and reducing sanctions, as well as some degree of recognition by the international community. Nonetheless, the internal economic situation in Iran and the general isolation could favour the American side: the IRI is in such a weak position that they could be able to force into the deal the issue of ballistic missiles and their influence in the region through the work of Shiite militias.

The mere reintroduction and return to compliance of the first deal signed under the Obama presidency is not sufficient, as of today. To prevent an escalation of the current crisis and improvement of the situation, an expansion of the subjects under negotiation is important. Nonetheless, according to research analyst for non-proliferation and nuclear policy John Krzyzaniak, the prospect of deepening the original deal rather than broadening it with new issues might complicate the current scenario. Indeed, he believes the US should build on the extension of nuclear restrictions such as the sunset clauses. To have nuclear diplomacy be related with missiles or the Iranian support for proxy groups is possible, but these should be included in different tracks because having all of this mixed into one single deal might make it difficult to have then a definitive “JCPOA plus” accepted and ratified by all the parties.¹⁵¹

Many international powers distrust the Iranian regime, considering the previous agreement not enough to deal with the Islamic Republic, but this “JCPOA plus”, a new enlarged agreement that in addition to the previous points on the enrichment sector, would also aim to limit Iran’s missile program and put an end to the country’s support for proxy forces in the region, would probably take many years to be accomplished and is still unclear whether it would actually solve the issues at stake.

3.6.1. Follow-on issues after a return to the original deal

As previously stated, there are some specific issues not mentioned in the JCPOA, that the actors involved, and neighbouring countries would like to see tackled in a new comprehensive deal in this follow-on diplomatic attempt. Iran's expanding stockpile of ballistic missiles and destabilizing operations across the region, as well as concrete

¹⁵¹ Nouwens, M., Krzyzaniak, J. & Wright, T. (2021) Reviving the Iran nuclear deal: prospects and challenges. *The International Institute for Strategic Studies*. Podcast, episode 69 Sounds Strategic <<https://www.iiss.org/blogs/podcast/2021/04/iran-nuclear-deal-missiles>>

actions to make important elements of the JCPOA permanent, are among the items on the agenda.

Nonetheless, the issue of the ballistic missiles is mentioned instead in the UN Resolution 2231 (2015) where in paragraph 3 of Annex B: Declaration, Iran is “*called upon not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology*” to be applied until October 2023 or until when the IAEA submits a report confirming the Broader Conclusion, whichever happens earlier.

This resolution raised the issue of missiles being able to carry nuclear warheads, but their missiles are not designed for this specific purpose and should have a defensive nature.

Indeed, Iran’s ballistic and cruise missile programme is extensive, growing and it continues to gather pace in both qualitative and quantitative development. Its missile capabilities are growing in terms of numbers, range, accuracy because this is part of their strategic terrain. It is the largest missile arsenal in the region, consisting of close-range, short-range and medium-range ballistic missiles (which can reach a target up to 2 thousand kilometres far), hence affecting the entire middle East region and maybe also the southern part of the European continent.

There is then the tendency of connecting this project with the JCPOA, but Iran lacks ICBMs (Intercontinental Ballistic Missiles), that is a nuclear-weapons-carrying missile with a minimum range of 5,500 kilometres¹⁵². The only countries with operational ICBMs are India, Russia, the United States, China, and France.

Behind this increasing development and investment of resources, Iran has a strategy in mind. The access to conventional arms was blocked by the UN arms embargo¹⁵³ (2007-2020) and pushed Iran to purchase a lot of military equipment from Russia and China. Moreover, this sector was a way to asymmetrically project its power in the region (mainly against Saudi Arabia, UAE, Israel). Iran’s nuclear and ballistic missile programmes are

¹⁵² Potentially, space launch vehicles that the IRGC is using, could be modified to be able to carry warheads in the future.

Nouwens, M., Krzyzaniak, J. & Wright, T. (2021) Reviving the Iran nuclear deal: prospects and challenges. *The International Institute for Strategic Studies*. Podcast, episode 69 Sounds Strategic <<https://www.iiss.org/blogs/podcast/2021/04/iran-nuclear-deal-missiles>>

¹⁵³ For more information refer to website “UN arms embargo on Iran”, Stockholm International Peace Research Institute. Last Accessed January 25, 2022. <https://www.sipri.org/databases/embargoes/un_arms_embargoes/iran>

not therefore intrinsically linked, as not all Iranian missiles are designed to be nuclear-capable.¹⁵⁴

Iran might be close to obtaining a nuclear weapon. Still, there are different phases that separate Iran from becoming a full nuclear state: one of them is the capacity of construction of missile carriers capable of transporting the bomb to the target. Another one is the political will of building an atomic weapon, that at the moment does not seem the case of the Iranian leadership. It is also important to remember that Iran considers its missile sector to be its best source of defence and the necessary mean to exert strategic pressure against Israel and unfriendly Gulf Arab countries. For this reason, it has always regarded it as too important for its survival to be negotiated with western powers.¹⁵⁵ The two programmes are really different and the IRI has never regarded its nuclear sector as important as the missile one, since the former is not a key piece of their defence. Therefore, how realistic is it to expect Iran to limit its missile programme in the near future?¹⁵⁶

Everything that Iran is doing goes back to the idea of deterring attacks by having the capability, technology, and knowledge. The history for Iran is important: as we have previously mentioned, the Iran-Iraq war represents the moment in which Iran decided to start this missile programme because they needed a way to respond to the Iraqi attacks. By having certain capabilities, they are able to deter completely the external attacks.

There is the other issue under the interests of western actors: Iran is internationally accused of supporting and financing proxies and attacks to Sunni Muslims in Syria and Iraq. The country gives support to Shiite militias in the entire Middle East region as well

¹⁵⁴ Fitzpatrick, M., Elleman, M., Izewicz, P., & International Institute for Strategic Studies, (2019). *Uncertain future: The JCPOA and Iran's nuclear missile programmes*. Vol. 466-467, Adelphi (Series), Routledge

¹⁵⁵ In the historic memory of the country lies the remembrance of the Iran-Iraq war of the Eighties (1980-1988) when Tehran was not strong enough to respond to the repeated Iraqi attacks against civilians and cities. After the revolution of 1979, the IRI had abandoned the plans of the Shah to equip the country with ballistic missiles and when the leadership finally decided to get them, they had difficulties in finding the adequate resources. The war taught the Iranian leadership about the importance of having an independent arsenal from foreign help and missiles were the best option for defence from foreign attacks. From then on, Iran has been able to develop a considerable missile capability, the greatest in the Middle East, able to attack from a considerable distance without having nuclear capability.

Taremi, K. (2005). Beyond the Axis of Evil: Ballistic Missiles in Iran's Military Thinking. *Security Dialogue*, vol. 36, n. 1, pp. 93-108. <<http://www.jstor.org/stable/26298900>>

¹⁵⁶ The Iranian leadership has declared their ballistic missile programme is non-negotiable. If we make a comparison with the US-Russian front, the American government has as well repeatedly stated that their missile programme is non-negotiable. In the same way, the Americans would not think of limiting or scrapping their military defence since missiles are an important tool, and we can easily make a parallel with the Iranian case.

as to terrorist groups' attacks and interventions also in Lebanon and Palestine, along with other types of support to opposition groups in Europe, US, and Latin America. Tehran is providing help with the provision of missiles and other weapons not only to the Houthi rebels in Yemen (for which the IRI denies such provision), against the military coalition guided by Saudi Arabia, but also to Hezbollah in Lebanon, to the pro-Iranian forces in Iraq and to the Syrian army of President Bashar Al-Assad.

For western countries to be able to reach an agreement with Iran on the regional and missile questions, the allies have to make reciprocal concessions to alleviate the Iranian perception of having its security and survival threatened, as we have mentioned and explained in the first chapter of this thesis. Only in this case, Iran would be willing to make concessions on the allied militias and on proxy wars in Syria and Yemen, even though comparatively, the other situations in Iraq and Lebanon give Tehran a much lesser space of action.

3.7. Iranian domestic politics

In this part of the work, we are going to closely analyse the counterpart in the deal: the Iranian government and its internal political set up, to understand what the current opportunities and probabilities for the country are as regards the nuclear field.

The Islamic Republic of Iran is willing to revive the deal because it stands to gain a lot economically and geopolitically in the long run while giving up very little tactically. Tehran was strongly weakened by the economic crisis, by the “maximum pressure” sanctions and the general isolation that has pushed the country to a situation of need of a new agreement at almost all costs. The elimination of sanctions would greatly improve the country's economic and geopolitical conditions. Direct and indirect financial pressure from the US has pushed Iran towards dependency on a series of trading partners, such as China. Therefore, as long as sanctions on Iran and secondary sanctions on its trading partners are in place, the country remains economically vulnerable and is forced to rely on those partners willing to breach Washington's decisions. Therefore, the lift of sanctions as a result of the nuclear deal revival, particularly banking limitations, is essential to restore Iranian's economic independence.

The Iranian nuclear deal was a non-proliferation pact aimed at curbing Tehran's nuclear ambitions. Its restrictions may have seemed onerous in 2015, but times have changed,

and Iran now stands to gain far more than it stands to lose by adhering to the accord's limits.

Beforehand, the IRI has made significant progress in its nuclear program. As a result of the US withdrawal from the accord, Iran became free of pursuing higher levels of uranium enrichment.

In 2019, Tehran breached the JCPOA exceeding the low-enriched uranium stockpile limit, and in January 2020, it stopped its compliance towards enrichment. Later, in December 2020, the bill passed by the Iranian Majlis allowed for the Rouhani government to take some steps that otherwise would have seemed somewhat provocative. The bill mandated the new enrichment at 20 percent and the suspension of the Additional Protocol. But these steps from the American perspective, looked like the acquisition of new leverage to play in negotiations and the complication of the diplomatic attempt. The country has now attained a level of 63 percent enrichment, which is still short of the 90 percent required for weapons capability that the country firmly claims it does not aim.¹⁵⁷ The current negotiation process entails gradual series of meetings that eventually will lead to an increasing engagement between the US and Iran, possibly leading to the relaxation of certain limitations to give the first signal in expectation of a counter-reaction. Iran has demanded that the nuclear agreement be reinstated and "implemented word by word". However, in practice, it has demonstrated a lot of flexibility. Following the Supreme Leader Ayatollah Ali Khamenei's lead, a prominent member of Iran's parliament claimed that new negotiations will finally result in "a fresh and binding accord". Benefitting from the transition of administration for both leading countries, the diplomatic path to a more robust accord between the US and Iran is open, a deal that may be broadened in scope as we have already seen, but most of all a deal that will hopefully be strengthened by a renewed trust and confidence among them.

The IRI is a country internally divided. It has always been so since its foundation in 1979. It is characterised by tensions between the president, who leads the elected government, and the supreme leader, who leads the state institutions that represent the revolutionary

¹⁵⁷ Choksy, J. K. & Choksy, C. E. B. (May 25, 2021). Iran Needs the Nuclear Deal to Keep Russia and China at Bay: Geopolitical Gains Will Last Longer Than Military Concessions, *Foreign Affairs*, <<https://www.foreignaffairs.com/articles/iran/2021-05-25/iran-needs-nuclear-deal-keep-russia-and-china-bay>>

Islamist beliefs of modern Iran¹⁵⁸. According to the political standards of the country, the recent presidents of Iran cannot be strictly considered as radical. But based on their views and choice of internal and foreign policies, the supreme leader (including the IRGC) always considered them to be secular, liberal, anti-revolutionary, and subversive. Therefore, we understand the continuous attempt to contain and control the elected government. This situation may have taken a different path with the recent election of conservative President Ebrahim Raisi on August 3, 2021.

In the year previous to the presidential elections of June 2021, Iran found itself in a mutated political context in terms of representation within the parliamentary assembly, with a more consistent group of conservatives, in turn themselves internally divided and heterogeneous. Radical exponents of the conservative faction have been manifesting a strong dissent for the possible revival of the deal: according to them, Trump's decision to abandon it demonstrates the impossibility to trust again the United States and that Iran should pursue its nuclear programme in order to obtain the status and diplomatic prestige typical of those belonging to the "nuclear club". Most of all, they manifest the need for Iran to obtain that invincible shield against any enemy's attack.

Therefore, towards the end of the Rouhani presidency, there was no rush from the conservative part of the Iranian Majlis to get closer to the United States and conclude a first deal, before the electoral vote of June 18, 2021, in opposition to the reformist government of Hassan Rouhani and the Minister of Foreign Affairs Mohammad Javad Zarif. Indeed, former President Rouhani endorsed a return to the deal next to the United States for a prompt removal of sanctions and the improvement of the Iranian economy, hence the wellbeing of the population. On the other side, the goal of the conservative party in parliament was to deprive consensus around the moderates of Rouhani and their great international diplomatic accomplishment of 2015. Hardliners in Iran tried to prevent the revival of the deal before the new government not because they did not want to revive the deal at all, but because of the need to receive credit for going back into the agreement and favouring the sanctions removal¹⁵⁹.

¹⁵⁸ Ali Khamenei, the current supreme leader, was president of Iran from 1981 to 1989. During his presidency, he clashed with the supreme leader of the time, Ruhollah Khomeini, the charismatic cleric who led the Iranian Revolution. Khamenei was named supreme leader after the death of Khomeini in 1989, and he went on to face a lengthy succession of presidents who were more moderate than himself. Tabaar, M. A. (2021). Iran's War Within, *Foreign Affairs*.
<<https://www.foreignaffairs.com/articles/iran/2021-08-05/irans-war-within-ebrahim-raisi>>

¹⁵⁹ Nouwens, M., Krzyzaniak, J. & Wright, T. (2021) Reviving the Iran nuclear deal: prospects and challenges. *The International Institute for Strategic Studies*. Podcast, episode 69 Sounds Strategic, min 10. <<https://www.iiss.org/blogs/podcast/2021/04/iran-nuclear-deal-missiles>>

The current more conservative leadership after the elections of 2021 and the official appointment of Ebrahim Raisi¹⁶⁰ could maintain a more maximalist position towards the deal, complicating the good outcome of negotiations. Even though Raisi, representative of the conservative side, is in favour of the revival of the nuclear deal, he is for sure less open to dialogue with the West and less open to processes of political, civil, and social reform. His election had repercussions not only on the internal establishment but also at the international level, on the regional position of the country. A renewed moderate reformist leadership would have instead probably pointed towards a more similar policy to the one of previous President Rouhani.

Ebrahim Raisi is a loyal functionary of Iran's theocratic system and supporter of the power of the supreme leader. These elements could lead Iran to a new political phase free from internal major divisions leaving space now for more cohesion and assertiveness in shaping the regional agenda. The outcome of these elections could inevitably lead the country to a strengthened nationalism based on Shiite and anti-American ideologies to project the power across the Middle East region. The new foreign policy team might probably put aside previous attempts of rapprochement with Western powers in favour of strategic relationships with China and Russia, even though it is possible there will be compromise on the nuclear issue to alleviate the country's rising economic difficulties. In Iran, the challenges provided by socioeconomic deprivation can lead to discontent, but in a limited way, as the IRI has always provided economic assistance to the poorest members of society. To prevent dissent from reaching a critical level, the political elite is also known to provide social and cultural help, maintaining a certain level of cohesion. This, combined with reliance on trade exchanges with the East and some regional neighbours, can preserve the Islamic Republic's existence regardless of the US "maximum pressure" campaign¹⁶¹.

It is important to notice the appointment by the new president of Bagheri Kani as the new head of the Iranian delegation for the negotiations: Kani¹⁶² is one of the two Iranian

¹⁶⁰ Raisi was sanctioned by the Trump administration in 2019, but he denied charges that he oversaw judicial abuses, claiming that his record demonstrated that he was a "defender" of human rights, one of the issues of the IRI at hear for the western powers.

¹⁶¹ Tabatabai, A. (2019). Back to crisis mode: Iran's quest to manage internal crises and external pressures, *IAI*, chapter 1, p. 36. <<https://www.iai.it/sites/default/files/9788833652214.pdf>>

¹⁶² Ali Bagheri Kani, the new head of the delegation, is also the current political deputy at the Ministry of Foreign Affairs of Iran. He was Deputy Secretary of Iran's Supreme National Security Council from 2007 to 2013 and he is currently an advisor to the council.

diplomats that criticize most the JCPOA, together with Saeed Jalili who has been covering these negotiations since the period of Ahmadinejad.

The relationship between the United States and Iran will be centred on immediate security concerns. Tehran will no longer be so receptive to the prospect of a deeper rapprochement and the window of opportunity for the two countries to strike a "great bargain" is increasingly closing down. Moreover, it is now in the Iranian interest to maintain the talks open as long as possible, to benefit from the accumulation of know-how and stockage of enriched uranium, to arrive, in the meantime, at the negotiating table increasingly stronger and confident with a higher leveraging power.

While as regards the regional policy there could be some level of negotiating power, for the missiles program there might not be. The missiles issue represents a problem since it would create an obstacle for that part of leadership in Iran that is more intransigent and connected to the military component and the Islamic Revolutionary Guard Corps. This will for sure jeopardize or prolong the diplomatic process. Since the opening of a possible rapprochement between the Iranian leadership with the international community, the internal polity of the IRI, in a continuous competition among the different blocs, has challenged it in a way that could even put in jeopardy diplomatic attempts on the issue of the nuclear programme. In fact, attempts of rapprochement were frequently put at risk and this "internal rivalry posed a challenge to the international community in establishing interlocutors in a dialogue that is sufficiently inclusive of the spectrum of political views in Tehran"¹⁶³.

President Raisi, who is widely perceived to have been backed by Ayatollah Ali Khamenei, the supreme leader who determines any decision on major foreign policy issues, insisted that Iran's support for militant groups across the region and the development of its missile programme were "not negotiable". On the other side, the Biden administration faces internal pressure as well as from Israel and its Arab partners, Saudi Arabia and the United Arab Emirates, to expand any agreement with Iran to include these issues, since they believe that Tehran destabilises the region and threatens their security. Iran counters that its support for militias and its missile arsenal are vital deterrents. In the first chapter of this thesis, we have explored the reason of deterrence behind the Iranian will of developing an enrichment programme. Nonetheless, this current inability of the Iranian leadership to choose a unified and strong strategic way in the nuclear field might

¹⁶³ Krause, J. (ed.) (2012). *Iran's Nuclear Programme*. Taylor and Francis. Chapter 1. <<https://www.perlego.com/book/716636/>>

be the symptom of unclarity whether their programme has a deterrent or bargaining goal in view of the negotiations, or whether it is an object to reach regional hegemony and the pride of regime legitimacy.

We know that the Iranian system is highly complex and does not solely depend on the President of the Republic. There are many elements that contribute to the decision-making process, such as the office of the Supreme Leader, and the pasdaran. The presidency of the Republic is not even the most powerful branch of power; nonetheless, through the presidency a specific orientation is expressed. The new President of Iran Ebrahim Raisi, a conservative cleric and judiciary chief, signalled that his government would have taken a tougher line in the negotiations. After his victory at the polls, he delivered hardliners full control over all arms of the state and according to him, his government would not “negotiate for the sake of negotiations” avoiding any meeting with the US President.¹⁶⁴

Iran is asking now for a deal that will bind the Biden Administration for some time and beyond. Indeed, in the event of accomplishment of a new plan, the high-hanging fruit will be that of maintaining that deal alive even in future American administrations, a mechanism of commitment to prevent for a specific period of time any future “new Trumpian government” from withdrawing again.

Moreover, over these recent years of confrontation and pressure from Washington, the IRI has found protection in other partners: both Russia and China have represented Iran's principal security guarantor, military partner, and material supplier. They have used their UN Security Council veto power and persuasiveness to safeguard Iran from US demands. Moreover, Moscow and Beijing have spoken out against Washington's demand that Iran accept nuclear deal upgrades as a condition for re-entry.

Even though Raisi aims for a new phase for his country where it does not depend on other actors, a resilient country to external sanctions or threats, this leadership could lead nonetheless to the strengthening of those relationship with Eurasia, China and Russia, in opposition to the west, especially for economic reasons. The punitive measures crippled the ability to export oil, the state's key source of hard currency, and pushed inflation above 46 percent (2021) as the Rial plummeted, a stark increase since the 10 percent

¹⁶⁴ Bozorgmehr, N. & England, A. (2021) Iran's president-elect Ebrahim Raisi signals tough line on nuclear deal, *Financial Times*. <<https://www.ft.com/content/1e257cb9-da14-4ebf-9bea-869f64918273>>

inflation of May 2018, the month in which Trump decided to abandon the deal. The recession has been exacerbated by the Coronavirus crisis.

For instance, Iran and China have developed an idea that started in 2016 when the deal was still correctly functioning. On March 27, 2021, the two countries represented by Ministers Javad Zarif and Wang Yi, have signed a 25-year agreement covering 400 billion dollars of investments as well as military cooperation (“the Iran-China 25-year Cooperation Program” or “Comprehensive Strategic Partnership between I.R. Iran, P.R. China”). With the unexpected crisis of raw materials and the increased price of energy, Iran was able to exploit the situation and due to sanctioning, with a cheaper price of oil, this has led to an increased selling of oil to China together with a renewed relationship between the two countries. China has reaffirmed its strong opposition to US unilateral sanctions against Iran, considering them illegal, with the clear critique to the American political involvement in the internal affairs of the IRI and other middle eastern countries, while favouring at the same time the relaunch of the nuclear deal.

This relationship is evolving by the hour. In a recent meeting in January 2022 between new Iranian Minister of Foreign Affairs Hossein Amir-Abollahian and Wang Yi, in the city of Wuxi in the Chinese Jiangsu region, the 25-year strategic cooperation agreement has been renewed. This entails the economic, military and security cooperation among the two powers.¹⁶⁵

The idea of this new relationship will not endanger the possible rapprochement of Iran with western powers or their inclusion in the nuclear deal. Moreover, the IRI since the revolution of 1979 has chosen not to side solely with the east nor the west in order to prevent any continued dependency from either side.

3.7.1 Public opinion in Iran

Towards the end of this work, it is relevant and interesting to consider directly also the Iranian public opinion regarding the nuclear deal and the current US administration.

First of all, it is evident that Iranian public opinion has welcomed the arrival of President Biden at the White House but after the previous experience it has much less expectations of concessions. It is in the Iranian interest to go back in full compliance, but only after or

¹⁶⁵ It is clear that the Republic of China is increasingly getting closer to this region, improving relationships and strategic cooperation with local governments in view of the gradual American disengagement in the area.

Trinchese, F.M. (2022) La Cina intensifica i suoi sforzi in Medio Oriente, a partire dall'Iran. *Eastwest.eu* <<https://eastwest.eu/it/cina-iran-accordo-di-cooperazione/>>

simultaneously to the US return to compliance and obligations. The information below comes from a thorough study of the *Center for International and Security Studies at Maryland University (CISSM)* together with IranPoll, a Toronto-based organization.¹⁶⁶

The study has highlighted different outcomes and provides a different point of view from what we have understood so far. Despite all of the hardships the Iranian people have faced, the results reflect a cautious willingness to give the US and the other world powers another chance to show the Iranian people that diplomacy and engagement can generate mutual benefits.

When Iranian were asked about the change in the American administration, with the arrival of President Biden they expressed better expectation for the relations with the United States now, to be less hostile than during the Trump administration. When asked to rank the policies of the US president, the average mark (from 0 to 10) for President Trump was close to zero, differently from the expected policies of Biden, close to 3, even though not so high but more positive. At the beginning of 2021 there was a substantial increase in the confidence that the US will fulfil its duties if it re-joins the JCPOA, with respect to the previous year, before the American elections.

As regards the impact of sanctions, nearly half of the Iranians interviewed say US sanctions have had a "significant negative impact," and more than four in five say sanctions have had a negative impact "on ordinary people's lives." These figures are nearly unchanged from 2019.

Lifting some of the sanctions against Iran that were trademarks of Trump administration foreign policy would be one method to restore US-Iran relations and see whether a confidence-building process might be successful. In Figure 14 below there is a representation of the outcome of several options and questions presented to Iranians regarding the usefulness of certain sanctions towards the IRI and its population.

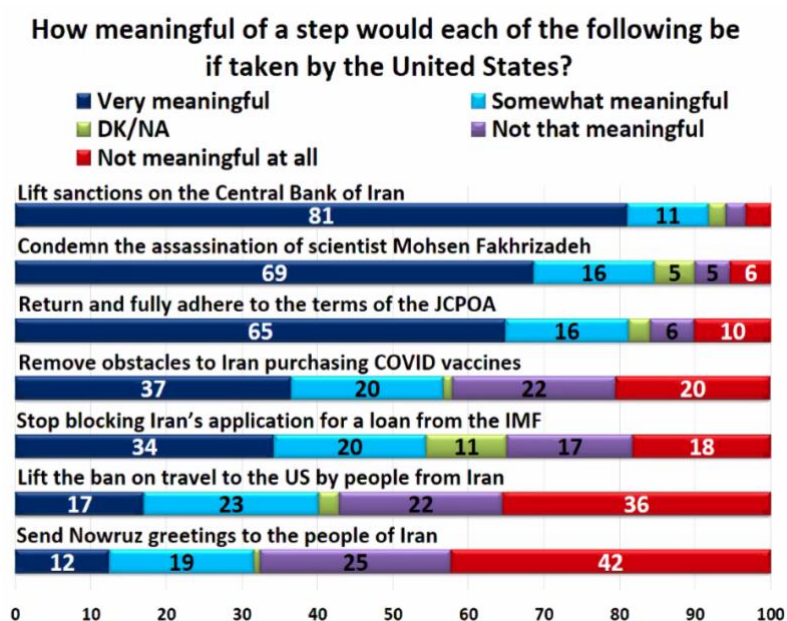
¹⁶⁶ This report covers findings from two surveys fielded in September, early October 2020 and late January through early February 2021. The interviews were collected via telephone calls on a sample of a thousand Iranians distributed on the entire territory

Gallagher, N., Mohseni, E., & Ramsay, C. (February 2021), Iranian Public Opinion, At the Start of the Biden Administration, *Center for International and Security Studies at Maryland University*, <https://cisssm.umd.edu/sites/default/files/2021-02/CISSM%20Iran%20PO%20full%20report%20-02242021_0.pdf>

To view the full survey questionnaire, visit <www.cisssm.umd.edu>.

Also refer to Borsatti, L. (2021). *L'Iran al tempo di Biden*. Roma: Castelvecchi Editore. pp. 84-85

Figure 14. Usefulness of specific actions by US



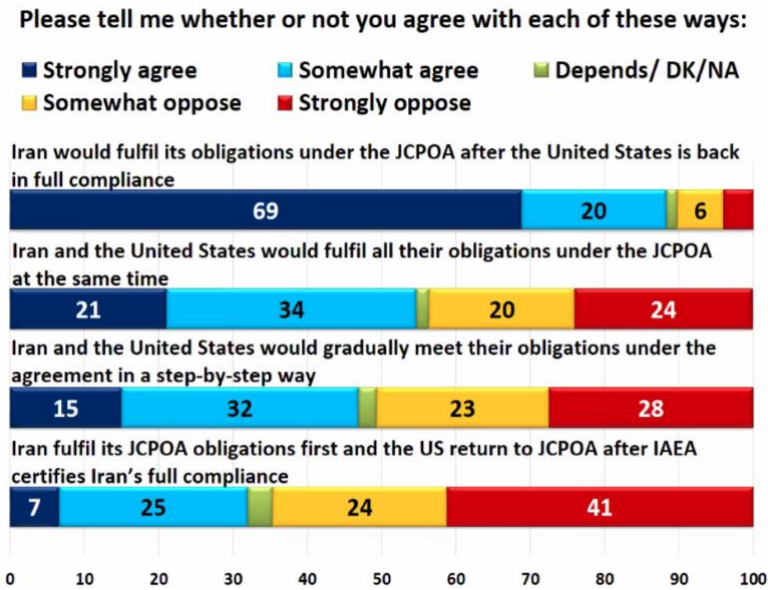
Source: Center For International And Security Studies At Maryland University

According to Nancy Gallagher, the director of the CISSM, the new American administration has to work to rebuild the trust of the Iranian population towards the United States before their leadership can consider more ambitious agreements. The experience with Trump was damaging for public opinion.

73% of the interviewed Iranians has claimed the new law of 2020 by the Majlis that gave higher limits for the nuclear programme against those of the JCPOA and fewer inspections, was positive, probably as a it represents a way to increase leverage against the United States and the other parties.

As regards the stalemate debate over the return to compliance, the majority of respondents would have been ready to see Iran back to the full compliance of the JCPOA, but only after or simultaneously to the US revival of its obligations in the deal. Precisely, 89 percent support a scenario in which the US returns to full compliance before Iran, while 65 percent oppose Iran fulfilling all of its nuclear obligations before the US returns to the agreement with the certification of the IAEA. A simultaneous restoration to full compliance is supported by 55 percent of respondents (compliance-for-compliance mode). In the case of a more complex formula characterized by a step-by-step approach where Iran would take some actions in exchange for some actions taken by the United States, until both fully return to the terms of the 2015 JCPOA, only 49 percent of respondents were in favour.

Figure 15. Return to compliance to the JCPOA



Source: Center For International And Security Studies At Maryland University

As regards the enlargement and deepening of the agreement instead, Iranians are in favour, but the US should demonstrate seriously its commitment for some years. The majority would favour new negotiations on other aspects only after some years from the full re-joining of the JCPOA by all members. In follow-on negotiations, there is now substantial opposition to modifying any of the JCPOA's provisions, with 85 percent unequivocally rejecting to cease uranium enrichment and 72 percent opposing making the JCPOA's sanctions against Iran permanent. This does not change for the demand to end ballistic missile testing in Iran but there is much more positive response in the limitation of the ballistic missile programme.

Moreover, according to the polls, only about four in ten think that if the US returned it would fulfil its obligations on the other side.

Iranians lack confidence also towards the compliance by the other countries involved in the deal; the most favourable view is the one towards Russia, since 2016. Unfortunately, the view about the role of the E3 governments is continuing to fall. Indeed, they have demonstrated to the Iranian side to be up to now unable to deliver on their part of the bargain. The perception is that it is always the Americans that have to make a move before the European countries can act, in this way reducing the influence and leverage that the E3/EU can have on this pact, without having the US on board.

We find here the confirmation of this feeling of mistrust by the Iranians towards western countries, something that could inevitably impair the development of negotiations.

It is positive that “an overwhelming majority supports creating a Middle East nuclear free zone that includes Islamic countries and Israel, and they support the goal of the NPT to eliminate all nuclear weapons”.

Looking at the poll trends we can therefore assess that there is some sort of support for regional dialogue regardless of the ongoing track between Iran and the US. The Iranian political leadership has continued to push for this regional dialogue. But all in all, it is the economic situation of the IRI that is driving their mostly bad perception of the US. Demonstrating that the US will reciprocate cooperation through the JCPOA, may make things possible in the future that at the moment are not possible. The Biden administration needs therefore to work to rebuild this trust before it is too late.

3.8. The Israeli variable

There is another element, aside from internal opposition in Iran and in the US, that has influenced the international scenario in this field and that could obstacle the good outcome of 2021 negotiations for the revival of the deal. This threat is represented by the State of Israel whose leadership has declared its willingness to block the current talks. Their fear is that these negotiations in Vienna between Iran and the international community might lead to a weaker deal that damages the national security of Israel. For this reason, Israel is increasingly considering an alternative military plan to destroy nuclear sites and the Iranian leadership. According to Ron Ben-Yishai, one of the most prominent Israeli analysts to write about military issues, at the end of negotiations Iran is going to obtain sanctions removal and benefit from free financial flow towards the country, but it will not stop the nuclear programme. According to the scenario envisioned by the analyst, they will instead strengthen this sector and their aggressive foreign policy. Iran will always be close to obtaining a nuclear weapon, by having the necessary technology and materials. This would be the further mistake of the current administration, more focused on the Russian and Chinese situations rather than the Middle East; an administration that wants to get increasingly detached from the region rather than dragged by the Israeli leadership into a conflict.¹⁶⁷

¹⁶⁷ Raineri, D. (2021). Israele chiede di ‘non cedere al ricatto dell’Iran’, c’è una spaccatura (per ora) con Biden, *Il Foglio quotidiano*, n. 283, p. 1.

As a third party, today Israel¹⁶⁸ is aware that the scenario has changed in 2021 with respect to 2015. Back then the goal was that of limiting uranium enrichment to produce the weapon by the Iranian engineers, but today Iran is too close to have the necessary tools at the right price to develop it. In 2015 the goal was that of keeping the IRI one year away from the bomb, but current declarations from the IAEA refer that Iran is supposedly one month away from the development of a nuclear bomb and negotiations are intended to last much longer.¹⁶⁹

Already in 2015, then Prime Minister Benjamin Netanyahu expressed his dissent towards the signed agreement. According to him, the deal was not enough to ensure that Iran did not reach nuclear capability; moreover, the lifting of sanctions would have consented Teheran to dispose enough economic resources to finance its own network of allies and militias.

On April 11, 2021, for instance, a cyber-attack caused a significant explosion within the Natanz nuclear site, whose blame was assigned to Israel. The attack took place in the same moment in which at Tel Aviv Prime Minister Netanyahu was meeting with US Defence Secretary Lloyd Austin, therefore it was interpreted as a clear sign sent by Israel to the United States. Tel Aviv's fear is that the Biden administration might just "settle" with the revival of the original JCPOA and put aside the goal of negotiating a subsequent wider deal that comprises also the Iranian missile programme and the sustain to armed militias in the region. Tel Aviv would also like an extension of the length of limitations imposed by the deal (the sunset clauses) and more rigid safety clauses.

President Biden sent completely different messages to Israel and Saudi Arabia, with respect to the behaviour of previous American administrations. Nonetheless, within Congress there are forces that sustain the Israeli request, including the 119 Republican members of the House of Representatives that have asked not to return to the JCPOA before solving the problems related to the Iranian missile programme and the support to terrorist militias in the region.

There are a series of concerns from the Israeli side concerning the Iranian situation, here listed in order of priority:

¹⁶⁸ Israel was the country that continued to propose solution *zero enrichment* for Iran: up until 2008 this strategy was shared even by the Bush administration. *Zero enrichment* means limits of uranium enrichment even lower than those allowed for peaceful civil use. Moreover, with these limits it gets impossible to make any centrifuge function. This proposal was abandoned because to get this accepted by Iran, without finding any diplomatic solution, would have required the United States to remain very involved in the Middle East scenario and contain potential responses from the Iranian side.

¹⁶⁹ Consulted in November 2021.

- 1) the nuclear programme;
- 2) Iranian policies in the Levant, especially in Syria and Lebanon;
- 3) Iran's support for Palestinian Islamic Jihad and Hamas.¹⁷⁰

The Israeli leadership is focusing on a *Plan B* as an alternative to the international diplomatic option in order to restore the 2015 nuclear deal. The deal is indeed considered by Israel as belonging to the past and to present it is non-binding. The message of Benjamin Gantz, Israeli Defence minister, makes reference to the ineffectiveness of giving concessions to Iran. But for President Biden and its foreign policy programme, the diplomatic way remains at the moment the only option on the table and the priority for the international community. Israel aims at stopping the nuclear programme in Iran to protect its primary status of being the only Middle Eastern state endowed with atomic armaments. For this reason, with or without the support of the US, Israel aims at creating, in an increasingly regional divided context, a coalition of Arab countries with common interests to push away the expansionistic aims of Tehran.

It is the duty of the new administration then, to propose cooperation with Israel on the shared concerns regarding Iran and make it clear that in case of refusal, Israel will be kept out of the American strategy for the sake of the diplomatic path.

3.9. The Gulf states and Iran from estrangement to engagement

We turn now to the middle eastern region. Before the Iranian revolution of 1979, Iran was the most powerful country here, under the power of the Shah, and it maintained good terms with its neighbours, such as the Kingdom of Saudi Arabia, as well as with the United States as we have already seen, and with Israel. Now the status quo after more than 40 years has changed both at the international and local level.

The United States in its pledge to revive the deal, is also considering the involvement in future talks of regional players. An effective multilateral agreement will need to be part of this scenario at a certain point. The US could sponsor and participate in a forum where regional actors, including Iran, are willing to discuss topics of mutual interest. For the US, this would represent a significant commitment on their part to employ diplomatic means to this end.

¹⁷⁰ Goldenberg, I., Ewers, C. E. & Kaleigh, T. (August 2020). Reengaging Iran, Middle East Security, *Center for a New American Security*. <<https://www.cnas.org/publications/reports/reengaging-iran>>

In recent years, Iran's Arab neighbours have become increasingly alarmed about the emboldened Iranian activity in the region, not just about its desire of nuclear capabilities but also its willingness to meddle in the internal affairs of vulnerable Arab states, in particular among the Shia populations. As regards the nuclear sector, this area is not yet particularly developed, but the nuclear confrontation has partially arrived here as well, on the other side of the Persian Gulf, always in light of the struggle for domination. Indeed, the United Arab Emirates holds now the first reactor in an Arab country and plans to build three more in the next years. Saudi Arabia aspires to develop a nuclear program without the non-proliferation restrictions that Abu Dhabi instead has committed to follow, and Riyadh has also stated that it will obtain "the bomb" as soon as Tehran does.¹⁷¹

Gulf states have been cooperating with the US and have strengthened security and defence cooperation with Washington, while at the same time preserving trade and diplomatic connections with Iran. But the approach of Arab governments to Iran has changed widely, and intra-Arab disagreements such as Qatar's persistent rejection of Saudi efforts to reach a common agreement on Iran, signal that a united front against Iran may be difficult to achieve.¹⁷² Not only, during the past years, particularly since the breakout of the intra-GCC crisis, during which Qatar was blockaded and pushed to focus on trade relations with Iran, the Saudi-led block used the Islamic Republic as a scapegoat for it and portrayed it as the main reason of security threat in the region.¹⁷³

The Middle East is the one region of the world where there is absence of an effective regional system of collective security. And it seems impossible to have here a system of collective defence since it is one the most difficult areas of the world and mother of so many conflicts, proxy wars and crises, but a solution might be the creation of a "cooperative security framework"¹⁷⁴. The ultimate goal should be to de-escalate regional tensions in the short-term while maintaining a process that could lead to long-term solutions. An open system, based on diplomacy, for all the countries of the area, which would not be aimed at opposing a specific country, but rather at developing a code of

¹⁷¹ Adebahr, C. (2021). Iran: Back to the Nuclear Deal? *ISPI*.

<<https://www.ispionline.it/en/publication/iran-back-nuclear-deal-32776>>

¹⁷² Kaye, D. D. & Lorber, E. (2012, March 14) Containing Iran: What Does It Mean?, *Middle East Policy*, Vol. 19, no. 1, p. 59

¹⁷³ I partially delved this issue in my former thesis, Agostini, S. (2019) "The impact of the Gulf crisis on the economy of Qatar", *IULM University*.

Zaccara, L. (2019). Iran and the Intra-GCC Crisis: Risks and Opportunities, *IAI – Foundation for European Progressive Studies*, <<https://www.iai.it/sites/default/files/iaip1911.pdf>>

¹⁷⁴ This is a framework in which security systems cooperate with each other to increase effectiveness of responding to network attack. This type of framework would foresee the identification of common challenges, the exchange of information, pragmatic cooperation.

conduct and a specific dialogue mechanism in order to implement it. Progression on this negotiating track would be far more difficult than progress on the nuclear track, thus the two might not develop at the same time.¹⁷⁵

A feasible framework among these actors should focus on pacific coexistence by implementing principles of non-interference in each other's domestic affairs: Iran and the GCC countries could agree to stop supporting violent actors and proxy attacks inside each other's territory.

Inside the discussions regarding the nuclear file, Iran has refused to cover the issue of limiting its missile arsenal and supply of missiles and rockets to its proxies (including its ballistic missile programme). The reason presented by the IRI was that the missiles are essential to its defensive military doctrine, especially given the Gulf States' overwhelming military advantage provided by the US and other arms suppliers. Iran seems not willing to negotiate on the missile issue since it is a matter of national security, but at the same time it welcomes the creation of a regional Forum to dialogue with its neighbours about any issue of regional interest. A possible agenda could prioritize ending Iranian missile exports to its regional proxies, particularly highly precise missiles and kits to Hezbollah and less precise missiles to the Houthis and Iraqi militias, in exchange of course for concessions or incentives from other governments in the region, which would be desirable to Iran.¹⁷⁶ This should be a clear area of focus for the GCC states to call for stricter enforcement of what is already an issue of agreement. The GCC states are already within range of Iran's short and medium range missiles, and this cannot be reversed, there is no roll back. They could hope still to make a difference in trying to limit the transfer of Iranian missiles and missile technology to non-state actors: the majority of the missiles that continue to target Saudi Arabia and neighboring countries, continue to be launched by armed non-state actors¹⁷⁷.

As regards instead the nuclear issue in the whole region, it would be ideal to allow regional players limited levels of local enrichment, but at the same time agreeing on extremely intrusive inspections and monitoring measures for all countries. These

¹⁷⁵ Goldenberg, I., Ewers, C. E. & Kaleigh, T. (August 2020). Reengaging Iran, Middle East Security, *Center for a New American Security*. <<https://www.cnas.org/publications/reports/reengaging-iran>>

¹⁷⁶ For a wider understanding of the issue, see Einhorn, R. & Van Diepen, V.H. (March 2019). Constraining Iran's Missile Capabilities, *The Brookings Institution*, <https://www.brookings.edu/wp-content/uploads/2019/03/FP_20190321_missile_program_WEB.pdf>

¹⁷⁷ Hasan Alhasan, Research fellow for Middle East Policy at the IISS. *The International Institute for Strategic Studies*, in: Envisioning a GCC agenda for diplomacy with Iran. (March 29, 2021). [online] Available at: <<https://www.youtube.com/watch?v=VYkYy8ZoCCw>>

techniques have the advantage of "normalizing" JCPOA provisions into larger non-proliferation policy, making specific JCPOA provisions more of a standardized practice.

Could there be a new rapprochement between Saudi Arabia and Iran? A non-interference vow to respect each other's sovereignty and territory as each solve internal difficulties would be significant. If granted, this would be a big step forward. Evidence shows that there may be even opportunity for a broader discussion, about Yemen, Syria, as well as functional problems like maritime security.

There must be a collective effort in favouring Confidence-Building Measures (CBMs) among the countries of the region to cool down tension and increase the mutual trust. The goal of CBMs is that of gradually building a sense of trust among the parts: to obtain that, first it is encouraged dialogue and cooperation on issues of *soft security*, to go in a second moment, gradually towards facing issues of *hard security*, which have for them a more divisive nature. Examples of *soft* topics on which it is possible to start collaborating are cultural connections, tourism, easier trade exchanges, cooperation in environmental and climate sectors and the fight against the Covid-19 pandemic. Questions of *hard security* that represent priorities, but which can be faced in a second moment, are the control of armaments, the reciprocal non-interference in internal affairs, and the naval safety.

Recent official conflicts between Iran and Saudi Arabia, mediated by Iraq, as well as the Qatari proposal of relaunching regional dialogue, represent encouraging elements for the beginning of a wider initiative. To give birth to a real institutionalized architecture from these starting attempts, the joint action of all internal and external actors in the region is necessary. Already in September 2019 there had been attempts of contact between Iran and Saudi Arabia, arisen from the feeling of insecurity of the Saudis after the silence of the US administration to the attacks at the Aramco plants in Abqaiq and Khurais¹⁷⁸. The Saudi leadership, giving Iran the responsibility of those attacks, started a pragmatic attempt of dialogue, even though not officially. This attempt was abruptly interrupted in the following months.

Saudi Arabia and the United Arab Emirates are now confronting the reality of their options, which has already resulted in the emergence of diplomatic backchannels to

¹⁷⁸ Saudi state-owned oil company, Aramco, was attacked in September 2019 (in the two major facilities of Abqaiq and Khurais) presumably by the Houthi group backed by Iran with the use of drones and cruise missiles. This attack reduced by 5% the global oil supply (which represents half of the total Saudi production).

reduce tensions, serving as the foundation for a more expansive diplomatic route. Officials from the UAE paid public visits to Tehran, and it is commonly assumed that the Saudis have experimented with quieter initiatives.¹⁷⁹

As a proof of the Iranian interest in developing a feasible framework, it is worth to mention the “Hormuz Peace Initiative” or “Hormuz Peace Endeavour” (HOPE), to ensure Pers Gulf security with the other countries of the region (Bahrain, Iraq, Saudi Arabia, Oman, and the United Arab Emirates). Iran presented this project to create a Hormuz Community during the UN Assembly General meeting in 2019. According to Tehran, the current situation is the consequence of a number of prior strategies and attempts to bring security, peace, and stability to the region that have failed also due to the imposition by foreigners pursuing their own specific goals with little regard for regional realities¹⁸⁰. HOPE invites the creation of a cooperative system of “hotlines, early warning systems, military contacts and the exchange of data and information” among Iran and Persian Gulf states, as underlined by former Minister Javad Zarif. But to reach such level of cooperation, rapprochement, respect and confidence-building measures are the first steps to be taken.¹⁸¹

In order to later transform these initiatives into lasting ones, shared incentives and multi-sectorial initiatives are fundamental and the E3 group is essential in their role of facilitators, favouring mechanisms of dialogue and communication.¹⁸² Europe once again could play the facilitation role paving the way towards the reconciliation and establishment of a Gulf-based dialogue with Iran (and putting an end to the Persian Gulf crisis). Nonetheless, in the Iranian perception the E3 have demonstrated a great inability in these past years to answer to the Trumpian unilateralism and therefore, the ineffectiveness of their role.

If the Saudis seem to be enthusiast about joining the other six signing actors (the P5+1) in talks, as we are going to see below, Israel is instead opposing to the return to the nuclear

¹⁷⁹ Benaim, D. & Sullivan, J. (2020) America’s Opportunity in the Middle East, *Foreign Affairs*. <<https://www.foreignaffairs.com/articles/middle-east/2020-05-22/americas-opportunity-middle-east>>

¹⁸⁰ Khatibzadeh, S. (2020) HOPE for a New Regional Security Architecture: Toward a Hormuz Community. *IAI*, issue 20-26. <<https://www.iai.it/sites/default/files/iaip2026.pdf>>

¹⁸¹ Refer to “Letter dated 9 December 2019 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General”, A/74/581-S/2019/933, UN General Assembly Security Council, Seventy-fourth session, 10 December 2019. <<https://undocs.org/pdf?symbol=en/A/74/581>>

¹⁸² Perteghella, A. (April 2021). La ripresa del negoziato sul nucleare iraniano e il ruolo dell'Italia nella costruzione di un'architettura di sicurezza regionale, *Osservatorio di Politica internazionale*, ed. ISPI. <<https://www.ispionline.it/sites/default/files/pubblicazioni/opi0094not.pdf>>

deal with the use of diplomatic means, indeed asking to participate only if negotiations cannot be avoided. The State of Israel clearly perceives Iran as a threat, focusing on its nuclear programme but also on its regional power projection, its conventional missile capability, and its support to non-state actors in the region. On the other side, the leading major menace for the Arab Gulf States is not represented by the nuclear weapons factor, but rather by the regional issue. As a consequence, according to them, the current talks in Vienna for the revival of the original Joint Comprehensive Plan of Action miss the focal point, the matter that really concerns them, that is the Iranian intervention in Yemen, Iraq, Syria and Lebanon, and in the Horn of Africa¹⁸³. The JCPOA is not an obstacle, but certainly it is something that needs to be enlarged, a process that cannot end with the simple revival of the accomplishment of 2015.

The countries of the region as well as Israel tend to see the Joint Comprehensive Plan of Action as a suboptimal agreement where the IRI benefitted from high sanctions relief at the beginning. They fear that a Democratic front in the US would set aside their leverage without asking to the Iranian counterpart some compromise in its aggressive regional policy and influence.

As experts Vakil and Quilliam have reported for Chatham House, a regional security framework is necessary, but to reach it Iran has to become aware of the impact of his actions on the regional level and the other Arab countries need to acknowledge that they bear responsibility as well. In their paper they explain how a regional security process can be reached through discussion, de-escalation and conflict resolution including all regional actors¹⁸⁴. The path that they delineate starts with the revival of the JCPOA enabled by the Biden administration and the Iranian recovered compliance, followed by a process of solidarity and confidence building by tackling various conflicts and through specific measures (see the case of Yemen and Syria, the Israel-Palestinian issue, the intra-GCC crisis).

¹⁸³ Hiltermann, J. in: *EUI European University Institute & ISPI - Italian Institute for International Political Studies*, in: *Engaging Iran. European and transatlantic perspectives on the JCPOA and security in the Gulf*. (6 March 2021) [online]. Minute 47:20. Available at: <<https://med.ispionline.it/agenda/engaging-iran-european-and-transatlantic-perspectives-on-the-jcpoa-and-security-in-the-gulf/>>

¹⁸⁴ Vakil, S. & Quilliam, N. (April 2021). Steps to enable a Middle East regional security process: Reviving the JCPOA, de-escalating conflicts and building trust, *Middle East and North Africa Programme*, Chatham House

From a different perspective, envisaged by experts in a conference of the International Institute for Strategic Studies¹⁸⁵, diplomacy *with* Iran would not necessarily have a successful outcome, but rather GCC countries have to focus on diplomacy *on* Iran, involving international actors and stakeholders to make sure security is maintained in this region. According to Hasan Alhasan, research fellow for Middle East Policy at the IISS, the realistic practical goal of GCC diplomacy should be that of raising the international profile of the threat posed by Iran's regional networks, of Iran's short and medium range missile capabilities. These are the things that matter to the GCC states and that should represent the objective of GCC countries' diplomacy: to get other international partners, including the US, to care more about these issues, something that could be problematic in this progressive phase of their disengagement. The countries of the Gulf Cooperation Council as well as Iran, for historical and political reason have long been dependent from foreign control and influence and lack strong cohesion among them. Possibly, for these reasons, on the other side, it is fundamental for these countries to reduce their strong dependence from all these international actors, especially in such a critical moment that demands the region to become more self-dependent in finding a common solution free from the guidance of foreign actors.

Let's consider briefly what role China and Russia could embody in this context. We have previously explored this new revived relationship between Iran and the two powers.

China does not want nor can play as new mediator for the security in the region. Its relationship with most of the countries in the region is based on commercial terms, which is relevant, but it is also primarily transactional. The Chinese leadership does aim at becoming an important strategic partner for the countries in the Gulf region. China is content acting according to its economic interests. Unlike Russia for example, which over the recent years showed itself as a *hard security broker* and attempted to revive its old proposal of an organization of regional security cooperation, which comes as a response to the increasing tensions in the Strait of Hormuz in 2019.

In all the possible cases, a new security architecture that includes all actors is required to achieve regional détente, together with the normalization of the recognition of Iran being a Gulf country as the others. This needs to be developed from the ground up, with a broad international diplomatic coalition to back it up. Both allies and adversaries have lost their

¹⁸⁵ *The International Institute for Strategic Studies*, in: Envisioning a GCC agenda for diplomacy with Iran. (March 29, 2021). [online] Available at: <<https://www.youtube.com/watch?v=VYkYy8ZoCCw>>

faith among each other and in the United States, therefore it will not be possible for the US to back this alone. Hopefully, the European Union might be that figure that can ensure a strong coalition.¹⁸⁶

The US has been promoting a disengagement process from the Middle East region and Russia and China (on a minor level) have been filling that vacuum left by the American counterpart. The issue that arises is that, especially on the Iranian scenario, the misaligned interests of the three powers have not favoured a concerted effort to compel or enforce a needed outcome, or to hold a party into account when hostilities temporarily stop.

¹⁸⁶ Gardner, D. (January 27, 2021) Reviving the Iran nuclear deal will test Joe Biden, *Financial Times*. <<https://www.ft.com/content/a1c3caf8-4f3f-4f79-a7e1-3f727ae55e76>>

CONCLUSIONS

“Through tough but fair negotiations, the Biden administration can indeed achieve its stated objectives of not only forging a longer and stronger agreement but also opening the way for further constructive engagement.”¹⁸⁷

In 2021 even with the shift of the American administration from a unilateralism to multilateralism under President Biden, the Iranian case continues to be considered as a problematic one, but with the new delegation led by Robert Malley, there is a wider possibility for the revival of the deal and eventually even the possibility of enhancement of guarantees and obligations. Indeed, the option envisioned by former President Donald Trump of withdrawal towards no-deal, is clearly not one on the table for the international community at the moment. Both US and Iran representatives have admitted that they are willing to go back to the deal, but it is not yet defined how this will actually happen. The US participation in the JCPOA might have stopped the accomplishment of a nuclear weapon in Iran, or probably a war in the Middle East thanks to the role of security guarantor that the US ensured. With the revival of the deal there is the chance to do so again while also pursuing the process of gradual American disengagement from the region. Therefore, the international community led by the US president must adopt a feasible diplomatic approach with Iran as soon as practically possible and re-join the JCPOA, considered to be the greatest diplomatic achievement in a generation.

Before the arrival at the White House of the Democrat Joe Biden and before the Iranian elections of June 2021 for a new president, experts foresaw a speedy recovery of the deal. The difficulties and the Iranian lack of rush led to a standoff that up to now prevents the parties to come to an agreement.

Probably, with the current status quo there will not be the possibility to reach the same support and approval by the members around a new accomplishment, as in the negotiations that took place between 2013 and 2015 with the final ratification of the JCPOA. Nonetheless, the revival of a framework for shared benefits and securities is possible even though it will start just with a “less for less” solution.

¹⁸⁷ Choksy, J. K. & Choksy, C. E. B. (May 25, 2021). Iran Needs the Nuclear Deal to Keep Russia and China at Bay: Geopolitical Gains Will Last Longer Than Military Concessions, *Foreign Affairs*, <<https://www.foreignaffairs.com/articles/iran/2021-05-25/iran-needs-nuclear-deal-keep-russia-and-china-bay>>

As of the beginning of 2020, after the escalation of tensions between the US and Iran and multiple Iranian breaches to the agreement, the EU3, China and Russia showed themselves to be prone to resort to diplomacy and once again respect the hard-won nuclear deal. On one side we have understood the reasons for Iran stopping its commitment to the JCPOA after the withdrawal of the US, its dramatic economic situation and the lack of substantial help by the E3/EU, that nonetheless continued their halt of restrictions to favour Iran in line with the JCPOA; on the other side, the complex but diplomatic method of dispute resolution was never triggered by the IRI in the correct way. As an alternative one correct *modus operandi* for Iran would be to ask directly an advisory opinion on the JCPOA situation to the main judicial organ of the UN, the International Court of Justice, through the support of the IAEA.

From the legal point of view, the American withdrawal teaches us something: the importance to ensure that by signing a deal all the parts are aware of the importance of that signature that does not foresee any withdrawal. International agreements are based on mutual trust that members will abide to their obligations otherwise losing their value. One country cannot accept a deal, imposing restrictions and benefitting from it and then decide to withdraw unilaterally and cause severe economic damages to another member as Iran in this case. The JCPOA is an international law instrument whose importance was given by the UNSC Resolution 2231 that endorsed it. If the institutionalisation of relations and the signature of deals with world powers fails, and a UN Resolution is not able to ensure compliance even by a permanent member, as in this case, then Iran has learnt that the finalisation of a multilateral agreement may not automatically guarantee its full implementation by all the parties¹⁸⁸ even though this is not and should not become praxis. Consequently, it becomes fundamental in an environment lacking trust, to ensure and strictly verify compliance all along the process from all the parties involved.

Throughout this work we understood that the complex issue of nuclear proliferation is not only about possessing the technology and know-how for a nuclear weapon, but it is also about the practical decision of using that technology combined with the missile programme to do harm, something that Iran does not seem willing to pursue. As it emerged from this work, the track related to the Iranian ballistic missile development, one of the delicate points for the international community, might be completely out of the

¹⁸⁸ Tabatabai, A. (2019). Back to crisis mode: Iran's quest to manage internal crises and external pressures, *IAI*. Chapter 1, p. 36. <<https://www.iai.it/sites/default/files/9788833652214.pdf>>

negotiation space for the Iranian leadership as it is strictly connected to their national security and defence strategy. Nevertheless, there is space for a grand diplomatic settlement that could emerge in the region involving the GCC countries, as highlighted in the final part of this work. This could represent a first step in the solution of the security and military threat perceived. Indeed, the peaceful solution to this crisis only represents the first step of a necessary wider process to give order and stability in the Gulf region. A diplomatic initiative that improves trust among the countries of the region and reduces their perception of mutual threat to security, is necessary. We have explored the need to create a regional framework of security based on principles of non-aggression and peaceful resolution of controversies.

Moreover, the gradual American disengagement that started during the Barack Obama administration, and accelerated during the Trump's presidency, has infused in the region the perception of no longer being able to rely on external guarantors for their own safety and has created awareness to act by coordinating each other to face common enemies. In this context, particularly Saudi Arabia, the United Arab Emirates and Iran have increased their assertiveness. Nonetheless, the current regional asset is unsustainable and lacks real stability. The Trump administration has renounced to play a role at the diplomatic level as negotiator for the resolution of the issue, and its attempt to contain Iran through a massive sanctioning campaign, the so-called "maximum pressure", supporting politically and financially Israel, Saudi Arabia and the UAE, contributed to a stronger polarization of regional rivalries with a higher risk of actual escalation of the conflict. The Biden administration instead, since the beginning has demonstrated that it does not want to replicate Trump's polarizing foreign policy in the Middle East, therefore representing an opportunity to try to give the region a more stable structure.

Indeed, that massive sanctioning action imposed by Trump resulted inefficient, and the fact that the majority of the Iranian population has impoverished while a slim part has gotten increasingly rich, is a proof of it. On the other side, the consequent decisions of the Iranian leadership regarding higher enrichment levels, might have been more efficient. And it is possible that with an increasingly shorter time to reach Iranian capability, the US will be compelled to act on it and take some steps towards a feasible roadmap for revival and avoid a nuclear capable Iran.

Regional diplomacy is now focused on how the US and Iran might be able to restore the nuclear deal with the new Democratic phase in the American political scene. Solving the current crisis with Iran on the nuclear file is urgent and essential. The P5+1 have certain

priorities: the de-escalation of tensions, the restoration of nuclear diplomacy with the setup of a new regional roadmap for Iran tackling the existing reciprocal mistrust.

As we have seen, the US seems willing to work with the P5+1 and Iran to negotiate further a follow-on agreement, supporting a regional track. Even though the success of regional diplomacy should not be made a condition for halting Iran's nuclear progress, an approach of connection could result in an incentive structure that links the speed and scope of sanctions relief to both tracks, the nuclear and the regional one.

Finally, adopting a more productive strategy with Iran is critical to the region's long-term redeployment of US forces. Deterring Iran has been a driving force behind the US' massive militarization in the region during the past decade. By withdrawing from the JCPOA, Trump almost certainly ensured that the US presence would grow much more militarized. The new government should attempt to test the opposite premise: whether it can manage the Iranian problem with less forces in the region by resuming nuclear diplomacy, lowering regional tensions, and creating new agreements. Trump has demonstrated that military deployments or actions cannot substitute diplomacy. Even in a lighter way, the current administration seems willing to retain a credible military deterrent as necessary to support the diplomatic way while reducing the likelihood of it being required.

In addition, even though the American presence in high profile deals such as this one is fundamental, it is not sufficient alone: to ensure the commitment of the states in the region it is necessary for external powers to join, hence Russia, China and the E3/EU. In this framework as we have seen, Europe is an asset: it should prioritise damage control and prevention measures, such as the full support for the JCPOA, the engagement of Iran to make sure that its regional role does not fuel further tensions or instability in the region, and the creation of channels for de-escalation of tensions. We have explored the capacity of the E3/EU as facilitator, and it is therefore of fundamental importance that they continue to influence Iranian cost-benefit analysis towards compliance.

This work has sought to analyse the relationship that has evolved among the parties since 2015 up to the current situation, with the aim of trying to understand which are the options forward and what the best outcome might be. By recovering the questions that this work posed itself in the opening, at the end of this research we are able to say that a deal is still possible, and it is furthermore necessary.

There is no doubt the United States will continue their process of disengagement, as well as continue their confrontation with Russia and China, but the arrival of Joe Biden changed the foreign policy approach opening an opportunity of dialogue, cooperation and conflict management, something unimaginable for the previous presidency.

The JCPOA is still a success of multilateral non-proliferation and remains the best option to regulate the Iranian nuclear programme. It was not meant to be a solution for ending Iran's decades-long antagonism with the United States. Nor it was meant to be a solution for all of Tehran's problems with the West and its neighbours. What it did achieve, and what it can still achieve, is a strong non-proliferation framework that makes it simpler to address all those other concerns.

The hope is still that of building new bridges between Iran and the United States of America, two countries that have had issues for too long. New bridges can bring about security, stability and peace for the whole region, Middle East, and Europe, as the 2015 JCPOA should have done. It is very probable that the region will confront further crises and uncertainty if the nuclear deal is not implemented. The JCPOA, thanks to its multilateral context, was able to temporarily address one of the region's and world's most difficult and protracted crises, until the accord was abrogated by Washington. Nonetheless, everything that has occurred since the US exit serves as clear evidence that a regional architecture is required.

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SUMMARY

“The Joint Comprehensive Plan of Action with Iran and nuclear non-proliferation”

Chapter 1: Nuclear non-proliferation and the Iranian Nuclear programme

The goal of the following thesis is that of portraying the process that since the entering into force of the Joint Comprehensive Plan of Action in 2015 has led up to the current situation of Iran with regards to its nuclear programme. It aims at understanding which possible direction the relation between Iran and the international community could take, especially with the entering into scene in 2021 of US President Joe Biden with different views on the deal with respect to his predecessor, and the consequent chance of revival and improvement of the situation in a new round of talks.

The first chapter of this work describes the nuclear non-proliferation scenario at global level focusing on its fundamental treaty, the NPT (Nuclear Non-Proliferation Treaty or Treaty on the Non-Proliferation of nuclear weapons of 1968) as well as the recent TPNW of 2021. Iran has signed the Treaty of Non-Proliferation, as well as other states that want to ensure security from nuclear proliferation, together with those states that nonetheless hold a nuclear program, the Nuclear Weapons States (the same countries are also permanent members of the UN Security Council) whose right to hold a nuclear arsenal is given by the fact that they possessed them before the signing of the NPT in 1968. There are other four countries that hold nuclear weapons but are not legally recognized or entitled to possess them: Israel, India, Pakistan and North Korea, countries that are not part of the NPT. Moreover, on European soil it is worth to also consider nuclear sharing: nation states, namely Germany, Belgium, Turkey, The Netherlands, Italy, that host nuclear weapons as part of the NATO alliance for reasons of deterrence and security. Chapter one focuses also on the importance of the *pacta sunt servanda* principle regarding the respect of obligations taken in signing a deal, especially if that deal was endorsed by a Security Council Resolution. The United States indeed, withdrew in 2018 from the JCPOA, jeopardizing the effectiveness of the deal and currently Iran is rightly asking them insurance for future behaviour.

Nuclear latency and breakout capability are two fundamental concepts in this context: the country has been trying to defend itself (forward defence), to develop its nuclear plan and

hold the necessary technology and know-how to legitimately deter against foreign attacks, but without necessarily holding a nuclear weapon. Nevertheless, this nuclear hedging represents a perception of threat for the international community that sees the Islamic Republic actions in the matter as attempts to increase its hegemony. Apart from the technical capability that the country could achieve, at the political level, the famous fatwa pronounced by Ayatollah Khamenei against the acquisition, development and use of nuclear weapons, would prevent the IRI from actually use it. Other issues under the scope of the international community that would like to see them tackled are the regional engagement of Iran and its ballistic missile programme.

The purpose of this chapter is to give a clear idea of the development of nuclear proliferation in Iran along with the reasons behind it and why it is important to restrain it, as well as the nuclear capability status at global level, in order to understand which approach should be applied to this specific case.

Chapter 2: The Nuclear Deal of 2015

In the second chapter of this work instead, the already agreed Joint Comprehensive Plan of Action and its content are analysed, as well as the complicated process of negotiations that led to the signature of it. The JCPOA, also known in Persian as Barjam (signed on July 14, 2015), represents a key element of the global non-proliferation architecture as well as an achievement of multilateralism and nuclear diplomacy, even endorsed and adopted by the United Nations Security Council Resolution 2231 on July 20, 2015. The deal was reached during the Obama Administration as the outcome of ad-hoc multiparty negotiations between the so-called P5+1 (United States, Great Britain, France, Russia, China, the five permanent members of the Security Council together with Germany) and Iran on the other side, and it is based on the formula *lifting for limitation*. Indeed, it posed a certain number of limits to the Iranian nuclear programme and at the same time lifted international sanctions on the country, giving it some economic relief. In exchange, Iran would have had to undergo continued inspections by the International Atomic Energy Agency of the UN and limit its enrichment programme to levels coherent with peaceful civil purposes.

The deal contains certain limitations on the number and type of centrifuges, on the kind of reactors and the quantity and quality of uranium that the country can enrich, in light of periodical inspections of nuclear sites to prove the compliance with the deal, all of this in exchange for a gradual reduction of sanctions.

The JCPOA imposed a 3.67 percent uranium enrichment limit and a maximum of 300kg of stock of low-enriched uranium in Iran for 15 years, completely forbidding the production of medium- and high-enriched uranium. The deal allowed only the use of R1 centrifuges, the oldest and least efficient ones, for a maximum of 6,104 units, reducing the number of two thirds with respect to the previous situation.

The country demonstrated its willingness and capability to respect the deal, therefore not representing a real threat for the international arena. Nonetheless, in 2018, President Donald Trump unilaterally decided to withdraw the US from the deal and apply a “maximum pressure” campaign, based on the reinstatement of old and new sanctions towards the Islamic Republic. The punitive measures have since prevented Iran to easily export oil, the state’s key source of hard currency, and pushed inflation above 46 percent. This recession was furthermore hardened by the Coronavirus crisis.

The JCPOA showed its limitations and was criticized but it was fundamental in the limitation of the Iranian nuclear programme and in preventing the IRI from acquiring a nuclear weapon. The nuclear deal proved to be successful in its goal of limiting the production of enriched uranium necessary to eventually produce a weapon, since the estimated breakout time with the deal in place was four times longer than without the deal.

After the American exit, the relationship between the US and Iran escalated and the IRI gradually deviated from compliance. In November 2020 the killing of Iran's top nuclear scientist Fakhrizadeh and the killing of Qassem Soleimani in Iraq were two elements that worsened the situation. A law passed by the Iranian Majlis allowed to speed up nuclear activities, including the enrichment of uranium to a higher level and envisioned certain limitation on IAEA’s access to the nuclear sites.

Iran justified this increasing non-compliance through paragraph 26 and 36 of the JCPOA, accusing the US of wrongly withdrawing from a deal that implied certain obligations as well as of going against a Security Council Resolution while being a permanent member of it.

Chapter 3: The USA and the future of the JCPOA

The third chapter analyses the current situation and recent events up to 2021 and tries to understand how this may evolve in the short future and how the parties might approach the issue.

With the presidential change in the US in 2021 and the general will to prevent escalation and Iranian expansion in the nuclear field, a new different deal could be drafted.

The first year of the Biden administration has been characterized by the return to a new phase of negotiations, involving different actors, a phase that might proceed on the long-term due to the incapacity of the parts to find easy compromise. The main issue is represented by the American request of a preventive Iranian return to its obligations as a condition for the full American compliance. This problem with the revival of the JCPOA is the so-called “you first” approach: a conundrum that can only be solved on a “compliance for compliance” basis with the subsequent return to the 2015 nuclear deal and the process of negotiation of a second nuclear pact, “lengthening and strengthening” the previous one.

In Congress there is some opposition from the Republican wing together with some representatives of the Democrats led by Senator Menendez, but in general American public opinion is in favour of the revival of the deal since Trump’s decision is perceived to have been a failure. Both Iran and the US have a similar internal divisive situation since they both have an issue with the political opposition that does not agree with the deal, esteemed as a failure, or does not share the modus operandi of the leadership.

At the time of Barack Obama as President with Joe Biden as his Vice President, in the negotiations towards the deal, the goal of the United States was to “prevent Iran from obtaining a nuclear weapon”. Obama was successful because he legitimized the Iranian right of enrichment and adopted an approach based on engagement and dialogue. Almost a decade later the approach of the new president has not changed but the goal now has slightly changed: Iran has acquired some level of capability and knowledge which cannot be reversed but can of course be limited and slowed down to return to a higher breakout time.

The US is showing once again to be in favour of negotiating but at the same time unwilling to easily remove economic and financial sanctions in the hope of compelling Iran to return back to compliance with the 2015 deal.

The previous international approach towards the Iranian issue was based on diplomacy, on the international recognition of its right to enrich uranium for civil use, as long as Tehran respected certain limits and underwent the IAEA verification system in order to prevent Iran from developing a military weapon. President Biden is choosing once again diplomacy over the Trumpian unilateralism, and a strong sign of willingness to revive the

situation with Iran is represented by the people Biden chose to surround him: people that worked in the 2009-2017 administration of President Barack Obama or that are already very familiar with the deal and the negotiations, Secretary of State Antony Blinken, Ambassador Wendy Sherman as his deputy, National Security Advisor Jake Sullivan, but mostly Robert Malley as US chief negotiator and leader of the team at the current negotiations held in Vienna.

The third chapter deals also with the issue of sanctions which are divided in different groups according to the type. The first group are those removed in 2015 with the entering into force of the JCPOA, that were reinstated in 2018 with the withdrawal: these sanctions should be removed to bring the US back into compliance. The second group is not connected with the deal: these sanctions were applied by Trump in 2017 to affect all those elements connected with the IRGC, the terrorist organizations or the ballistic missile programme. Iran is asking the new administration to remove them. Even though the US is not required to do it, these could be used as leverage to compromise on something else. A third group regards all those 700 sanctions that were additionally imposed by President Trump in 2018 as part of the “maximum pressure” campaign to isolate Iran. Some of these are more political than economic, therefore not representing a priority for the IRI, while some others are preventing Iran to have that necessary economic relief that the country needs and hoped to have with the signing of the nuclear deal.

The correct implementation by all members of the JCPOA would represent an important economic aid for the Islamic Republic. It suffered in those moments before the deal, due to the previously imposed sanctions, as well as in the post-US exit in 2019 when a long list of new sanctions was imposed. This is one of the main reasons that push the country towards the negotiation of a framework for cooperation. From the American side, there is the need to lift all those sanctions that prevent Iran from fully complying with the deal, that were imposed by Trump also to prevent any future revival of the JCPOA, and understand which sanctions must remain in place, those that are correct and reasonable.

The international community is seeking once again with a diplomatic effort, to find a common agreement through negotiations and avoid by all means the use of the force or of any type of deterrence against the Iranian leadership. In 2015 it was possible to reach a negotiated compromise. At this point, the parties once again must reach the so-called *ZOPA*, the Zone of Possible Agreement, focusing on overlapping interests, to find a new

stronger solution, one that can be respected for a specific period of time in the future. Even though indirectly, but since 2018, the first opening to dialogue between Washington and Tehran resumed in April 2021 at the talks held in Vienna over the revival of the JCPOA. The idea at the beginning was to fully re-enter the deal in a short period of time and go back to compliance, but the election of a new president in Iran, Ebrahim Raisi, a hardliner, together with the incapacity to find a solution for resuming compliance, led to the current stalemate: all the sides are ready and willing to re-join the JCPOA but operatively the way forward has not yet been found. The “longer and stronger” deal that the US administration aim for, has not yet come into place.

The European Union (together with the E3, the three nation states in the EU involved in the deal) plays once again the important role of safeguarding the JCPOA and facilitating the dialogue between the parties, contributing to address the major obstacles on the table. At the beginning its role was focused on conflict prevention and consensus building towards the signing of the deal. With time its role has shifted towards damage limitation after the American exit and perseverance in maintaining the deal alive with the other actors. The EU demonstrated not to be completely independent and autonomous but certainly with a strong power to influence and shape the evolution of the talks.

The current JCPOA crisis falls within a fragile environment, characterized by volatility and tensions. On one side, there is a shared interest in enlarging the scope of this new JCPOA: we discussed the so-called “JCPOA plus”, the possible integration of other Iran-related issues such as the regional power projection of Iran, to the JCPOA. Unfortunately, this proposal has been up to now rejected by the Iranian leadership which expects the American counterpart to adopt some substantial changes first. The Iranian regional projection is one of the central issues to tackle from the point of view of western actors, as well as Israel and the monarchies of the Gulf Cooperation Council, led by Saudi Arabia, which are concerned about the expanding Iranian power in the Middle East area and are therefore supporting the revival of the deal under question with an enlargement of its scope. On the other side, for Iran, the goal is to find a negotiated resolution which would ease the burden of sanctions and offer some degree of validation of their programme and power by the international community.

These goals seem far from being simple, with the US not wanting to take the first step or ease the sanctions imposed by the previous administration; and the IRI unwilling to comply first and lose its leverage. The Islamic Republic of Iran is nonetheless willing to

revive the deal because it stands to gain a lot economically and geopolitically in the long run while giving up very little tactically.

Iran's position has partially shifted to a more conservative stance after the presidential elections of June 2021 that led to the nomination of Ebrahim Raisi as new President, that could make it more difficult for diplomacy and cooperation to take place. The new conservative governmental leadership of Ebrahim Raisi backed by the Supreme Leader Ayatollah Ali Khamenei, does not seem indeed too prone to negotiate on those sensible issues.

In the third chapter apart from the American stance, we also took under consideration the position of the other actors involved in the deal for geographical reasons. An interesting aspect, for instance, is the gradual creation of a united Arab and non-Arab front in an anti-Iranian key. Israel normalized its relations with four different states of the MENA region under the common desire to create a united front against Iran and its regional influence, indeed the Israeli leadership is worried these negotiations will lead to an even weaker deal. The GCC countries as well strengthened their block against Iranian influence. But this approach is not really functional for the solution of the issue and for ensuring security in the region from the emergence of the Islamic republic. To believe Iran intentioned to attack foreign countries for the sake of regional power and to possibly use the nuclear bomb, would lead to think that the most effective approach to deal with Iran is through military action. Nonetheless, we need to at least consider that modern Iran has never invaded or attacked any neighbouring country, even though it continues to support Shi'a militias and political leaders in the area with the goal of extending its regional power, an issue deeply at heart for the other leaderships involved in the current negotiations.

The Islamic republic is also strengthening its relations with the Far East, with Russia and China that have used their power and influence to economically support the country, counter US's demands and sanctions as well as favour the relaunch of the nuclear deal. For instance, China and Iran have signed a 25-year agreement of strategic partnership and cooperation.

Finally, the last chapter also considers Iranian public opinion to give a final consideration over the scenario by using polls of a study by the Center for International and Security Studies at the University of Maryland that highlights the popular perception. We find here the confirmation of this feeling of mistrust by the Iranians towards western countries, something that could inevitably impair the development of negotiations. But we find also

the country's willingness to reach out to its neighbours for the creation of a framework for regional security and cooperation; the HOPE Hormuz Peace Endeavour to ensure Gulf security is the perfect example.

We have highlighted how much the leadership can influence the decision-making process of a country: the presidential change from Ahmadinejad to Rouhani in 2013 and again to Raisi in 2021, as well as the shift from Obama to Trump in 2017, to Biden in 2021, reflect a sharp alternation of policy and approach of the respective countries towards the issue of nuclear proliferation in Iran and negotiations with the international community.

Preserving the JCPOA, even in a revised version, is crucial not only in terms of nuclear non-proliferation, but also for the security of the region. Therefore, the intention to return to the deal and to its full compliance stated by the Biden administration represents a highly positive sign. The new US approach also marks the realignment between the two sides of the Atlantic on this crucial topic and the ongoing discussions in Vienna among the participants represent a very important development aimed to find a diplomatic solution to restore the nuclear deal and ensure Iran's return to full compliance within the JCPOA.