The Iran Nuclear Deal Two Years On: Will the Agreement Survive?

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Despite all parties to the Joint Comprehensive Plan of Action complying with its obligations, Iran's reintegration into the global economy is fraught with problems. A further factor is a differing attitude to the agreement's implementation between the US and the EU.

Two years have passed since the five permanent members of the UN Security Council plus Germany (the P5+1) and Iran agreed to the Joint Comprehensive Plan of Action (JCPOA). The deal committed Tehran to limit its nuclear ambitions in return for the relief of nuclear-related sanctions, and was hailed as a victory for international non-proliferation efforts. However, it also faced extensive criticism, especially in Washington, including from then presidential candidate Donald Trump.

To date, all parties to the agreement have de facto abided by their obligations: the EU lifted all nuclear-related sanctions and Washington has provided the temporary waivers needed to lift secondary sanctions prohibiting non-US companies from conducting business with Iran. Tehran, too, has showcased a positive record in complying with its nuclear commitments, with all six reports issued by the International Atomic Energy Agency (IAEA) to date confirming that there have been no deviations from its commitments.

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Despite these apparent successes, the deal faces two significant challenges. First is the uncertainty over Washington's continued commitment to the JCPOA. Second, and connected to this, is the lack of trickle-down benefits of the nuclear deal for the Iranian economy, as European businesses in particular have not managed to re-engage fully with the once-sanctioned economy.

Is the US Committed to the JCPOA?

US implementation of the JCPOA was always going to be difficult, given the criticism it faced in Washington during its negotiation and the initial stages of its implementation. These conditions were exacerbated after the election of Trump, who, on the campaign trail, referred to the agreement as the 'worst deal ever negotiated' and declared that his number one priority once in power would be to 'dismantle the disastrous deal'.

At the same time, he also hinted at the possibility of renegotiating the terms of the JCPOA. In particular, it seems that his administration wanted to: include new conditions for gaining access to Iranian military sites; monitor compliance more stringently than the current achievements under the IAEA; discuss the removal of 'sunset' provisions in the deal (which would allow for certain restrictions on Iran's nuclear programme to expire after ten years); and include non-nuclear related issues (such as missile tests) in the agreement.

Despite fears that the US administration could dismantle or renegotiate the deal once in power, it has so far refrained from doing so. In April, Secretary of State Rex Tillerson stated that Iran remained compliant with the JCPOA. In May, the White House committed to continue issuing the time-limited presidential waivers required to suspend US secondary sanctions against Iran – a step which the president needs to undertake every 120 to 180 days in order to implement Washington's side of the JCPOA.

It also appears that there is very little appetite amongst the other parties to the JCPOA to pursue any renegotiation. Iranian President Hassan Rouhani, re-elected in May, stated that the deal is multilateral and cannot be reversed, as doing so would be like 'saying that we should turn a shirt back to cotton'.

It took more than twelve years to negotiate the JCPOA, and finding new terms that would please all parties would be challenging, if not impossible. The negotiators consciously decided to limit the JCPOA's scope to Iran's nuclear programme, realising that reaching a comprehensive agreement beyond that would have been impossible. The negotiators hoped the deal would create the conditions needed for a broader rapprochement between Iran and the West and thus lead to a discussion on other contentious issues, such as the crises in Syria, Iraq and Yemen.

Diplomatic channels of communications established between Iran and Western partners through the JCPOA – where parties meet on a regular basis to monitor the implementation of the deal – have facilitated such discussion. However, a full normalisation of ties, especially between Washington and Tehran, remains a long way off.

Whether the US will continue to implement the agreement remains to be seen. The administration launched a National Security Council-led inter-agency review of the JCPOA to evaluate

PREVIOUS PAGE: Former US Secretary of State John Kerry speaks with Hossein Fereydoun (centre), the brother of Iranian President Hassan Rouhani, and Iranian Foreign Minister Javad Zarif (right), before the announcement of the JCPOA, 14 July 2015. But there are question marks over the current US administration's commitment to the agreement. *Courtesy of US Department of State/Wikimedia*

whether suspension of sanctions under the agreement 'is vital to the national security interests of the United States'. The decision of the review will depend on whether implementing the deal will continue to look like an optimal situation for the US. Iran's nuclear capabilities are now restricted and under international scrutiny, while at the same time Tehran has not yet received substantial economic benefits in return. This presents an ideal middle ground for US policymakers from which it would be difficult to walk away without any other way to secure and achieve nuclear commitments from Iran.

At the same time, the Trump administration is likely to continue to put pressure on Iran about non-JCPOA related matters, accusing Tehran of being 'a leading state sponsor of terror through many platforms and methods' and criticising the country's behaviour in the region. On his visit to Saudi Arabia in May, Trump reiterated his criticism of Iran and its leadership, accusing the country of being responsible for instability in the region. Since February, the Treasury Department added a number of people and entities allegedly involved in helping develop Iran's ballistic missiles programme; the US Senate in June also voted to impose additional sanctions in response to Iran's ballistic missile programme, support for terrorism and human rights violations. The sanctions are still subject to a final vote in the House of Representatives. These measures will inevitably contribute to the climate of uncertainty over the sanctions legislation in place against Iran, further complicating the efforts of international businesses to re-enter the Iranian market.

Iran's Reintegration into the Global Economy – Mission Impossible?

Even though nuclear-related sanctions have been lifted as promised, Iran continues to face significant challenges in navigating the post-nuclear sanctions era and in fully reintegrating into the world economy.

International companies, particularly European ones, have shown a great amount of interest in re-entering the Iranian economy following the implementation of the JCPOA. However, deals have been slow to materialise, with the main impediment being the hesitation of European financial institutions to facilitate financial payments. The primary concern of large banks is linked to remaining (and new) US sanctions against Iran.

The US sanctions architecture against Iran targeting non-nuclear-related activities remains in place, and Congress passed an extension of these as recently as December 2016. Non-US banks could breach the US legislation by engaging with one of the 200 Iranian or Iran-related individuals and entities still targeted under these measures. Given the costs involved in navigating a risky compliance landscape to avoid heavy fines for dealing with sanctioned Iranian entities, financial institutions often choose not to engage with Iran-related entities at all. Added to this is the plethora of new sanctions measures under consideration in a Congress generally sceptical of the Iran nuclear deal.

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There is a view among policymakers and expressed at RUSI roundtables that the assurances already offered to businesses, and in particular financial institutions, should be sufficient for them to decide to engage with Iranian entities. This was shown by the completion of Airbus and Boeing deals with Iran, as well as the recent gas agreement between Iran and French energy giant Total. These, however, went through a lengthy approval process, involving top decision-makers on both sides of the Atlantic, and it is unlikely that future deals will enjoy the same level of assurance and support from governments.

Certain European companies have worked prudently to enable payments and financing arrangements. Many have turned to specialist banks that are willing to process payments, and have split their Iran-related businesses into separate banking channels. Often, the financing available is nevertheless small and short term; long-term financing commitments are rare. While companies such as Siemens and Vodafone managed to finalise substantial deals with Iran and to sort out a payment mechanism, challenges still remain for other, often smaller, companies. Policymakers will have to determine what new tools are needed to foster broader confidence in the financial sector, which should continuously reassess what level of risk it is comfortable in accepting.

Adding to the risk calculations of banks and businesses over dealing with Tehran is the generally poor and risky business environment in Iran, as it ranked only 120th among 190 economies on the World Bank's 2016 ease of doing business index.

The Rouhani administration has tried to improve Iran's business environment by adopting new types of contracts, reforming the banking system, expanding the private sector and introducing anti-money laundering and counterterrorist finance measures to address international concerns.

Last year, the Financial Action Task Force (FATF), the global standard-setter on anti-money laundering and counterterrorist financing, acknowledged Iran's steps to address these concerns and temporarily removed certain restrictions against the country, giving Tehran one year (extended indefinitely in June 2017) to demonstrate further progress. At the same time, however, FATF continues to advise countries that their financial institutions should maintain vigilance towards Iran. This balancing act does little to give the European private sector confidence.

Given the economic and political stakes involved, Rouhani will face significant challenges in further improving the conditions for international businesses to operate in Iran: foreign direct investments are in fact perceived by those opposed to the nuclear deal as a way for the West to infiltrate Iran and to hamper the economic interests of those who benefited the most from economic isolation – the Islamic Revolutionary Guard Corps.

The outcome of the recent presidential elections in Iran should provide comfort that Tehran remains fully committed to the JCPOA, which constituted the centrepiece of Rouhani's first term and which he defended throughout his re-election campaign.

Nevertheless, it is crucial to the overall health of the nuclear agreement that Iran enjoys the economic benefits of sanctions relief. If economic opportunities are not forthcoming, it could cause Tehran to re-evaluate the benefits of the deal, and the commitments they have made.

Iran's president has already accused the US of not being fully compliant with the deal by 'creating a lot of doubt' and frightening large banks. More recently, Tehran also expressed its dismay over new sanctions which it perceives as breaching the JCPOA. While Tehran is thus likely to continue to try to attract international investments, it will also aim to address the outstanding issues that cause hesitation among banking institutions to deal with Iranian entities. During the presidential campaign, Rouhani pledged that he would secure the lifting of US non-nuclear sanctions. Whether he will succeed remains to be seen, but given the Trump administration's approach towards Tehran, together with the prospect of introduction of additional non-nuclear-related sanctions, it seems highly unlikely that Rouhani will achieve this goal. To at least partially improve the situation and guarantee the survival of the deal, Iran will thus invest in its relations with the EU.

Where Does the EU Stand?

Since the announcement of the deal and in particular following the concerns for its survival following Trump's election, Brussels has stressed its commitment to the full implementation of the JCPOA.

To this end, EU policymakers have consistently made it clear that the US will be on its own if it walks away from implementation of the JCPOA. The EU High Representative of the Union for Foreign Affairs and Security Policy Federica Mogherini stated in January that the JCPOA is not an agreement between the US and Iran, but rather an agreement that 'belongs to the entire international community'. Mogherini also stated that 'there is no alternative to the JCPOA and it should not be renegotiated and all the parties should fulfil their obligations in good faith', thus dismissing any support for Trump's attempts to renegotiate the terms of the deal. Following the re-election of Rouhani, she also tweeted that the EU is 'ready to continue work for full JCPOA implementation, bilat engagement, regional peace, and meet expectations of all people in #Iran'.

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To ensure the continued implementation of the deal, the EU is continuing to discourage the US from adopting unilateral steps, either by the president or Congress, which would hamper the JCPOA. Despite sharing similar concerns as the US with regard to Iran's behaviour in the region, missile test and human rights record, the EU has also stressed the need for these issues not to affect the agreement's implementation. On this basis, EU officials have, for instance, expressed their opposition to new penalties over Iran's ballistic missile testing.

As a result of the lifting of sanctions, total trade between Iran and the EU increased over the past year, reaching €5.3 billion in the first three months of 2017 – a 250% increase compared with the same period last year. However, because of the banking issue, trade did not return to the pre-sanctions levels. EU officials are thus likely to continue putting pressure on US officials to provide the clarification and guidance needed by financial institutions to facilitate a full reprisal of economic ties between Iran and European businesses, as well as to encourage FATF to continue suspending its restrictions against Tehran.

In the UK, too, implementation of the Iran deal has received attention at the very top of the political agenda. London is home to many of the global financial institutions whose willingness to re-engage with Iran is crucial for the deal's survival. After Barclays refused to process a transfer of £14,000 from Iran to a small lubricants firm in Oxfordshire in March 2016, then-Prime Minister David Cameron wrote a personal letter to the bank's CEO Jes Staley asking for clarification on the matter. Staley argued that due to the bank's large US presence it was 'required to continue to restrict business activity with Iran'. These concerns are ongoing, and banks are unlikely to change their minds in the near future, hampering the ability of other sectors from entering the Iranian market.

For the Iran deal to work, European partners must continue to demonstrate their firm commitment to the framework, in the face of lingering uncertainty in Washington. The agreement was indeed a victory for non-proliferation diplomacy and its contribution to international peace and security means that it simply cannot be undone. Ensuring that it works is therefore in the best interest of all parties.

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