IAI PAPERS 21 | 21 - MAY 2021

ISSN 2610-9603 | ISBN 978-88-9368-195-7

Istituto Affari Internazionali

The Transatlantic Dimension of Europe's Nuclear Diplomacy with Iran: 2003–21

by Riccardo Alcaro

The European Union in International Diplomatic Relations
EUDIPLO
Geneva | Groningen | Leuven | Pisa
Jean Monnet Network

With the support of the Erasmus+ Programme of the European Union

ABSTRACT

European nuclear diplomacy with Iran has always had a transatlantic dimension at its core. Facilitating US–Iranian engagement is instrumental to securing European long-term interests in supporting the non-proliferation regime and preventing a major military confrontation in the Gulf. Over the years the Europeans have made a number of tactical adjustments in pursuit of this strategic goal. They succeeded in turning initial transatlantic divergence under Bush into a fairly solid transatlantic consensus under Obama, when the Iran nuclear deal or JCPOA was signed. After Trump pulled the US out of the deal, Europe fell back on conflict management, which was barely enough to keep the JCPOA on life support. With Biden the pendulum has shifted back to transatlantic re-engagement, with a view to revive the nuclear deal. Convergence with the US remains indispensable, but it may require a degree of leverage over Washington that Europe has lost.

keywords

Transatlantic relations | EU foreign and security policy | EU–Iran relations | Iran's nuclear programme | Nuclear non-proliferation

EUDIPLO papers editors: **Sara Poli** (University of Pisa) and **Riccardo Alcaro** (IAI)

EUDIPLO (The European Union in International Diplomatic Relations) is a Jean Monnet Network between the universities of Geneva (Christine Kaddous), Groningen (Ramses Wessel; coordinator), Leuven (Jan Wouters), and Pisa (Sara Poli). It is co-funded under Erasmus+ of the European Union (620295-EPP-1-2020-1-NL-EPPJMO-NETWORK). Associate partners are based in a number of EU neighbouring states, as well as in Africa, Asia, North America, Latin America and Oceania.

The Network focuses on this central question: **What are the internal and external constraints and opportunities for the European Union to further its ambitions as an international diplomatic actor?** In dealing with this question, the Network aims to generate a stronger awareness on, and contribute to deeper insights with regard to, the European Union's diplomatic activities throughout the world, in third States as well as at multilateral fora.

Both the European External Action Service and the Union delegations – and hence the European Union's diplomatic institutional machinery – remain largely unknown to the public. Yet, the European Union not only has a worldwide network of more than 140 'embassies', but at the same time it has assumed 'state-like' functions on the basis of the adoption of diplomatic rules that were originally created for states only. Many **challenges** do remain, but the deep and wide legal and policy powers – and the sheer size and universal network – of the European Union also offer **opportunities** that remain as of yet untapped.

Academic and policy analyses have pointed to a great number of **legal and political questions** related to the developing role of the EU in international diplomacy. EUDIPLO brings experts in this area together to focus on these questions in order to make public authorities at all levels (EU institutions, governmental institutions in Member States and in third countries, international organisations, international and national civil servants and diplomats), young professionals and students, as well as the public at large, aware of the challenges and opportunities in this area.

university of groningen

CENTRE D'ÉTUDES JURIDIQUES EUROPÉENNES
Centre d'excellence Jean Monnet
Université de Genève

Leuven Centre for Global Governance Studies

IN SUPREMÆ DIGNITATIS 1343
UNIVERSITÀ DI PISA

ISSN 2610-9603 | ISBN 978-88-9368-195-7

The Transatlantic Dimension of Europe's Nuclear Diplomacy with Iran: 2003–21

by Riccardo Alcaro*

Introduction

Iran's nuclear issue has been a major focus of the foreign policy of the European Union and its member states for almost two decades. It all started in the late summer of 2003, when the "E3" of France, Germany and the United Kingdom reached out to the Islamic Republic of Iran in the attempt to get verifiable guarantees of the solely peaceful nature of the latter's nuclear programme. In the following years the E3 group expanded first to the European Union, in the person of the High Representative for foreign and security policy (thereby becoming the E3/EU), and then to China, Russia and the United States.

It was in this enlarged E3/EU+3 format that a multilateral agreement, the Joint Comprehensive Plan of Action (JCPOA), was signed with Iran in July 2015. However, this landmark achievement was not to last, because in May 2018 former President Donald Trump pulled the United States out of the deal. The E3 and the European Union have since tried to salvage the JCPOA, most recently by coordinating with the new US administration of Joseph Biden, who is open to re-engage Iran diplomatically.

Underlying the E3/EU's perseverance in seeking a negotiated solution to the Iranian nuclear issue is the steadiness of European interests in the matter. The Europeans are concerned about two equally disastrous potential consequences of an unchecked Iranian nuclear programme.

The first is that Iran's progress towards a nuclear weapons capacity could induce other countries in the region, especially its rival Saudi Arabia, to pursue their own nuclear options. If Iran were to turn its civilian programme to military ends, a nuclear arms race could ensue that would deal a fatal blow to the Nuclear Non-Proliferation Treaty (NPT), a pillar of international security that has successfully

* Riccardo Alcaro is Research Coordinator and Head of the Global Actors Programme of the Istituto Affari Internazionali (IAI).

· Paper produced in the framework of the EUDIPLO network, May 2021.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

limited the number of nuclear-armed states for fifty years and to which Iran and all countries in the region, with the exception of Israel, are non-nuclear parties.

The second potential consequence is that Israel or the United States itself determine that air strikes may be the only choice left to curb an unchecked Iranian nuclear programme. As the Islamic Republic would likely retaliate by activating its allies in Iraq, Lebanon, Syria and Yemen, the prospect of a regionalised conflict would not be remote, with ominous consequences for regional, and European, security.

The E3/EU have been clear-minded about how they can best support the non-proliferation regime and prevent a potentially major conflict in the Middle East and Gulf region. Because they lack the power to guarantee the sustainability of the economic and political benefits for which Iran is willing to trade concessions on the nuclear front, they have strived to involve the one country with that power, the United States. The E3/EU's approach has consequently been premised on the need to facilitate, contribute to and sustain US–Iranian nuclear diplomacy.

This objective has given, and continues to give, strategic continuity to the tactical shifts that the Europeans have made in order to adjust to the different sensitivities of successive US administrations. They have managed divergence under Bush and convergence under Obama, then conflict with Trump and re-engagement with Biden. Such a constant adjustment exercise has served European interests, more evidently before 2015 but arguably even after the US withdrawal from the JCPOA. However, it has not been painless, as the erosion of Europe's leverage over Washington has shrunk its ability to enable US–Iranian diplomacy.

1. Divergence under Bush

Europe's involvement in the Iranian nuclear issue during the presidency of George W. Bush may be divided into two phases: a first one (2003–5) in which the E3/EU engaged Iran in nuclear talks and, following the latter's collapse, a second phase (2006–8) in which the Europeans worked towards an initial transatlantic consensus on Iran within the framework of the United Nations Security Council (UNSC).

In moving from the first phase to the second the Europeans hardened their position towards Iran, in that they showed greater availability to adopt sanctions. The transition from the more dialogue-based approach of the first years to one combining diplomacy with coercion did not reflect a strategic shift away from the pursuit of a consensual resolution of the nuclear dispute. Instead, it was a tactical adjustment largely driven by the necessity to narrow the gap with the United States, although obviously Iran's defiance of international requests for more transparency and cooperation also proved critical.[1]

[1] For a detailed overview of the E3/EU's approach to Iran during the Bush presidency, see Riccardo Alcaro, *Europe and Iran's Nuclear Crisis. Lead Groups and EU Foreign Policy Making*, Cham, Springer-

ISSN 2610-9603 | ISBN 978-88-9368-195-7

The 2003–5 nuclear negotiation between the E3/EU and Iran hardly gets a mention in most accounts of the Iranian nuclear controversy.[2] Analyses grounded in biased hindsight explain the neglect of a process that was neither inconsequential nor doomed to fail. The Europeans extracted from Iran significant concessions – even accounting for their temporary nature. These included the voluntary implementation of the Additional Protocol, which expanded the inspection powers of the International Atomic Energy Agency (IAEA), and most importantly the suspension of uranium enrichment, a highly sensitive industrial process that may serve both civilian and military purposes.[3] Considering that Iran would never again agree to stop enriching uranium, the freezing of enrichment for about two years was a remarkable achievement.

On the other hand, uranium enrichment did emerge in the end as the obstacle that the parties proved incapable of overcoming, as Iran rejected the E3/EU's demand for an indefinite suspension.[4] While the Europeans had their genuine concerns about Iran's ability to enrich uranium on its soil, the inflexibility they showed on the matter had arguably more to do with the United States.[5]

Especially during their early engagements with Iran, the E3/EU had a difficult interlocutor in the Bush Administration. When the nuclear controversy broke out following the revelations that Iran had failed to disclose to the IAEA such sensitive nuclear activities as uranium enrichment, the US government advocated the immediate referral of the Islamic Republic to the Security Council.[6] The Bush Administration felt that its warning about Iran being a threat to international security – most notably in President Bush's infamous "axis of evil" speech in early 2002 – had been vindicated.[7] Therefore, the European outreach to Tehran failed to stir enthusiasm in Washington.

US scepticism hovered over the E3–Iran talks as a Damocles' sword, given that both the Europeans and the Iranians were unlikely to consider permanent

Palgrave Macmillan, 2018, p. 182-189.

[2] For instance, in his 500-page book on the Iranian nuclear challenge, US expert Kenneth Pollack ignores them altogether. See Kenneth M. Pollack, *Unthinkable. Iran, the Bomb and American Strategy*, New York, Simon and Schuster, 2013.

[3] International Crisis Group, "Iran: Where Next on the Nuclear Standoff?", in *Middle East Briefings*, No. 15 (24 November 2004), https://www.crisisgroup.org/node/1840.

[4] A comprehensive analysis of the E3/EU-Iran nuclear talks can be found in Shannon N. Kile (ed.), *Europe and Iran. Perspectives on Non-Proliferation*, Oxford, Oxford University Press, 2005.

[5] International Crisis Group, "Iran: Is There a Way Out of the Nuclear Impasse?", in *Middle East Reports*, No. 51 (23 February 2006), https://www.crisisgroup.org/node/1611.

[6] IAEA Board of Governors, *Statement by Amb. Kenneth C. Brill, United States of America*, IAEA Board of Governors Meeting, Vienna, 8 September 2003, http://www.dirco.gov.za/foreign/Multilateral/inter/iaea_iran/200309_us_statement.pdf.

[7] White House, *President Delivers State of the Union Address*, Washington, 29 January 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html; see also Kenneth M. Pollack, *Unthinkable*, cit, p. 64-100.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

arrangements absent some sort of US acquiescence. However, after the E3/EU managed to persuade Iran to re-commit to suspending uranium enrichment and some important related activities in late 2004,[8] President Bush changed tack and declared that his administration was now backing the European effort.[9]

US support came with a price, though. The Bush Administration made it clear that it would not accept the comprehensive agreement the E3/EU and Iran were after unless it bound Iran to give up uranium enrichment permanently. The E3/EU's position had hitherto been that no enrichment-related activities could occur while the negotiation was ongoing, but by spring 2005 no decision had been taken about whether permanent termination of enrichment should be part of the final deal too. The E3 discussed other options that would let Iran conduct limited enrichment activities, but eventually chose to stick to a "zero enrichment'" red line for fear of losing US support.[10]

The E3/EU hoped that they could still persuade Iran to accept this demand – a very tall order, given that Iran had repeatedly said uranium enrichment was not negotiable – by fleshing out a package of economic and political incentives with the offer of a state-of-the-art light water nuclear reactor (the most proliferation-resistant type of reactors). The Bush Administration, however, let it be known that the US-based interests of the French company ostensibly responsible for delivering the reactor could be negatively affected, which led the E3 to abort the plan.[11] The upshot was that the E3/EU's offer to Iran was as long on demands as it was short on incentives.[12]

Unsurprisingly Iran, which at the time had just transitioned from the reformist administration of Mohammad Khatami to the hard-line presidency of Mahmoud Ahmadinejad, rejected it out-of-hand and gradually re-activated all activities it had frozen following the interim arrangements with the E3/EU. After uranium

[8] The E3/EU and Iran lastly agreed upon a detailed set of commitments in November 2004, although Iran had already suspended uranium enrichment following a visit to Tehran of the E3 foreign ministers in October 2003. The text of the November 2004 "Paris Agreement" was included in a communication to the IAEA. See IAEA, *Communication dated 26 November 2004 Received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom Concerning the Agreement Signed in Paris on 15 November 2004* (INFCIRC/637), 26 November 2004, https://www.iaea.org/node/7619.

[9] Michael A. Fletcher and Peter Baker, "Bush Acknowledges Impact of Insurgents", in *The Washington Post*, 21 December 2004, http://www.washingtonpost.com/wp-dyn/articles/A13259-2004Dec20.html; US Department of State, *Secretary Condoleezza Rice - Interview with Reuters News Agency*, 11 March 2005, https://2001-2009.state.gov/secretary/rm/2005/43319.htm.

[10] Several E3/EU officials confirmed this in off-the-record interviews. See, Riccardo Alcaro, Europe and Iran's Nuclear Crisis, cit., p. 184; see also Tom Sauer, "Struggling on the World Scene: An Over-ambitious EU versus a Committed Iran", in *European Security*, Vol. 17, No. 2-3 (2008), p. 273-293.

[11] Riccardo Alcaro, Europe and Iran's Nuclear Crisis, cit., p. 198.

[12] For details of the E3/EU's proposed assistance in the fuel procurement for Iran's light water reactors, see IAEA Board of Governors, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Resolution* (GOV/2005/77), 24 September 2005, p. 15-17, https://www.iaea.org/sites/default/files/gov2005-77.pdf.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

enrichment resumed in early 2006, the E3 admitted that the talks had reached a dead end[13] and joined the United States, China and Russia in calling for referring the matter to the Security Council.[14]

Between 2006 and 2008 the Security Council adopted five binding resolutions calling on Iran to suspend uranium enrichment and resume full cooperation with the IAEA, which Iran had curtailed in February 2006.[15] Three of such resolutions included sanctions – mostly bans on trade in nuclear and ballistic-related materials and technologies with Iran.[16] The E3 supported – and at times tabled – such measures, each time coordinating with the United States.

In addition, in line with US wishes, in early 2007 the E3 persuaded their EU fellow partners to adopt sanctions that went beyond those mandated by the Security Council.[17] Meanwhile, in a behind-the-scenes campaign, the Bush Administration warned EU companies and banks that failure to cut off business ties with Iran might result in potential penalties by US anti-money laundering and counter-terrorism financing regulators.[18] The E3/EU also failed to convince the Bush Administration of the merits of direct US–Iranian talks within the E3/EU+3 group.

When Bush left office, the gap between Europe and the United States on Iran had narrowed. On the surface, this reflected European willingness to move closer to the confrontational approach championed in Washington, a choice that did not seem to have paid off given that a diplomatic resolution of the nuclear dispute was arguably farther away in 2008 than in it had been in 2005. Under the surface, however, it was the United States that had made the greatest adjustment.[19]

While the Bush Administration's intransigence on uranium enrichment and insistence on sanctions severely complicated (and perhaps even derailed) nuclear talks with Iran in 2005, the option of ratcheting up pressure on Iran had always been contemplated by the E3/EU.[20] That Iran's actions on the nuclear front after

[13] For the E3's statement about the failure of the talks, see IAEA, *Communication dated 13 January 2006 Received from the Permanent Missions of France, Germany and the United Kingdom to the Agency* (INFCIRC/662), 13 January 2006, https://www.iaea.org/node/7644.

[14] E3/EU+3, *Statement on Iran by the UN Security Council Permanent Five, Germany, and the European Union*, London, 30 January 2006, https://2001-2009.state.gov/p/nea/rls/60101.htm.

[15] UN Security Council resolutions 1696 of 31 July 2006; 1737 of 23 December 2006; 1747 of 24 March 2007; 1803 of 3 March 2008; 1835 of 27 September 2008.

[16] UNSC resolutions 1737, 1747 and 1803.

[17] Council of the European Union, *Council Regulation (EC) No 423/2007 of 19 April 2007 Concerning Restrictive Measures against Iran*, http://data.europa.eu/eli/reg/2007/423/oj.

[18] John McGlynn, "The US Declaration of War on Iran", in *The Asia-Pacific Journal: Japan Focus*, Vol. 6, No. 31 (3 March 2008), https://apjjf.org/-John-McGlynn/2707/article.html; Robin Wright, "Stuart Levey's War", in *The New York Times*, 31 October 2008, https://www.nytimes.com/2008/11/02/magazine/02IRAN-t.html.

[19] For a detailed list of all changes in the Bush administration's Iran policy, see Mark Fitzpatrick, "The Iranian Nuclear Crisis. Avoid Worst-Case Outcomes", in *Adelphi Papers*, No. 398 (2008), p. 63.

[20] See, for instance, the interview by then French Foreign Minister Philippe Douste-Blazy to Europe

ISSN 2610-9603 | ISBN 978-88-9368-195-7

2005 warranted coercive measures was a no-brainer for the Europeans. What set them apart from the US administration was that they saw it as a complement and not an alternative to diplomacy. Eventually President Bush embraced this "dual track" approach, even if he pursued the sanctions track with greater resolve.

In addition, the Europeans largely managed to keep the debate about sanctions as a matter of multilateral negotiations within the E3/EU+3, which injected more incrementalism into the process than the United States would have liked. Furthermore, measures that the European Union took in addition to UN sanctions were limited in number and targeted in nature, as they did not extent further than an expansion of the blacklists of Iranian companies and individuals subjected to an assets freeze or a visa denial. Even the US' behind-the-scenes warnings to EU firms about the risk of keeping economic ties with Iran was only partially successful, as it slowed down the pace but not the upward trend in EU–Iran trade (which peaked in 2011).[21]

Most importantly, when the Bush Administration opted for joining the E3/EU+3, it found itself entangled in a European-devised normative framework centred on Iran's behaviour rather than an ideological one focussed on its clerical regime. The change of frame was essential in legitimising the proposition of nuclear diplomacy with Iran in Washington. Even if he forbade direct US–Iranian contacts, President Bush agreed to support a package of incentives that HR Javier Solana (unsuccessfully) presented the Iranians in June 2006 and June 2008 on behalf of the E3/EU+3.[22] Bush's Secretary of State Condoleezza Rice even declared she was ready to meet her Iranian counterpart "any time, anywhere" if Iran agreed to suspend uranium enrichment, and eventually instructed a senior US official to (silently) attend a meeting between the E3/EU+3 and Iran.[23]

While limited and incremental, these steps were hardly in line with Bush's initial position that talking to Iran would be an undue reward to an "evil" regime. Instead, they reflected the decision that the United States could engage with it on the basis of Iran's international non-proliferation obligations. This shift in approach was

1 of 8 August 2005, https://www.iranwatch.org/node/2098.

21 Riccardo Alcaro, *Europe and Iran's Nuclear Crisis*, cit., p. 176.

22 E3/EU+3, *Elements of a Proposal to Iran as Approved on 1 June 2006 at the Meeting in Vienna of China, France, Germany, the Russian Federation, the United Kingdom, the United States of America and the European Union*, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/reports/90569.pdf; *Proposal to the Islamic Republic of Iran by China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union, Presented to the Iranian Authorities on 14 June 2008, Tehran*, Annex IV to UN Security Council Resolution 1929 of 9 June 2010, p. 16-18, https://www.undocs.org/S/RES/1929(2010). The 2008 package was accompanied by a letter signed by all E3/EU+3 foreign ministers, including US Secretary of State Rice.

23 "Rice Offers to Meet Iran If It Gives Up Enrichment", in *Reuters*, 21 January 2007, https://www.reuters.com/article/us-iran-nuclear-rice-idUSN1140158420070111; "Rice Hopes Iran Will Change Course in Geneva Talks", in *Reuters*, 18 July 2008, https://www.reuters.com/article/us-iran-usa-rice-idUSN1840143720080718.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

even more remarkable, given that it occurred at a time of increasing tensions with Iran in Iraq and Lebanon, inflamed by the messianic rhetoric of President Ahmadinejad.[24] This shift was, of course, also what the E3/EU had strived for from the start.

2. Convergence under Obama

When Barack Obama took office in early 2009, the path towards greater, even full, transatlantic alignment on Iran was open. The new US president was not just willing to drop any pre-condition for participating in the nuclear talks. He was also keen to downgrade US–Iran enmity to a more manageable rivalry by separating the nuclear issue from other, more intractable problems, especially Iran's growing influence in Iraq and Lebanon.[25]

While welcomed in Europe, Obama's approach caused alarm amongst Iran's regional foes, first and foremost Israel, which found a responsive audience in the US Congress. The challenge for the E3/EU thus became the need to contribute to the credibility of Obama's efforts by enhancing the effectiveness of the sanctions while keeping diplomacy on track.[26]

In spite of Obama's overture to Iran, the nuclear dispute during the first term of his presidency went through a phase of ever more acute tensions. Unfazed by international pressure, Iran kept expanding its nuclear activities, including in an underground facility in central Iran that was disclosed by Western intelligence in September 2009.[27] After Iran opted for raising uranium enrichment to 20 per cent (a level theoretically needed for medical purposes that however brought it closer to produce weapon-grade material), pressure for a significant tightening of the financial screw on Tehran increased massively.

For the E3/EU the issue was to establish a legal basis in which to anchor their own restrictive measures and create as much alignment as possible between the US and EU sanctions regimes. The E3/EU and the Obama Administration carefully manoeuvred to delay the adoption of a major sanctions law discussed by Congress until after the Security Council had taken action on the matter. A UNSC resolution

[24] International Crisis Group, "Iran: Ahmadi-Nejad's Tumultuous Presidency", in *Middle East Briefings*, No. 21 (6 February 2007), https://www.crisisgroup.org/node/1508.

[25] See the 2010 National Security Strategy, where "promoting a responsible Iran" is listed as a security objective. White House, *National Security Strategy*, May 2010, p. 26, http://nssarchive.us/national-security-strategy-2010.

[26] For a detailed overview of the E3/EU's approach to Iran during the Obama presidency, see Riccardo Alcaro, *Europe and Iran's Nuclear Crisis*, cit., p. 189-194.

[27] Barack H. Obama, Nicholas Sarkozy and Gordon Brown, *Statements by President Obama, French President Sarkozy, and British Prime Minister Brown on Iranian Nuclear Facility*, 25 September 2009, https://obamawhitehouse.archives.gov/the-press-office/2009/09/25/statements-president-obama-french-president-sarkozy-and-british-prime-mi.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

would provide the framework into which the Europeans could add their own additional restrictions. In June–July 2010 Iran was thus hit in rapid succession by UN, US and EU sanctions, which spanned the energy, shipping and banking sectors.[28]

Sanctions remained the prevailing component of the transatlantic approach to Iran well into 2012, when the combined pressure from the Obama Administration and the E3 (especially France) led the European Union to ban purchases of oil and gas from Iran (at the time the embargo went into effect, EU countries still imported about 600,000 barrels per day of Iranian oil). The draconian sanction regime put together by the Obama Administration and the E3/EU was aimed at inflicting costs on Iran for its refusal to curb its nuclear activities.[29] But it was also a way to stave off a potential military escalation, given that Israel had by then adopted an increasingly bellicose rhetoric towards Tehran.[30]

For the sanctions to be a credible alternative to military means, however, they had to be complemented with a diplomatic opening. A tentative confidence-building arrangement concocted by the United States in cooperation with France, Russia and the IAEA foundered in late 2009.[31] In the hiatus that followed, the EU High Representative – by then Catherine Ashton – used her role as "envoy" of the E3/EU+3 to keep channels of communication with Tehran open. Her efforts facilitated a resumption of E3/EU+3–Iran contacts, with a number of meetings occurring between late 2010 and 2013.[32]

[28] UN Security Council Resolution 1929 of 9 June 2010, cit.; US Congress, *Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010*, Public Law 111-195, 1 July 2010, https://www.govinfo.gov/app/details/PLAW-111publ195; Council of the European Union, *Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 Implementing Article 7(2) of Regulation (EC) No 423/2007 Concerning Restrictive Measures against Iran*, http://data.europa.eu/eli/reg_impl/2010/668/oj.

[29] US Congress, *National Defense Authorization Act for Fiscal Year 2012*, Public Law 112-81, 31 December 2011, https://www.govinfo.gov/app/details/PLAW-112publ81; Council of the European Union, *Council Regulation (EU) No 267/2012 of 23 March 2012 Concerning Restrictive Measures against Iran and Repealing Regulation (EU) No 961/2010*, http://data.europa.eu/eli/reg/2012/267/oj. In 2011, the European Union complemented the nuclear-related sanctions with restrictive measures related to human rights violations, further turning the screw on Tehran (Council of the European Union, *Council Decision 2011/235/CFSP of 12 April 2011 Concerning Restrictive Measures Directed against Certain Persons and Entities in View of the Situation in Iran*, http://data.europa.eu/eli/dec/2011/235/oj). These, however, were targeted measures against individuals and were not relevant to the nuclear issue, if not indirectly.

[30] Harriet Sherwood, "Israel Defence Minister Warns It May Soon Be Too Late for Iran Military Strike", in *The Guardian*, 2 February 2012, http://www.guardian.co.uk/p/3586k.

[31] The so-called "nuclear fuel swap" or Geneva agreement of October 2009 was designed so as to deprive Iran of the need, and material, to amass enough enriched uranium that could potentially be used for military purposes for about a year, during which talks would have occurred. For details, see Mark Fitzpatrick, "Iran: The Fragile Promise of the Fuel-Swap Plan", in *Survival*, Vol. 52, No. 3 (2010), p. 67-94.

[32] E3/EU+3 and Iranian representatives met in Geneva in late 2010 and Istanbul in early 2011, then again in Istanbul, Baghdad and Moscow in winter-spring 2012, and then twice in Almaty in early 2013. For Ashton's "epistolary diplomacy" with Iran, see Laurent Fabius, "Inside the Iran Deal: A French Perspective", in *The Washington Quarterly*, Vol. 39, No. 3 (2016), p. 7-38 at p. 8.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

While inconclusive, these contacts served the purpose of building a degree of reciprocal trust. However, the breakthrough came only after President Obama authorised secret bilateral talks with the Iranians in Oman and a pragmatic regime insider, Hassan Rouhani, replaced the firebrand Ahmadinejad in June 2013.[33] The US–Iranian talks provided the blueprint for the negotiation within the E3/EU+3 framework that eventually resulted in the JCPOA in July 2015.[34]

Although the Americans remained in the driver's seat, the E3/EU actively participated in the negotiation. Resentful at not being informed of the Omani talks and in the process of tightening military links with the Emirates, France actually made it a point to give relevance to its presence in the E3/EU+3 format, often taking a harder stance than the United States itself (an attitude that even led to some frictions).[35] HR Federica Mogherini, who had replaced Ashton in late 2014, seized on her role as chief interlocutor of the Iranians on behalf of the E3/EU+3 to get some diplomatic leeway. She interacted closely with US chief negotiator Wendy Sherman, chaired plenary meetings, coordinated with all delegations and reportedly negotiated the wording of specific sections of the final text.[36]

But the nuclear talks with Iran did not absorb all of the E3/EU's diplomatic energy. Special attention was given to the US Congress, in which opposition to the nuclear deal was widespread and spanned across party lines. In early 2015 the E3/EU made a public appeal to Congress not to derail the nuclear talks by adopting further sanctions.[37] More importantly, after the JCPOA was struck in summer 2015, the E3/EU made it clear to US lawmakers that they would go on with implementing it even if Congress took position against it.[38]

[33] Laura Rozen, "Inside the Secret US-Iran Diplomacy that Sealed Nuke Deal", in *Al-Monitor*, 11 August 2015, https://www.al-monitor.com/originals/2015/08/iran-us-nuclear-khamenei-salehi-jcpoa-diplomacy.html.

[34] International Crisis Group, "Iran Nuclear Talks: The Fog Recedes", in *Middle East Briefings*, No. 43 (10 December 2014), https://www.crisisgroup.org/node/805.

[35] The most significant instance of such frictions occurred in November 2013, when France publicly blocked the conclusion of an interim deal unless Iran agreed to more stringent limits on activities that could eventually produce plutonium (which, like highly enriched uranium, can be used to make up the core of a warhead). The Obama Administration felt that the issue could be dealt with behind closed doors. For a (rather self-congratulating) account of the incident, see Laurent Fabius, "Inside the Iran Deal: A French Perspective", cit., p. 14-16.

[36] Maïa de La Baume, "The Women Behind the Iran Nuclear Deal", in *Politico*, 17 July 2015, http://www.politico.eu/article/the-women-behind-the-nuclear-deal; see also Laurent Fabius, "Inside the Iran Deal: A French Perspective", cit., p. 29-30.

[37] Laurent Fabius, Philip Hammond, Frank-Walter Steinmeier and Federica Mogherini, "Give Diplomacy with Iran a Chance", in *The Washington Post*, 21 January 2015, https://www.washingtonpost.com/opinions/on-irans-nuclear-programs-give-diplomacy-a-chance/2015/01/21/0cdb4dcc-a185-11e4-b146-577832eafcb4_story.html.

[38] Carl Hulse and David M. Herszenhorn, "Coordinated Strategy Brings Obama Victory on Iran Nuclear Deal", in *The New York Times*, 2 September 2015, https://www.nytimes.com/2015/09/03/world/obama-clinches-vote-to-secure-iran-nuclear-deal.html.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

The JCPOA met most of European concerns. The deal was a major boost to the non-proliferation regime. It imposed massive limitations on Iran's nuclear programme (uranium enrichment would remain at minimal levels for ten to fifteen years) and introduced a 25-year IAEA inspection regime that was more intrusive than the Additional Protocol, which would at any rate remain in force indefinitely.[39] Admittedly, the deal did little to soothe regional tensions, with Israel and the Arab Gulf states criticising it as a temporary framework (at best).[40] For the E3/EU, however, the key was that the prospect of a regional nuclear arms race or a bombing campaign against Iran's nuclear facilities had receded.

On balance, the E3/EU's performance on Iran during the Obama presidency was effective. On the sanctions track it was the European Union who did the most damage, as Iran found itself deprived of what was then its main trade partner. Indeed, the promise of normalising again economic relations with the Union was a powerful incentive to strike a deal for Iran, because the United States only offered limited concessions.

On the diplomacy track, the E3 and the HR were essential for preserving the E3/EU+3 as a UNSC-endorsed multilateral negotiating format, which lent the process international legitimacy. The E3/EU's defence of the JCPOA against sceptics and critics in Washington was also important. It strengthened Obama's case for diplomacy and was reportedly decisive in persuading enough Democratic Senators to block a vote against the deal in the Republican-controlled Senate.[41]

While fruitful, the E3/EU's cooperation with the Obama Administration also entailed costs. With the United States directly engaging Iran, the E3/EU invariably lost centrality, whereby a diminished capacity of initiative ensued. Most importantly, the Europeans did not put up resistance against the US' so-called "secondary" sanctions, which targeted foreign companies and banks doing businesses with Iran.

In the past the issue had proved controversial, but not this time.[42] The E3/EU chose not to protest against the extraterritorial nature of these measures in order to not jeopardise cooperation with the Obama Administration. They may have considered

[39] E3/EU+3 and Iran, *Joint Comprehensive Plan of Action*, Vienna, 14 July 2015, available at: https://eeas.europa.eu/headquarters/headquarters-homepage/3244.

[40] Isabel Kershner, "Iran Deal Denounced by Netanyahu as 'Historic Mistake'", in *The New York Times*, 14 July 2015, https://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-israel.html.

[41] Carl Hulse and David M. Herszenhorn, "Coordinated Strategy Brings Obama Victory on Iran Nuclear Deal", cit.

[42] When the United States adopted secondary sanctions over trade with Iran (and Libya) for the first time in 1996, the Europeans reacted by adopting a "Blocking Regulation" that made it illegal for EU companies to comply with third countries' legislation and threatening to bring the case to the World Trade Organisation. Eventually an arrangement was found that the United States would not enforce the sanctions for as long as the Europeans contributed to US efforts at avoiding nuclear proliferation in Iran.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

the issue a moot point, as the European Union had in the meantime aligned its sanctions regime with the US' one anyway, and both regimes were eased after the JCPOA was concluded.

The E3/EU were aware of the risk of a new misalignment if Obama's successor had come from the crowded lot of Republican contenders, who were all opposed to the JCPOA. Yet, they must have reckoned that a US president, no matter his political inclinations, would be reluctant to abandon a multilateral agreement sanctioned by the Security Council, or that he would at least abstain from adopting sanctions against America's European allies. They were wrong on both accounts.

3. Conflict under Trump

Whatever sense of pride the Europeans felt after the JCPOA was concluded faded soon after Donald Trump, who unexpectedly won the 2016 presidential election, imparted a dramatic turn towards confrontation in US policy towards Iran. The Trump Administration resumed the kind of demonising rhetoric of the Islamic Republic that had been common currency under Bush. President Trump and his entourage saw little justification for the United States to remain in an agreement that imposed temporary limits on nuclear activities while not addressing other issues of US concern, namely Iran's ballistic programme and support for allies in Iraq, Lebanon, Syria and Yemen.[43]

It was on these grounds that President Trump unilaterally ceased US compliance with the JCPOA in May 2018, whereby all sanctions suspended under the deal went back into force (some of them in August, the rest in November), and many others were added later.[44]

President Trump's "maximum pressure" policy – ostensibly aimed at forcing Iran to make greater concessions – compelled the E3/EU to repeated adjustments.[45] Tactics changed once again, but the strategic objective continued to be securing European interests in non-proliferation and regional security by way of a rule-based platform for US–Iranian diplomacy. The E3/EU felt that the JCPOA was by far the best available option for that, and therefore saving the deal remained their

[43] White House, *Remarks by President Trump on Iran Strategy*, 13 October 2017, https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-iran-strategy.

[44] White House, *Remarks by President Trump on the Joint Comprehensive Plan of Action*, 8 May 2018, https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action. A full list of the US sanctions on Iran, including those adopted after the JCPOA was concluded, is available on the website of the Department of State at: https://www.state.gov/iran-sanctions.

[45] For a detailed overview of the E3/EU's approach to Iran during the Trump presidency, see Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal: Less than a Success, More than a Failure", in *The International Spectator*, Vol. 56, No. 1 (March 2021), p. 55-72, https://doi.org/10.1080/03932729.2021.1876861.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

priority.[46]

The best way to do so was, of course, to prevent the United States from leaving it in the first place. The E3/EU never shared the view that the JCPOA was a flawed agreement. The temporary duration of the limits on Iran's nuclear programme was a standard practice in arms control agreements and restrictions were at any rate long enough to remove the prospect of a nuclear-capable Iran for well over the ten or fifteen years critics pointed to. Nor did E3/EU diplomats believe that including the ballistic issue or even more so Iran's support for its regional allies in the negotiation was ever a practicable option. This notwithstanding, they tried to meet President Trump's concerns halfway.[47]

The E3 agreed with their counterparts at the Department of State on a set of measures they would take if Iran stepped up its ballistic capabilities.[48] In a new E4/EU format that also included Italy they engaged the Iranians in political consultations over regional issues, starting with Yemen.[49] Finally, E3 leaders accepted the notion that the JCPOA could not be considered an endpoint and that a negotiation over a more stringent "follow-on" agreement was necessary.[50] What the E3/EU could not do was to take actions that would amount to a unilateral change of the JCPOA, as President Trump demanded. As they had long feared and indeed anticipated, their efforts proved insufficient.

After the United States left the deal, the E3/EU pledged to Iran that they remained committed to trade and investment relations in keeping with the JCPOA.[51] Accordingly, they took steps to protect EU firms from US extraterritorial sanctions, including by establishing a kind of barter system, called Instex, that involved no direct transfer of money between Europe and Iran.[52] Their calculus was that, if the nuclear deal continued working, President Trump could over time be persuaded that diplomacy had a much better chance than maximum pressure to keep Iran's

[46] Interviews with two British, one German and one French officials knowledgeable about the E3/EU process, 17, 18 and 19 November and 1 December 2020.

[47] Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal", cit. p. 59-61.

[48] International Crisis Group, "How Europe Can Save the Iran Nuclear Deal", in *Middle East Reports*, No. 185 (2 May 2018), https://www.crisisgroup.org/node/6068.

[49] Riccardo Alcaro, "On Speaking Terms: Europe-Iran Dialogue on Regional Flashpoints", in *IAI Commentaries*, No. 19|21 (March 2019), https://www.iai.it/en/node/10109.

[50] Tracy Wilkinson and Noah Bierman, "Merkel Follows Macron to Washington in Hopes of Holding Trump to Iran Nuclear Deal", in *Los Angeles Times*, 27 April 2018, https://www.latimes.com/politics/la-na-pol-trump-merkel-20180427-story.html.

[51] European External Action Service (EEAS), *Remarks by HR/VP Mogherini at the Press Conference Following Ministerial Meetings of the EU/E3 and EU/E3 and Iran*, Bruxelles, 15 May 2018, https://europa.eu/!CB78xu.

[52] The European Union amended the 1996 Blocking Regulation (see fn. 42 above) and instructed the European Investment Bank to extend credit lines to potential exporters to Iran. As these measures proved ineffective, the decision to create the special purpose vehicle was taken. The E3 set up Instex in early 2019; in spite of other six EU countries joining the mechanism later on, only one transaction has been reported so far. See Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal", cit. p. 63-64.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

nuclear programme in check.

Admittedly, there was never much hope in Europe that resistance could work. The implacable resolve of the Trump Administration to use extraterritorial sanctions against allied countries nonetheless came as a shock, just as the speed with which EU firms complied with US legislation delivered a stinging reminder of European vulnerability. EU companies stayed clear even of Instex, despite the fact that it was initially supposed to facilitate trade only in humanitarian goods formally not targeted by US sanctions.

With no economic benefits from Europe in sight, from May 2019 on Iran started to exceed the JCPOA-set limits on its nuclear activities in retaliation against the US withdrawal. It also engaged in hostile actions aimed at intimidating the US' Arab allies in the Gulf in order to regain some leverage vis-à-vis Washington.[53] The E3/EU could not but fall back on containing the damage to the JCPOA while trying to recreate some room for diplomacy.

Late in the summer of 2019 France got close to facilitate a meeting between Trump and Rouhani, which reportedly foundered upon Iran's demand for a preliminary US commitment to sanctions relief, which Trump refused to give.[54] The E3/EU were more successful in preventing the total collapse of the nuclear agreement. In early 2020 they activated the special procedure of the JCPOA designed to address non-compliance in the attempt to keep Iran's breaches of the deal within tolerable limits.[55] More importantly, over the summer 2020 they opposed a US plan to extend a UN arms embargo on Iran that was set to expire in the following October.

The E3 anticipated that Iran would formally quit the JCPOA if the arms embargo had been prolonged, given that its expiration was in keeping with UNSC resolution 2231, which had incorporated the deal.[56] Pushing Iran out of the JCPOA was indeed the rationale of the whole operation, as attested to by the Trump Administration's dismissal of European proposals to discuss alternative options to curb arms sales to Iran. Skilfully manoeuvring with the other members of the Security Council, the E3 managed to fend off the challenge. The JCPOA was thus given some extended lifetime.[57]

By the end of Trump's single term in early 2021, the JCPOA was nonetheless in a sorry state. Even if UN and EU sanctions had been lifted, US extraterritorial

[53] International Crisis Group, "The Iran Nuclear Deal at Four: A Requiem?", in *Middle East Reports*, No. 210 (16 January 2020), https://www.crisisgroup.org/node/13023.

[54] Nader Entessar and Kaveh L. Afrasiabi, "Can Macron's Iran Initiative Succeed?", in *LobeLog*, 1 September 2019, https://lobelog.com/?p=50013.

[55] Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal", cit., p. 65.

[56] UN Security Council, Resolution 2231 of 20 July 2015, https://www.undocs.org/S/RES/2231(2015).

[57] Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal", cit. p. 65-66; see also International Crisis Group, "Iran: The U.S. Brings Maximum Pressure to the UN", in *Middle East Reports*, No. 218 (19 August 2020), https://www.crisisgroup.org/node/14762.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

measures had succeeded in cutting off any significant source of foreign revenue for Iran. In response, the latter had reduced compliance with its nuclear obligations. The inspection regime was the only pillar of the JCPOA that was still in place, and Iran was sending threatening signals that even this dimension was in peril.[58] Tensions over sanctions and non-proliferation had in the meantime led to a more volatile regional landscape, as the United States and Iran repeatedly clashed with one another directly and by proxy.[59] The E3/EU were as unable to prevent the progressive hollowing out of the JCPOA as they were incapable of facilitating détente between Washington and Tehran. In these terms, their performance was disappointing to say the least.

Europe indeed suffered the humiliation of a United States that showed no regard for its interests and actually forced its will on it without consequences. It also saw its credibility sink in Tehran, as the E3's initial attempt to accommodate President Trump's demands and their subsequent reluctance to confront him more forcefully for violating the JCPOA made them look duplicitous and weak.[60] Yet, the fact that they rejected US demands for embracing maximum pressure and remained in the nuclear agreement was not entirely inconsequential.

Iran may have become more distrustful of Europe – or it might have gained a better appreciation of Europe's (and everyone else's) vulnerability to US financial pressure. Still, a normalised economic relationship with Europe – arguably the biggest reward entailed in the JCPOA – remains very much relevant to Tehran. Beyond the economic benefits, the Islamic Republic appreciates that a pragmatic relationship with Europe diminishes the need for it to rely on Russia and China, which may offer some political protection against the United States but also reduce its cherished strategic independence.

Europe's steadfast commitment to the JCPOA – it is worth emphasising that the United Kingdom stuck to the E3/EU line also after it left the European Union in January 2020 – thus did play a role in Iran's calculation that responding to the US withdrawal in kind was not a wise choice. It gave Iran enough leeway to wait out Trump's first term to see whether the chance was there for reviving the deal under a different president.

[58] "Outline of Strategic Plan Action to Lift Sanctions Approved by MPs", in *Iran Press*, 1 December 2020, https://iranpress.com/content/30512.

[59] A summary and partial list of the escalatory incidents that occurred from the summer of 2019 onward include: attacks on oil tankers transiting in the Gulf of Oman, a mutual shooting down of drones by Iran and the United States, tit-for-tat seizures of ships by the United Kingdom and Iran, an alleged Iranian missile attack against Saudi oil fields, clashes between US forces and Iran proxies in Iraq, and eventually the assassination by the United States of Qasem Soleimani, the iconic strategist of Iran's regional policies, against which Tehran retaliated with a barrage of missiles against a US base in Iraq. For details, see International Crisis Group, "Flattening the Curve of U.S.-Iran Tensions", in *Middle East Briefings*, No. 76 (2 April 2020), https://www.crisisgroup.org/node/13679.

[60] Saeed Kamali Dehghan, "Iran's Foreign Minister Accuses Europe of Appeasing Trump", in *The Guardian*, 5 March 2018, https://www.theguardian.com/p/87nq5.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

The E3/EU's efforts eventually paid off after Biden defeated Trump in November 2020. The Trump Administration may have laid bare Europe's limited leverage in the crudest of terms. Yet it also validated the principles that had guided the E3/EU's nuclear diplomacy with Iran from the start, namely that Europe's interests in non-proliferation and regional security would best be pursued by creating room for US–Iran engagement.

4. Re-engagement under Biden

With Biden, the Europeans have once more a US president with whom convergence on Iran is definitely possible. As Obama's vice-president, Biden was always a supporter of the JCPOA. Attesting to his commitment to diplomacy with Iran, he has appointed several people who were instrumental in the 2013–15 nuclear talks to key positions within his foreign and security policy team.[61] However, he is not ready to rush back into the JCPOA on the grounds that conditions – on both the nuclear and the regional fronts – had changed for the worse compared to 2015 or even 2018. The E3/EU learned this lesson soon in his administration, and have since – as usual – recalibrated their approach accordingly.

In the early weeks since Biden's inauguration, the E3 reached out to the new administration with a set of proposals to create momentum towards a resumption of US–Iranian diplomacy. They felt that prompt action was needed in order to prevent Iran from carrying out escalatory measures. They feared in particular the prospective reduction of IAEA inspectors' access to the nuclear facilities that the Iranian parliament had urged following the assassination of Iran's top nuclear scientist, allegedly orchestrated by Israel in late November 2020.[62]

The E3 urged the United States to give guarantees that trade in humanitarian goods – the need for which had been magnified by the devastation the covid pandemic had inflicted on Iran's healthcare system – would not be subjected to penalties. They also proposed that the United States would consent to the release of frozen Iranian funds held in escrow on foreign accounts (this was money due to Iran but never transferred to it because of US sanctions), and urged it to re-install the waivers that had allowed Chinese and Russian companies to provide Iran with nuclear assistance in keeping with the JCPOA.[63]

[61] A partial list would include Jake Sullivan and William Burns, who were involved in the secret talks in Oman in 2013 and who are now national security advisor to the president and director of the Central Intelligence Agency, respectively; Wendy Sherman, the head of the US delegation to the talks over the JCPOA, who is now Undersecretary of State; and Robert Malley, an Iran specialist who worked in Obama's National Security Council and who is now the US Special Envoy for Iran.

[62] Francois Murphy, "Iran Tells IAEA It Plans to Scale Back Cooperation in a Week", in *Reuters*, 16 February 2021, https://reut.rs/3ap4PhK.

[63] Colum Lynch, "Europeans Fear Iran Nuclear Window Closing", in *Foreign Policy*, 26 March 2021, https://bit.ly/3m3oQyR.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

The E3 saw these measures as low hanging fruits because they reckoned that the Biden Administration could consent to them without losing the supposed leverage created by the over 1,600 sanctions adopted by the previous administration. However, they were rebuffed by the Biden Administration, which only agreed to scrap its predecessor's highly controversial claim that UN sanctions had gone back into force and lift travel restrictions on officials working in Iran's UN mission in New York.[64]

European miscalculations may have had their roots in the failure to appreciate the degree to which Trump's arguments against the JCPOA are at least partially shared not just amongst Republicans but Democrats too.[65] More likely though is that the E3 misread Biden's readiness to re-engage Iran without first having its key foreign policy appointments confirmed (a months-long process) and pondered how to factor in the worsening of the regional picture.[66]

The problem for the E3/EU was that a lack of action might actually make that picture worse. In In February 2021 tensions rose, as Biden ordered a raid against a pro-Iran force in Syria after an Iran-backed militia killed a contractor working for a US company in Iraq.[67] Around the same time, Iran curtailed its cooperation with the IAEA, although it agreed it would still pass along the information the inspectors were after for a period of three months.[68]

The E3 received assurances that Biden was serious about resuming nuclear diplomacy with Iran. While the new US administration made it clear that it would not take unilateral steps, it said it was ready to meet with Iranian officials to discuss how to get rid of Trump's maximum pressure policy without prejudice to US non-proliferation concerns.[69] Iran insisted that the onus of the first move fell on the United States given that after all it was the one who had left the JCPOA, and refused European entreaties for arranging a meeting with US diplomats. It did agree, however, to resuming contacts with the E3/EU, Russia and China and to having the E3/EU act as a go-between for communication with the Americans.

At the time of writing, contacts have resumed in Vienna. The negotiation has continued, reportedly achieving some progress, even after an act of sabotage – again allegedly perpetrated by Israeli agents – caused significant damage to Iran's

[64] Ibid.

[65] Patricia Zengerle, "U.S. Senators Push for Broader Iran Deal, Not Return to Nuclear Pact", in *Reuters*, 25 March 2021, https://reut.rs/3cjTnoK.

[66] Interviews with a British and a German officials, 2 and 11 March 2021.

[67] "Biden Takes First Military Action with Syria Strike on Iran-backed Militias", in *BBC News*, 26 February 2021, https://www.bbc.com/news/world-middle-east-56205056.

[68] Jonathan Tirone, "Nuclear Monitors Deal With Iran Gives Diplomacy a Chance", in *Bloomberg*, 4 March 2021, https://www.bloomberg.com/news/articles/2021-03-04/iran-and-u-s-get-time-for-diplomacy-as-atomic-censure-withdrawn.

[69] "Biden's Iran Envoy Says Trump's Maximum Pressure Campaign Was a Failure", in *Middle East Eye*, 18 March 2021, https://www.middleeasteye.net/node/204206.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

main enrichment facility, leading Tehran to announce it would raise enrichment to 60 per cent (a level that has no peaceful application).[70] The parties to the JCPOA, in accordance with the United States, have set up three working groups tasked with drawing up a roadmap for Iran's return to compliance with the nuclear agreement in exchange for extensive sanctions relief from Washington.[71] This points to a political resolve to seek a meaningful diplomatic outcome, possibly (though not necessarily) before the June presidential election in Iran, which is expected to result in a more hard-line administration than that of Rouhani.[72]

The E3/EU have retaken the role as facilitators of US–Iranian diplomacy they have played in one form or another for almost twenty years – this time literally, as they physically have to shuttle between the Vienna residences where the US and Iranian delegations are based. They have thus contributed to a diplomatic process that has at least brought some clarity on an issue on which there was initially uncertainty, namely whether the JCPOA could be discarded in the pursuit of the "longer, stronger" agreement that President Biden has vowed to pursue.[73] It is clear now that the Vienna talks are about re-activating the JCPOA. It is also clear that the E3 are ready to lend support to the US pursuit of a follow-on agreement afterwards – a tall order indeed, as Iran has so far made no opening in that regard.

The E3/EU seem thus to have determined that adjusting their pace to the Biden Administration's is the wisest choice available.[74] This strategy paid off with Obama – that is, the last time the E3/EU faced a US administration with which convergence was a distinct possibility. The European bet is that they can influence the negotiation process – in both tone and contents – on the grounds that the JCPOA can only work if Iran is given the prospect of a much-improved economic relationship with the European Union (and the United Kingdom).

At the same time, the E3/EU cannot ignore the fact that their reputation as credible players in international security has suffered considerably since 2018. This realisation should guide European action when it comes to the "longer, stronger" nuclear deal Biden strives for. It is safe to assume that Iran can be enticed to give

[70] Najmeh Bozorgmehr, Michael Peel and Henry Foy, "Iran to Increase Uranium Enrichment in Blow to Nuclear Talks", in *Financial Times*, 13 April 2021, https://www.ft.com/content/218bd3ad-c5ad-4990-bb15-dca90bdcf7d0.

[71] Steven Erlanger, "Iran and U.S. Agree on Path Back to Nuclear Deal", in *The New York Times*, 7 April 2021, https://www.nytimes.com/2021/04/06/world/europe/iran-nuclear-deal.html; see also Karen DeYoung, "Officials Report Progress at Iran Nuclear Talks in Vienna", in *The Washington Post*, 20 April 2021, https://www.washingtonpost.com/national-security/us-iran-nuclear-talks-vienna-progress/2021/04/19/1322a88a-a13b-11eb-a7ee-949c574a09ac_story.html. Two working groups were set up before the attack against Iran's nuclear facility, the third one after that.

[72] "Multiple Elections Could Boost Hard-Line Victories in Iran", in *IranSource*, 5 March 2021, https://www.atlanticcouncil.org/?p=362267.

[73] Steven Erlanger, "U.S. and Iran Agree to Indirect Talks on Returning to Nuclear Deal", in *The New York Times*, 2 April 2021, https://www.nytimes.com/2021/04/02/world/europe/us-iran-nuclear-deal.html.

[74] Interviews with a British and a German officials, 2 and 11 March 2021.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

further concessions only if it is promised greater rewards. The E3 and the European Union should therefore be ready not just to flesh out the set of benefits offered to Iran but push the United States to do the same.

To achieve that, they cannot count on the good offices of their diplomatic services only. The European Union, and possibly the United Kingdom too, should also regain some leverage vis-à-vis the United States, which involves reducing their vulnerability to extraterritorial sanctions, an issue that has generated a lively debate in the European Union about the need to acquire greater "strategic autonomy".[75]

The heavy-handed use of extraterritorial sanctions by the Trump Administration, and the cavalier approach to them espoused by US policymakers in general, have indeed added a strategic layer to European involvement in the Iranian nuclear issue. Facilitating US–Iranian engagement is still necessary to defend Europe's interest in non-proliferation and stability in the Middle East. But greater autonomy has arguably become as necessary to affect the calculus behind US nuclear diplomacy in terms that are more compatible with European interests.

Conclusion

The involvement of the European Union and its member states in the Iranian nuclear issue has been described as the "labours and sorrows of a supporting actor".[76] Over the course of an 18-year period, there has certainly been a lot of diplomatic labour, both in terms of engagement and coercion, as well as of sorrows, as the Europeans have often been caught in the middle between the United States and Iran, the plot's main protagonists.

As supporting characters, the E3/EU could never impose their will on others. They have been able to shape US and Iranian preferences though, in that they have obstinately worked towards creating room for US–Iranian nuclear diplomacy. This is the red line that runs through all the adjustments the E3 and the European Union have made through three Iranian administrations and four American ones, giving them, if not consistency, direction.

The E3/EU intercepted Iran's desire to make its nuclear programme a matter of negotiation early on, but they found it more difficult to make the proposition acceptable to the United States. Yet, Europe's outreach to Iran eventually created an avenue first for the Bush and then for the Obama Administrations to engage

[75] For a summary of the proposals made to reduce EU vulnerability to US financial sanctions, see Marie-Hélène Bérard et al., "American Extraterritorial Sanctions. Did Someone Say European Strategic Autonomy?", in *Europe in the World Policy Briefs*, March 2021, https://institutdelors.eu/en/publications/american-extraterritorial-sanctions.

[76] Riccardo Alcaro and Aniseh Bassiri Tabrizi, "Europe and Iran's Nuclear Issue: The Labours and Sorrows of a Supporting Actor", in *The International Spectator*, Vol. 49, No. 3 (September 2014), p. 14-20.

ISSN 2610-9603 | ISBN 978-88-9368-195-7

in nuclear talks. The former did so only indirectly, but the latter was fully invested in the negotiation that would eventually result in the JCPOA. Similarly, Europe's steadfast commitment to the nuclear agreement in the face of the Trump Administration's campaign to scuttle it was instrumental in keeping the deal alive, albeit in a comatose state. The E3/EU are as relevant to the Biden Administration's attempt to resuscitate the agreement.

European nuclear diplomacy with Iran has therefore always had a transatlantic dimension at its core. For the E3/EU, facilitating, even enabling US–Iranian nuclear diplomacy is instrumental to securing their long-term interests in strengthening the non-proliferation regime and removing the prospect of a regionalised conflict in the Middle East. The E3/EU were proven right in 2015, when the JCPOA was concluded, and may be proven right again, with Biden using the still existing deal as the platform to engage (still indirectly) the Iranians.

Europe's assumption about the need to have a US buy-in therefore remains a sound one. Yet, it is also insufficient. It may be true that Biden should thank the E3/EU (and Iran) if there is still a JCPOA to return to, yet the Europeans should thank US voters if there is a Biden to coordinate with. It is highly unlikely that the JCPOA would have survived much longer in a second Trump term. One reason is that the European Union was unable to protect themselves from US extraterritorial sanctions, which made it impossible for them to deliver on the economic side of the JCPOA. Biden may be more reluctant to resort to this kind of instrument against US allies, but his hands may be forced by Congress. And at any rate another president, in four- or eight-years' time, may not have such concerns.

Convergence with Washington remains indispensable to European attempts to solve the Iranian nuclear issue. It also involves, however, an ability by the Europeans to have and use leverage over Washington. Europe had best rebuild it sooner rather than later.

Updated 12 May 2021

ISSN 2610-9603 | ISBN 978-88-9368-195-7

References

Riccardo Alcaro, *Europe and Iran's Nuclear Crisis. Lead Groups and EU Foreign Policy Making*, Cham, Springer-Palgrave Macmillan, 2018

Riccardo Alcaro, "Europe's Defence of the Iran Nuclear Deal: Less than a Success, More than a Failure", in *The International Spectator*, Vol. 56, No. 1 (March 2021), p. 55-72, https://doi.org/10.1080/03932729.2021.1876861

Riccardo Alcaro, "On Speaking Terms: Europe-Iran Dialogue on Regional Flashpoints", in *IAI Commentaries*, No. 19|21 (March 2019), https://www.iai.it/en/node/10109

Riccardo Alcaro and Aniseh Bassiri Tabrizi, "Europe and Iran's Nuclear Issue: The Labours and Sorrows of a Supporting Actor", in *The International Spectator*, Vol. 49, No. 3 (September 2014), p. 14-20

Marie-Hélène Bérard et al., "American Extraterritorial Sanctions. Did Someone Say European Strategic Autonomy?", in *Europe in the World Policy Briefs*, March 2021, https://institutdelors.eu/en/publications/american-extraterritorial-sanctions

Najmeh Bozorgmehr, Michael Peel and Henry Foy, "Iran to Increase Uranium Enrichment in Blow to Nuclear Talks", in *Financial Times*, 13 April 2021, https://www.ft.com/content/218bd3ad-c5ad-4990-bb15-dca90bdcf7d0

Council of the European Union, *Council Decision 2011/235/CFSP of 12 April 2011 Concerning Restrictive Measures Directed against Certain Persons and Entities in View of the Situation in Iran*, http://data.europa.eu/eli/dec/2011/235/oj

Council of the European Union, *Council Implementing Regulation (EU) No 668/2010 of 26 July 2010 Implementing Article 7(2) of Regulation (EC) No 423/2007 Concerning Restrictive Measures against Iran*, http://data.europa.eu/eli/reg_impl/2010/668/oj

Council of the European Union, *Council Regulation (EU) No 267/2012 of 23 March 2012 Concerning Restrictive Measures against Iran and Repealing Regulation (EU) No 961/2010*, http://data.europa.eu/eli/reg/2012/267/oj

Council of the European Union, *Council Regulation (EC) No 423/2007 of 19 April 2007 Concerning Restrictive Measures against Iran*, http://data.europa.eu/eli/reg/2007/423/oj

Karen DeYoung, "Officials Report Progress at Iran Nuclear Talks in Vienna", in *The Washington Post*, 20 April 2021, https://www.washingtonpost.com/national-security/us-iran-nuclear-talks-vienna-progress/2021/04/19/1322a88a-a13b-11eb-a7ee-949c574a09ac_story.html

ISSN 2610-9603 | ISBN 978-88-9368-195-7

Philippe Douste-Blazy, *Douste-Blazy Interview on Europe 1*, 8 August 2005, https://www.iranwatch.org/node/2098

E3/EU+3, *Elements of a Proposal to Iran as Approved on 1 June 2006 at the Meeting in Vienna of China, France, Germany, the Russian Federation, the United Kingdom, the United States of America and the European Union*, http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/reports/90569.pdf

E3/EU+3, *Proposal to the Islamic Republic of Iran by China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union, Presented to the Iranian Authorities on 14 June 2008, Tehran*, Annex IV to UN Security Council Resolution 1929 of 9 June 2010, p. 16-18, https://www.undocs.org/S/RES/1929(2010)

E3/EU+3, *Statement on Iran by the UN Security Council Permanent Five, Germany, and the European Union*, London, 30 January 2006, https://2001-2009.state.gov/p/nea/rls/60101.htm

E3/EU+3 and Iran, *Joint Comprehensive Plan of Action*, Vienna, 14 July 2015, available at: https://eeas.europa.eu/headquarters/headquarters-homepage/3244

Nader Entessar and Kaveh L. Afrasiabi, "Can Macron's Iran Initiative Succeed?", in *LobeLog*, 1 September 2019, https://lobelog.com/?p=50013

Steven Erlanger, "Iran and U.S. Agree on Path Back to Nuclear Deal", in *The New York Times*, 7 April 2021, https://www.nytimes.com/2021/04/06/world/europe/iran-nuclear-deal.html

Steven Erlanger, "U.S. and Iran Agree to Indirect Talks on Returning to Nuclear Deal", in *The New York Times*, 2 April 2021, https://www.nytimes.com/2021/04/02/world/europe/us-iran-nuclear-deal.html

European External Action Service (EEAS), *Remarks by HR/VP Mogherini at the Press Conference Following Ministerial Meetings of the EU/E3 and EU/E3 and Iran*, Bruxelles, 15 May 2018, https://europa.eu/!CB78xu

Laurent Fabius, "Inside the Iran Deal: A French Perspective", in *The Washington Quarterly*, Vol. 39, No. 3 (2016), p. 7-38

Laurent Fabius, Philip Hammond, Frank-Walter Steinmeier and Federica Mogherini, "Give Diplomacy with Iran a Chance", in *The Washington Post*, 21 January 2015, https://www.washingtonpost.com/opinions/on-irans-nuclear-programs-give-diplomacy-a-chance/2015/01/21/0cdb4dcc-a185-11e4-b146-577832eafcb4_story.html

ISSN 2610-9603 | ISBN 978-88-9368-195-7

Mark Fitzpatrick, "Iran: The Fragile Promise of the Fuel-Swap Plan", in *Survival*, Vol. 52, No. 3 (2010), p. 67-94

Mark Fitzpatrick, "The Iranian Nuclear Crisis. Avoid Worst-Case Outcomes", in *Adelphi Papers*, No. 398 (2008)

Michael A. Fletcher and Peter Baker, "Bush Acknowledges Impact of Insurgents", in *The Washington Post*, 21 December 2004, http://www.washingtonpost.com/wp-dyn/articles/A13259-2004Dec20.html

Carl Hulse and David M. Herszenhorn, "Coordinated Strategy Brings Obama Victory on Iran Nuclear Deal", in *The New York Times*, 2 September 2015, https://www.nytimes.com/2015/09/03/world/obama-clinches-vote-to-secure-iran-nuclear-deal.html

IAEA, *Communication dated 26 November 2004 Received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom Concerning the Agreement Signed in Paris on 15 November 2004* (INFCIRC/637), 26 November 2004, https://www.iaea.org/node/7619

IAEA, *Communication dated 13 January 2006 Received from the Permanent Missions of France, Germany and the United Kingdom to the Agency* (INFCIRC/662), 13 January 2006, https://www.iaea.org/node/7644

IAEA Board of Governors, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran*, Resolution (GOV/2005/77), 24 September 2005, https://www.iaea.org/sites/default/files/gov2005-77.pdf

IAEA Board of Governors, *Statement by Amb. Kenneth C. Brill, United States of America*, IAEA Board of Governors Meeting, Vienna, 8 September 2003, http://www.dirco.gov.za/foreign/Multilateral/inter/iaea_iran/200309_us_statement.pdf

International Crisis Group, "Flattening the Curve of U.S.-Iran Tensions", in *Middle East Briefings*, No. 76 (2 April 2020), https://www.crisisgroup.org/node/13679

International Crisis Group, "How Europe Can Save the Iran Nuclear Deal", in *Middle East Reports*, No. 185 (2 May 2018), https://www.crisisgroup.org/node/6068

International Crisis Group, "Iran: Ahmadi-Nejad's Tumultuous Presidency", in *Middle East Briefings*, No. 21 (6 February 2007), https://www.crisisgroup.org/node/1508

International Crisis Group, "Iran: Is There a Way Out of the Nuclear Impasse?", in *Middle East Reports*, No. 51 (23 February 2006), https://www.crisisgroup.org/node/1611

ISSN 2610-9603 | ISBN 978-88-9368-195-7

International Crisis Group, "The Iran Nuclear Deal at Four: A Requiem?", in *Middle East Reports*, No. 210 (16 January 2020), https://www.crisisgroup.org/node/13023

International Crisis Group, "Iran Nuclear Talks: The Fog Recedes", in *Middle East Briefings*, No. 43 (10 December 2014), https://www.crisisgroup.org/node/805

International Crisis Group, "Iran: The U.S. Brings Maximum Pressure to the UN", in *Middle East Reports*, No. 218 (19 August 2020), https://www.crisisgroup.org/node/14762

International Crisis Group, "Iran: Where Next on the Nuclear Standoff?", in *Middle East Briefings*, No. 15 (24 November 2004), https://www.crisisgroup.org/node/1840

Saeed Kamali Dehghan, "Iran's Foreign Minister Accuses Europe of Appeasing Trump", in *The Guardian*, 5 March 2018, https://www.theguardian.com/p/87nq5

Isabel Kershner, "Iran Deal Denounced by Netanyahu as 'Historic Mistake'", in *The New York Times*, 14 July 2015, https://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-israel.html

Shannon N. Kile (ed.), *Europe and Iran. Perspectives on Non-Proliferation*, Oxford, Oxford University Press, 2005

Maïa de La Baume, "The Women Behind the Iran Nuclear Deal", in *Politico*, 17 July 2015, http://www.politico.eu/article/the-women-behind-the-nuclear-deal

Colum Lynch, "Europeans Fear Iran Nuclear Window Closing", in *Foreign Policy*, 26 March 2021, https://bit.ly/3m3oQyR

John McGlynn, "The US Declaration of War on Iran", in The Asia-Pacific Journal: Japan Focus, Vol. 6, No. 31 (3 March 2008), https://apjjf.org/-John-McGlynn/2707/article.html

Francois Murphy, "Iran Tells IAEA It Plans to Scale Back Cooperation in a Week", in *Reuters*, 16 February 2021, https://reut.rs/3ap4PhK

Barack H. Obama, Nicholas Sarkozy and Gordon Brown, *Statements by President Obama, French President Sarkozy, and British Prime Minister Brown on Iranian Nuclear Facility*, 25 September 2009, https://obamawhitehouse.archives.gov/the-press-office/2009/09/25/statements-president-obama-french-president-sarkozy-and-british-prime-mi

Kenneth M. Pollack, *Unthinkable. Iran, the Bomb and American Strategy*, New York, Simon and Schuster, 2013

Laura Rozen, "Inside the Secret US-Iran Diplomacy that Sealed Nuke Deal", in *Al-Monitor*, 11 August 2015, https://www.al-monitor.com/originals/2015/08/iran-us-

ISSN 2610-9603 | ISBN 978-88-9368-195-7

nuclear-khamenei-salehi-jcpoa-diplomacy.html

Tom Sauer, "Struggling on the World Scene: An Over-ambitious EU versus a Committed Iran", in *European Security*, Vol. 17, No. 2-3 (2008), p. 273-293

Harriet Sherwood, "Israel Defence Minister Warns It May Soon Be Too Late for Iran Military Strike", in *The Guardian*, 2 February 2012, http://www.guardian.co.uk/p/3586k

Jonathan Tirone, "Nuclear Monitors Deal With Iran Gives Diplomacy a Chance", in *Bloomberg*, 4 March 2021, https://www.bloomberg.com/news/articles/2021-03-04/iran-and-u-s-get-time-for-diplomacy-as-atomic-censure-withdrawn

UN Security Council, Resolution 1696 of 31 July 2006, https://www.undocs.org/S/RES/1696(2006)

UN Security Council, Resolution 1737 of 23 December 2006, https://www.undocs.org/S/RES/1737(2006)

UN Security Council, Resolution 1747 of 24 March 2007, https://www.undocs.org/S/RES/1747(2007)

UN Security Council, Resolution 1803 of 3 March 2008, https://www.undocs.org/S/RES/1803(2008)

UN Security Council, Resolution 1835 of 27 September 2008, https://www.undocs.org/S/RES/1835(2008)

UN Security Council, Resolution 1929 of 9 June 2010, https://www.undocs.org/S/RES/1929(2010)

UN Security Council, Resolution 2231 of 20 July 2015, https://www.undocs.org/S/RES/2231(2015)

US Congress, *Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010*, Public Law 111-195, 1 July 2010, https://www.govinfo.gov/app/details/PLAW-111publ195

US Congress, *National Defense Authorization Act for Fiscal Year 2012*, Public Law 112-81, 31 December 2011, https://www.govinfo.gov/app/details/PLAW-112publ81

US Department of State, *Secretary Condoleezza Rice - Interview with Reuters News Agency*, 11 March 2005, https://2001-2009.state.gov/secretary/rm/2005/43319.htm

White House, *National Security Strategy*, May 2010, http://nssarchive.us/national-security-strategy-2010

ISSN 2610-9603 | ISBN 978-88-9368-195-7

White House, *President Delivers State of the Union Address*, Washington, 29 January 2002, https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html

White House, *Remarks by President Trump on Iran Strategy*, 13 October 2017, https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-iran-strategy

White House, *Remarks by President Trump on the Joint Comprehensive Plan of Action*, 8 May 2018, https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action

Tracy Wilkinson and Noah Bierman, "Merkel Follows Macron to Washington in Hopes of Holding Trump to Iran Nuclear Deal", in *Los Angeles Times*, 27 April 2018, https://www.latimes.com/politics/la-na-pol-trump-merkel-20180427-story.html

Robin Wright, "Stuart Levey's War", in *The New York Times*, 31 October 2008, https://www.nytimes.com/2008/11/02/magazine/02IRAN-t.html

Patricia Zengerle, "U.S. Senators Push for Broader Iran Deal, Not Return to Nuclear Pact", in *Reuters*, 25 March 2021, https://reut.rs/3cjTnoK

ISSN 2610-9603 | ISBN 978-88-9368-195-7

ISSN 2610-9603 | ISBN 978-88-9368-195-7

IAI PAPERS 21 | 21 - MAY 2021

Istituto Affari Internazionali (IAI)

The Istituto Affari Internazionali (IAI) is a private, independent non-profit think tank, founded in 1965 on the initiative of Altiero Spinelli. IAI seeks to promote awareness of international politics and to contribute to the advancement of European integration and multilateral cooperation. Its focus embraces topics of strategic relevance such as European integration, security and defence, international economics and global governance, energy, climate and Italian foreign policy; as well as the dynamics of cooperation and conflict in key geographical regions such as the Mediterranean and Middle East, Asia, Eurasia, Africa and the Americas. IAI publishes an English-language quarterly (*The International Spectator*), an online webzine (*Affarinternazionali*), three book series (*Global Politics and Security*, *Quaderni IAI* and *IAI Research Studies*) and some papers' series related to IAI research projects (*Documenti IAI*, *IAI Papers*, etc.).

Via dei Montecatini, 17 - I-00186 Rome, Italy
T +39 06 6976831
iai@iai.it
www.iai.it

Latest IAI PAPERS

Director: Riccardo Alcaro (r.alcaro@iai.it)