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Reports

Trump's Trap: Europe, Iran, and the Future of the Nuclear Deal

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EU High Representative for Foreign and Security policy Federica Mogherini [AFP]

Abstract

When Trump's decision was announced to withdraw from the Joint Comprehensive Plan of Action (JCPOA) on May 8, most Europeans were aghast. Their reaction was justified by three factors. First, the Europeans genuinely thought that leaving the JCPOA risked the collapse of their efforts to avoid Iran getting a nuclear weapon. Second, they interpreted Trump's harsh new policy as amounting to a desire for regime change, a dangerous policy from their standpoint. Third, they believed they were subjected to blackmail by Washington because of the extra-territorial reach of US sanctions, with only a few months to adjust. European priorities are to avoid Iran from getting a nuclear weapon, to safeguard European economic interests, and at the same time maintaining both European and transatlantic unity. But in implementing those priorities, Europe faces dilemmas: if it chooses to uphold the JCPOA, it faces the indirect economic effects of US sanctions; and nurturing European unity will be difficult to reconcile with maintaining US-European relations.

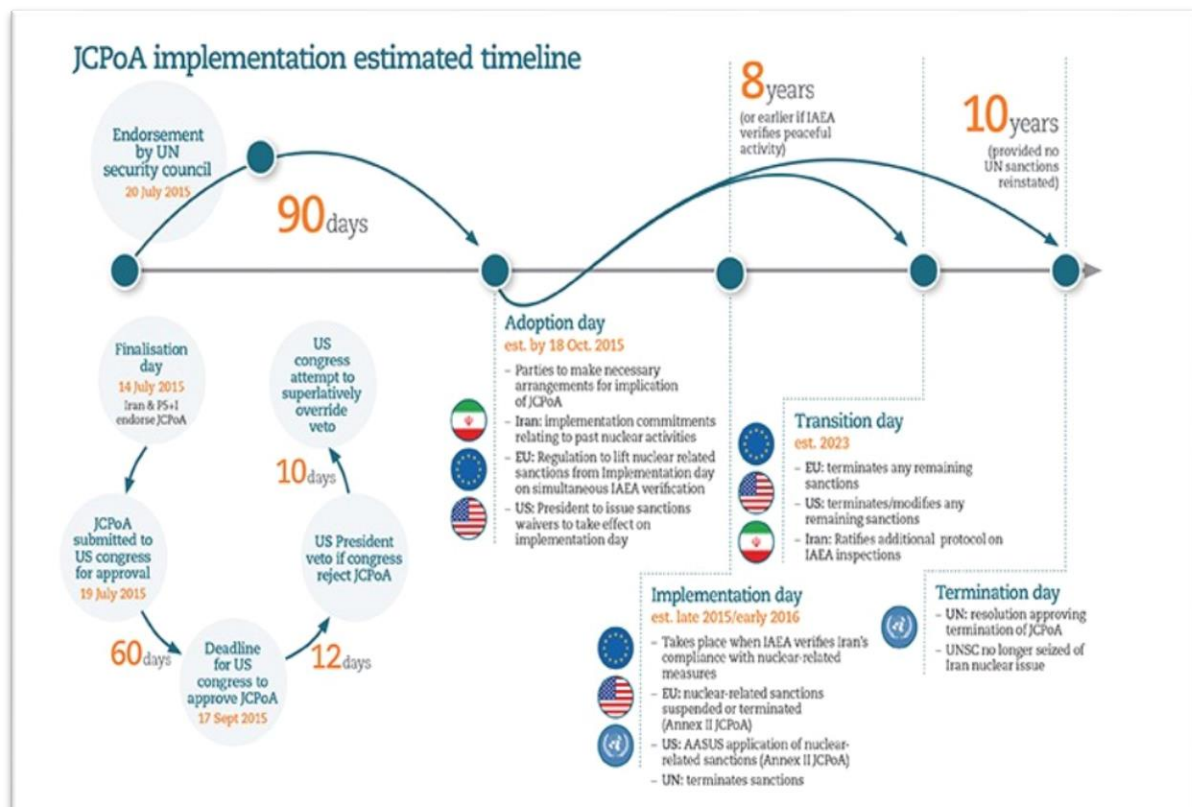
This paper seeks to analyze the choices made by Europe in reaction to the US decision to withdraw from the JCPOA, as well as predict possible European decisions and actions with regard to the evolution of the Iranian crisis in the coming months and years.

Europe has, so far, remained rather united in its desire to protect the JCPOA. It has chosen to oppose the United States and even take counter-measures to ensure that their trade and investment in Iran is protected – an important condition, from their point of view, to maintain Tehran’s trust. But at the end of the day, European public and private economic interests vis-à-vis the United States will “trump” its economic interests vis-à-vis Iran. Europe holds only partly the key to the JCPOA’s future. Economic benefits from continued Russian and Chinese cooperation will be important. Thus the deal may enter a status of limbo – neither dead nor alive, a sort of a “zombie deal”. And Europe will refuse to take the blame for whatever happens next.

Until May 8, 2018, there was still hope in Europe that a compromise with the United States could be found to avoid a complete withdrawal of the United States from the July 2015 and a full resumption of sanctions. Eager to avoid a transatlantic crisis on the Iran question, and sharing some of the US administration’s views on the limitations of the Joint Comprehensive Plan of Action (without using the word “flaws”), Europe had initially refrained from condemning the Trump approach, and worked with its US partner to find ways to add pressure to Iran and avoid a US withdrawal.

In September 2017, France had indicated it was willing to work with the US administration on complementing the deal with provisions on sunset clauses, monitoring of sensitive activities, ballistic missiles, and Iran’s role in the region. In March 2018, the EU3 (France, Germany, the United Kingdom) initiated a discussion at the European Council aimed at the adoption of new sanctions against Iran for its missile and regional activities (Syria), without pushing their European partners too much for fear of a political backlash.

However, no agreement with Washington could be found on the question of “sunset clauses”. European officials and experts began to send more aggressive signals, especially in light of US insistence that the ball was in the court of Europe, and that Europeans would be held responsible for the collapse of the deal if no transatlantic agreement is found (e.g. Trump’s “This is their last chance” comments).(1)



JCPOA Implementation Estimated Timeline [Clyde and Co]

The Trump Decision and European initial reactions

Trump's decision on May 8 came as a shock to most Europeans, as shown by the unusually brutal reaction of Donald Tusk, the European Union (EU) president: "Looking at latest decisions of [@realDonaldTrump](#) someone could even think: with friends like that who needs enemies. But frankly, EU should be grateful. Thanks to him we got rid of all illusions. We realise that if you need a helping hand, you will find one at the end of your arm". (2)

Europe's reaction was justified by three factors. First, the Europeans genuinely thought that leaving the JCPOA risked the collapse of their efforts to avoid Iran getting a nuclear weapon. Second, they saw Trump's harsh new policy as amounting to a desire for regime change, a dangerous policy from their standpoint. Third, they believe they were subjected to blackmail by Washington because of the extra-territorial reach of US sanctions, with only a few months to adjust (thus stopping their economic activities in Iran).

European Dilemmas

European priorities are to avoid Iran from getting a nuclear weapon, to safeguard European economic interests, and at the same time maintaining both European and transatlantic unity. But in implementing those goals, Europe faces dilemmas: if it chooses to uphold the JCPOA,

it faces the indirect economic effects of US sanctions; and maintaining European unity will be difficult to reconcile with nurturing US-European relations.

1. Avoid Iran Getting the Bomb

France, Germany and the United Kingdom were the main initiators of the negotiation with Iran in 2003. A main goal at the time was to show (post Iraq war) that a WMD (weapons of mass destruction) proliferation crisis could be solved by non-military means. Still, the European commitment to Iranian non-proliferation was and remains genuine. Europeans believe that the very future of the Non-proliferation treaty (NPT) is at stake. Furthermore, geography implies that European territory could be easily in reach of an Iranian nuclear-armed missile. Europe is also aware of the consequences for the security of its friends and partners in the region, including Israel and Saudi Arabia, as well as other Gulf countries, notably those with which France and the United Kingdom have defense agreements.

French President Macron was particularly clear during his State visit to Washington in April 2018 as he told the US Congress: “Iran shall never possess any nuclear weapons. Not now. Not in five years. Not in ten years. Never”. (3)

To that effect, although not considering the JCPOA as a “perfect” deal or “the only deal that was possible”, European governments believed that at the very least, the JCPOA was and remains a good vehicle to ensure, at the minimum, that the Iranian nuclear program remains under control at least until the late 2020s – and that hopefully, by that time, Tehran will realize that its economy is so integrated with the rest of the world that it would lose too much by resuming its military-related activities.

2. Safeguard European Economic Interests

Europe has vastly more economic interests with Iran than the United States does. In 2017, EU trade with Iran amounted to about 25 billion USD (nearly 13 billion exports and 12 billion imports), as opposed to 0.2 billion USD for the United States. Germany, France and Italy are Iran’s key European economic partners. Total signed with National Iran Oil Company (NIOC) a one billion dollars contract for the development of Sector 11 of the South Pars gas field.

However, these interests should be put in balance with those Europe has with the United States in the face of secondary sanctions. German exports to Iran are only about 0.2% of its

total exports. For France, the share is 0.3%. The EU-Iran trade balance is 0.8 billion USD, against a balance of 141 billion USD with the United States. For Europe, the United States is a 19 trillion USD market – whereas Iran is a 400 billion one.

Since a US judge sentenced the French BNP Paribas bank to pay a massive fine of 8.9 billion USD for violating US sanctions in 2014, European banks have been extraordinarily weary of business with Iran and eager to ensure that they do not face US sanctions. “Over-compliance” is a word frequently heard in the European banking sector. Uncertainties about the future of the deal and the regional situation also play a role. As a result, European businesses appetite for investment in and trade with Iran has been largely frustrated.

Because economic and financial ties with the United States are incommensurably superior to any prospective future gains with Iran (to which should be added strong commercial ties with allies and friends such as Saudi Arabia), safeguarding EU economic interests will almost certainly lead Europe to prioritize the US over Iran. Any European firm or bank with interests in the United States – having US shareholders, using US components parts (4), or even merely the US dollar for transactions – is now vulnerable.

3. Maintain European Unity and Preserve Transatlantic Unity

Maintaining European unity will be a paramount interest – notably for France, because Paris positions the Iran question within the broader context of EU cohesion. There is no doubt that European unity would be, in the eyes of Paris, (even) more important than transatlantic unity. Even though the Obama administration claimed the JCPOA as its own “success” – and the deal is perhaps not as strong as Paris had hoped it could be – Europeans sees it as much as a “their” achievement – a rare success of crisis management for European common foreign policy.

At the same time, Europe cannot afford a complete breakdown of its transatlantic relations. It needs US cooperation on a day-to-day basis to fight against terrorism. And it knows that a severe transatlantic crisis would only benefit Russia, which seeks to divide and weaken the Atlantic Alliance.



EU High Representative for Foreign and Security policy, Federica Mogherini, at a press conference with Iranian Foreign Minister Mohammad Javad Zarif in Vienna on Tuesday [Euranet]

European Decisions

Europe has decided not to cave in. It is for her a matter of political credibility vis-à-vis Iran and the United States as much as an economic question.

It recalled that in similar circumstances in 1996-1997, it threatened to take the dispute to the World Trade Organization in case US action was taken against EU firms or individuals under the Iran-Libya Sanctions Act (ILSA) and adopted a “Blocking Statute” which protected EU made it illegal for any European Union company to comply with ILSA, included financial compensation provisions, and allowed for sanctions against US firms in reprisals. The London Summit and the US-EU Understanding of 1998 defused the possibility of a transatlantic trade crisis over extraterritoriality. (The United States gave up.)

Thus, on May 16 in Sofia, the EU Council unanimously decided to revive the November 1996 Blocking Status and to update and broaden it before August 6; and envision giving the European Investment Bank a supporting financial role for firms that would maintain their relations with Iran, through a special dedicated funding channel in Euros (allowing firms to avoid using the US dollar).

Europe also has other potential avenues. It could, for instance, refuse a US request to cut off Iran from the Belgium-based SWIFT (Society for Worldwide Interbank Financial Télécommunication) network system, as it had been between 2012 and 2016 due to European action.

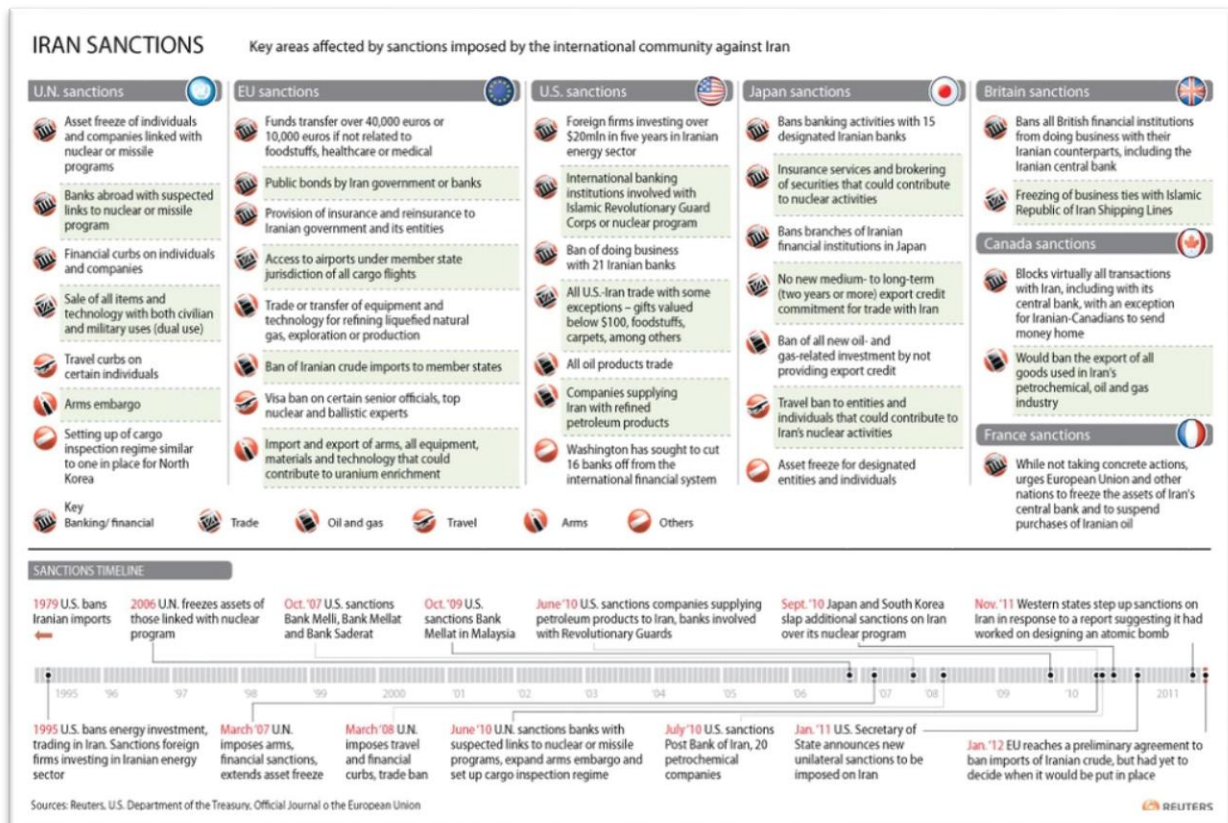
However, even assuming that these measures are put into effect – something which was not yet certain in early June, given the reluctance of several European countries such as Germany and Poland to get into a real confrontation with Washington – it is likely that EU business with Iran will now be dramatically reduced. For even if a serious transatlantic crisis was avoided and waivers were given by Washington, the threat posed to European businesses would remain. Likewise for financial institutions: the prospect of losing access to the US financial system would be a very powerful deterrent. That is the major difference with the context of twenty years ago. As an analyst put it after a careful review of the problem, “no EU action can completely shield European businesses and investments in Iran. There is no bulletproof defense of the JCPOA’s economic benefits in the event of a US withdrawal.” (5) As Emmanuel Macron said, “The President of France is not the CEO of Total”. (6)

Already, major European firms have decided to leave the Iranian market. Major oil company Total has announced on May 16 that it would stop its operations in Iran unless it obtained a waiver from the US administration. German steel plant maker SMS Group has put on ice its plans to implement a \$400 million deal signed in February last year to expand capacity of an Iranian steel plant and is now winding down its operations. Shipping groups A.P. Moller-Maersk and MSC announced they would soon do the same. Likewise for major German companies Allianz and Siemens.

Some small European banks with no US presence or interests will probably still operate without fearing US sanctions. But this would allow only small- and medium-sized firms (notably German ones) to do business with Iran.

At the same time, the EU3 have signified that they seek to avoid breaking up with Washington, and have refused the conditions posed to Europe by Supreme Leader Khamenei on May 23. (7) President Macron has signaled that he still intends to seek a complement or supplementary agreement to the JCPOA which would address the main US stated concerns:

the sunset clauses of the JCPOA, ballistic missiles-related activities, and Iranian actions and behavior in the Middle East. Ways to go forward are now being discussed among Europeans.



Iran Sanctions [Reuters]

Outlook and Scenarios

Europe will almost certainly not be in a position to guarantee significant JCPOA-related economic benefits to Iran.

What about other countries? India has already signaled that it would stop buying Iranian oil. However, Russia and most importantly China are may not be deterred by US threats and will probably step in, both in terms of trade and investment. Beijing is Tehran's main economic partner. In 2017, the volume of trade between the two countries was 37 billion USD. The Chinese firm China National Petroleum Corporation (CNPC) already holds 30% of its joint with Total in Iran and is likely to increase its participation as Total leaves Iran. China is Iran's largest trade partner (about 25% of the total).

Would that be enough to avoid an Iranian withdrawal from the JCPOA and a full-scale resumption of its nuclear activities?

There remains uncertainty about what exactly Iran will do in the coming months. A possible scenario would be that Iran invokes Article 36 of the JCPOA which would legally justify “partial noncompliance” by Tehran. This scenario – which has been mentioned in informal conversations with Iranian officials – would allow Iran to claim the higher moral ground, while slowly resuming uranium enrichment activities beyond the limits of the JCPOA. It would technically allow the JCPOA to survive. This, in turn, would allow Europe to continue working with the United States on a common Iran strategy.

What if Iran withdrew from the JCPOA? An open Iranian withdrawal would be a different ballgame. Europe would almost certainly seek action by the UN Security Council. But the resumption of European sanctions would not be a given: it is likely that several significant EU members would put the political blame on the United States. If, following its withdrawal from the JCPOA, Iran was resuming all of its nuclear activities and engaging in a “breakout” type scenario, Europe would then undoubtedly seek the full re-imposition of sanctions. Its attitude would also be different regarding a possible US (or Israeli) military strike.

If such action was taken after an overt Iranian withdrawal from the JCPOA and full-scale resumption of nuclear activities, some European countries would at least refrain from condemning the US action. This would be the case in particular if there was clear intelligence (including weaponization activities such as cold tests) that Tehran was getting very close to a getting nuclear weapon.

If such action was taken in the context of an Iranian slow, “creep-out” scenario, most European countries would oppose a US strike, to the point that we might very well see another 2003-like crisis. It seems that President Macron was thinking along those lines when he told journalists, during an impromptu conversation at the Elysée in early January: “what is being played out is that an ‘axis of evil’ is surreptitiously being reconstituted. We can clearly see the discourse of the United States, Israel, and Saudi Arabia – which are our allies in many respects: it is almost a discourse that takes us to war with Iran. What is being reproduced is the deliberate strategy of some [sic]. It is very important that we, we preserve stability in this context. We need a regional strategy that envisions how to limit Iranian actions [in the region]. But if we stop all discussions, the risk is to have elements of conflicts of an extreme brutality”. (8)

Perhaps this important – if improvised and somewhat unclear – statement reveals the unspoken admiration that Macron is said to have for French foreign policy luminaries and former ministers Dominique de Villepin (the leading French opponent of the 2003 Iraq war) or Hubert Védrine. In any case, it may herald a very strong French opposition to US unilateral military action against Iran absent an Iranian withdrawal.

Conclusion: The European Hope

Europe has remained rather united in its desire to protect the JCPOA. However, its economic interests vis-à-vis the United States will “trump” its economic interests vis-à-vis Iran. But, Europe holds only partly the key to the JCPOA’s future. Economic benefits from continued Russian and Chinese cooperation will be important.

At the end of the day, it is unlikely that Tehran will decide to completely “break out” any time soon, since it would lead to a full re-imposition of all sanctions. Unless the regime believes that it is a matter of survival, Iran is more likely to test the resolve of the international community and probe the limits of what it can do in terms of nuclear activities while nominally staying in the JCPOA.

Thus the deal may enter a status of limbo – neither dead nor alive, a sort of a “zombie deal”. And Europe will refuse to take the blame for whatever happens next.



Tertais book

References

- (1) (1) France was particularly sensitive to a perceived US coercive attitude. Witness the following Twitter spat that took place on 19 and 20 March between Mark Dubowitz (@mdubowitz, Foundation for the Defense of Democracies), a key actor of the US Iran debate, and the current French ambassador to the United States Gérard Araud (@GerardAraud). Dubowitz: "If [Trump pulls out of the Iran deal], the Europeans will be to blame for not agreeing to three necessary fixes by May 12th. Fix the Iran deal, don't nix". Araud: "Worse than misleading, it is a childish way of denying the obvious: the Europeans have been dragged into a debate which is not their[s] and are doing their utmost to be helpful while abiding by their signature." Dubowitz: "I don't think it's actually a signed agreement so you should have even more flexibility to fix the fatally flawed Iran deal & address other regime malign activities before May 12th. Fix don't nix". Araud: "You can't amend an agreement against the will of other parties to it (Iran, China and Russia). We are ready to work on regional and proliferation activities of Iran but we will respect the #IranDeal as it is". Araud: "Anybody who advocates the end of the #IranDeal should present his plan B: what to do if Iran reacts by relaunching massive uranium enrichment".
- (2) 2) @eucopresident, 16 May 2018.
- (3) 3) Emmanuel Macron's speech to the US Congress, 25 April 2018.
- (4) 4) For instance, Airbus aircraft include more than 10% of US components.
- (5) 5) Axel Hellman, "Safeguarding the Iran Nuclear Deal: A Blueprint for Europe", European Leadership Network, April 2018.
- (6) 6) Quoted in Patrick Wintour & Daniel Boffey, "EU sets course for US clash with law blocking Iran sanctions", The Guardian, 17 May 2018.
- (7) 7) These include : pledging to avoid opening negotiations over Iran's ballistic programs or actions in the Middle East ; safeguarding banking operations with Iran ; continuing to buy European oil ; standing up against US sanctions ; and condemning the United States for having withdrawn from the JCPOA.
- (8) 8) Quoted in Agence France-Presse, "Iran : Macron veut préserver les relations pour éviter la guerre", 3 January 2018.