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Workshop Report
**Preventing Nuclear
Proliferation in the Middle East
Post-JCPOA**

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Preventing Nuclear Proliferation in the Middle East Post-JCPOA

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I. Overview

On 6 December 2019, the Oxford Institute for Ethics, Law and Armed Conflict at the Blavatnik School of Government, in collaboration with the James Martin Center for Nonproliferation Studies, hosted a one-day workshop to examine the future of the Iran nuclear deal (formally known as the Joint Comprehensive Plan of Action, or JCPOA). The workshop gathered over twenty leading non-proliferation, Iran, and Middle East experts from government, academia, and the private sector to discuss, under the Chatham House Rule, plausible future scenarios for the JCPOA and associated implications for non-proliferation and regional security.¹ There was broad agreement among participants that Iran was unlikely to assent to negotiations with the Trump administration before the 2020 US presidential election. Several European participants warned that Iranian steps to reduce its compliance with the JCPOA, including its resumption of uranium enrichment at Fordow, were exacerbating tensions and would leave Europe little choice but to respond. These comments foreshadowed a decision by the E3 (France, Germany, and the United Kingdom) to invoke the JCPOA's dispute resolution mechanism, which was announced a month after the workshop took place. To gain perspective on the challenges and opportunities vis-à-vis the JCPOA, the following questions were posed to speakers and participants:

- How has the US withdrawal from the JCPOA affected transatlantic relations and cooperation on Iran, the JCPOA, and regional non-proliferation efforts?
- What would be the likely impact of the JCPOA's collapse or expiry on the security environment and non-proliferation trends in the Middle East?
- What policy tools should the E3 and the United States adopt in the near- to medium-term to prevent and deter the potential proliferation, acquisition, and use of nuclear weapons by Iran or its regional neighbours?

II. JCPOA: Status and prospects

The US withdrawal from the JCPOA in 2018 and subsequent reimposition of sanctions on Iran have

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¹ Participants from France, Germany, Iran, Israel, Italy, the United Kingdom, and the United States attended in their individual capacities.

heightened tensions between Washington and Tehran to new levels—evidenced most recently by President Donald Trump’s decision to kill Qassem Soleimani, commander of Iran’s Quds Force, and Iran’s missile strikes against air bases housing US forces in Iraq. Despite European diplomatic efforts to de-escalate tensions following a string of attacks on oil tankers and pipelines in the Persian Gulf between May and September 2019, there are few signs that US-Iran negotiations are in the offing. French President Emmanuel Macron’s proposed \$15 billion credit line to Iran in return for its full compliance with the JCPOA was reportedly derailed over the issue of sequencing, with Iranian President Hassan Rouhani insisting that sanctions be lifted ahead of any direct engagement with the US and President Trump refusing to meet this condition. This has left the JCPOA to limp along, ‘neither dead nor alive’, as one American participant put it, in advance of the US presidential election in November 2020. Meanwhile, the Trump administration, citing widespread unrest in Iran as evidence that its maximum pressure campaign is working, has doubled down on sanctions in a bid to force Iran to the negotiating table.

Iran’s incremental escalation

For the first year after the US withdrew from the JCPOA, Iran continued to adhere to the deal’s nuclear constraints in an attempt to wait out the Trump administration, even as the US reimposed sanctions. As one Iranian participant remarked, the Rouhani administration hoped to cajole the remaining parties to the JCPOA—China, France, Germany, Russia, and the United Kingdom—to defy US sanctions and continue to trade with Iran. Yet Tehran’s calculus changed soon after the Trump administration revoked sanctions waivers for countries importing oil from Iran. In May 2019, Tehran abandoned its ‘strategic patience’ for a strategy of ‘maximum resistance’ that included a series of incremental steps towards downgrading its compliance with the JCPOA and adopting a more aggressive posture in the region. While these provocations are cause for concern, most workshop participants agreed that Iran’s nuclear escalation is aimed at tempering the Trump administration’s pressure campaign and building leverage for future negotiations, rather than making a quick ‘dash’ to nuclear weapons. At least one European participant suggested that Iran’s breaches of the JCPOA were reaching the point where the E3 would need to invoke the deal’s dispute resolution mechanism to address Iran’s non-compliance, which in fact came to pass a month later.

On the nuclear front, Iran has taken steps since May 2019 to gradually reduce its compliance with the JCPOA on a rolling 60-day schedule. First, it has exceeded the 300 kilogram cap on its low-enriched uranium stockpile and 130 metric ton limit on its stocks of heavy water. Second, it has enriched uranium above the 3.67 percent level designated by the JCPOA. Third, it has abandoned restrictions on centrifuge research and development activities, which could eventually enable Iran to enrich uranium more quickly and efficiently. On 9 November, it resumed uranium enrichment at the underground Fordow facility, which was to be converted into a medical isotope production and research centre under the JCPOA. Taken together, these systematic violations shorten the one-year ‘breakout time’—the time required to produce one bomb’s worth of highly enriched uranium—established by the JCPOA. According to most technical estimates, Iran has not yet reached the two- to three-month breakout time that it achieved prior to the JCPOA. Several participants noted that Iran’s nuclear steps do not pose a near-term proliferation risk and could be reversed, should Iran choose to return to full compliance with the JCPOA. Still, some argued that

all of the breaches are troubling and risk collapsing the deal. A particular area of concern, one European participant commented, is Iran's expansion of centrifuge activities because it cannot erase knowledge gained from testing and developing advanced centrifuges even if it were to dismantle them in the future.

In announcing its nuclear breaches every 60 days, an Iranian participant explained, Tehran is trying to make the timing of its moves as transparent as possible to give Europe an opportunity to take measures that insulate trade with Iran from US sanctions and create leverage for diplomacy. Indeed, the Rouhani administration has explicitly announced that Iran would return to full compliance with the JCPOA if the remaining parties ensure that Iran can sell oil and compensate it for the loss of sales caused by the reimposition of US sanctions. However, some European participants worried that the predictability about which nuclear commitments Iran would be rolling back were becoming less clear and that the compounded effect of Iran's breaches would make efforts to preserve the JCPOA more challenging over time. On the positive side, Iran has so far continued to comply with intrusive monitoring and verification provisions under the JCPOA, which are overseen by the International Atomic Energy Agency (IAEA). According to the JCPOA's 'sunset' provisions, key restrictions imposed on Iran's nuclear programme do not expire until 2023 to 2035.² Iran also sees a security benefit in preserving the deal until October 2020, when it will regain access to the international arms market due to the lifting of a conventional arms embargo under United Nations (UN) Security Council Resolution 2231.

As the US continues to double down on its pressure campaign, Iran is expected to respond in increasingly provocative ways. It could, for example, take additional measures to shorten its breakout timeline, including by increasing enrichment levels to 20 percent. Alternatively, it could choose to reduce the IAEA's access by ending its provisional implementation of the IAEA's Additional Protocol, which grants broader rights of access to declared and undeclared nuclear sites. Or it could abandon restrictions on nuclear weaponisation activities, which are prohibited under section T of the JCPOA. Although some Iranian officials have warned that Tehran might fully withdraw from the deal or even the Nuclear Non-Proliferation Treaty (NPT), most participants believed such actions were unlikely in the near term since they would signal a move to build nuclear weapons and risk turning international opinion against Iran. For now, Iran has emphasised its continued cooperation with the IAEA, even as it scales back its commitments under the JCPOA. Yet, as one Israeli participant noted, the IAEA reported in November 2019 that it found uranium particles at an undeclared site in Tehran. Whether Iran cooperates fully in this matter remains to be seen and could be an important litmus test for diplomatic efforts with Iran over its nuclear programme.

² Under the JCPOA, key restrictions imposed on Iran's nuclear programme will be lifted in eight, ten, and fifteen-year increments. After 2023, Iran is allowed to commence testing of up to 30 advanced centrifuges and may begin manufacturing a limited number of IR-6 and IR-8 centrifuges. After 2025, caps on Iran's enrichment capacity, including the number and type of centrifuges, will be gradually lifted. After 2030, all remaining physical restrictions on Iran's nuclear activities will expire, although additional IAEA monitoring measures of centrifuge production and uranium ore concentrate will remain in place until 2035 and 2040, respectively. Full text of the JCPOA is available at <https://www.europarl.europa.eu/cmsdata/122460/full-text-of-the-iran-nuclear-deal.pdf>

Regional tensions

In parallel with Iran's breaches of the JCPOA, it has escalated its conventional and asymmetric military activities in the region, as evidenced by a string of attacks on oil tankers, pipelines, and other infrastructure in the Gulf. Although the Iranian government has denied responsibility for these attacks, the prevailing view among workshop participants was that Tehran was most likely involved. To compensate for its limited conventional forces, Iran has relied largely on asymmetric warfare tactics to intimidate regional neighbours and inflict costs on the US and its allies while maintaining some degree of plausible deniability. In the past, Iranian officials have threatened to disrupt oil shipments through the Strait of Hormuz in response to US sanctions. The tanker attacks could thus represent a following-through on these threats; as one workshop participant remarked, the attacks send the message that 'if Iran cannot sell its oil, no one should'.

Participants also discussed Iran's wider role in the region, disagreeing as to whether Iran aspires to be a regional hegemon and on the extent of its reach. To some, Iran is expanding its strategic depth to Israel's borders and the shores of the Mediterranean in pursuit of regional hegemony. Others argued that fear of Iranian hegemony was vastly overblown. The eruption of mass protests in Iraq and Lebanon, for example, are the strongest expression yet of growing anti-Iranian sentiment and reveal the limits of Iran's influence. Whatever view one takes of Iran's regional role, many participants agreed that Tehran has adopted a more aggressive posture because of the US maximum pressure campaign, not in spite of it. One Iranian participant commented that the size and scale of the 14 September attack on the Abqaiq oil facility—the largest oil processing facility in Saudi Arabia—is probably the furthest Iran could go without provoking a significant military response. At the same time, Iran has demonstrated that it has asymmetric escalation dominance and can succeed in challenging US and allied interests in the region without risking direct confrontation.

Iran's political and economic challenges

Iran's domestic politics and economic circumstances are inextricably linked. As such, the question of whether Iran will remain in the JCPOA depends partly on its perception of short-term economic risks and long-term growth projections. As an Iranian participant observed, the most salient question is not only whether Iran's economy can survive the impact of US sanctions, but whether it can thrive under such conditions.

While it is widely assumed that President Rouhani has staked his reputation on the fate of the JCPOA, Iran's hardliners—particularly senior military and security officials and those close to Supreme Leader Ayatollah Ali Khamenei—favour expanding Iran's nuclear capabilities without constraints. Khamenei himself may be inclined to leave the JCPOA, but he has at least tacitly approved the Rouhani administration's negotiations with Europe in an effort to extract economic concessions. The decision to resume uranium enrichment at Fordow, an Iranian participant argued, may suggest that the policy debate in Tehran is shifting away from those who would rather preserve the JCPOA to those who want to abandon the deal altogether. The crackdown on protests in Iran, coupled with political unrest in Iraq and Lebanon, also could empower hardliners in Tehran and dim prospects for future negotiations with the US.

To date, most estimates of the cumulative economic losses sustained by Iran since US sanctions were reimposed in 2018 range from a 5 to 10 percent decrease in gross domestic product. The International Monetary Fund expects Iran's economy to contract by 9.5 percent on top of the 4.9 percent decline in fiscal year 2018/19. Although participants agreed that Iran's economic collapse does not appear to be imminent, there was a divergence of views on how long Iran could withstand US sanctions. Contrary to popular wisdom, one Iranian participant argued that there were indications that Iran's economy was headed for a recovery, pointing out that China and the European Union (EU) have continued to export pharmaceuticals, machinery, and electrical equipment to Iran despite pressure from the Trump administration. Iran's manufacturing activity also appears to be on an upward trend, as reflected in the purchasing managers' index compiled by the Iran Chamber of Commerce.

On the other hand, some participants questioned the external validity of Iran's data, arguing instead that the outbreak of protests throughout the country after a 50 percent fuel price hike in December 2019 and brutal government crackdown paint a far less favourable picture. As one participant remarked, Rouhani's decision to increase gasoline prices was an 'act of desperation' because Iran's economy is suffering from US sanctions and endemic corruption. Even if Iran's economy is able to rebound in the short term, this recovery may be unlikely to last more than a year or two under prolonged US sanctions. Consequently, Iran's negotiating position will weaken as its economic situation deteriorates further.

III. Transatlantic relations and E3 strategies

While the US withdrawal from the JCPOA has laid bare a transatlantic rift, several E3 representatives in attendance highlighted the importance of the transatlantic alliance, which they claimed could not be sacrificed for the JCPOA. There was general agreement that E3 strategic objectives on Iran are the same as those espoused by the US: to prevent Iran from acquiring nuclear weapons, constrain its ballistic missile programme, and deter its destabilising regional activities. In principle, these objectives are shared by the wider EU, though as a matter of official policy a common position is limited to the nuclear issue. The E3/EU countries have underscored that the JCPOA remains the best way to address concerns over Iran's nuclear programme and fear that the US withdrawal has jeopardised any possibility of engaging Iran on other issues, such as its ballistic missile programme and regional activities. Escalating tensions between the US and Iran are therefore likely to further exacerbate transatlantic differences on the JCPOA.

Issues surrounding INSTEX

The conundrum the E3 now faces is how to preserve the JCPOA given the far-reaching effects of US 'secondary' or extraterritorial sanctions on companies doing business in Iran. In June 2018, the EU revived the 1996 Blocking Statute which prohibits EU-based companies from complying with US secondary sanctions. And, in February 2019, France, Germany, and the UK launched the Instrument in Support of Trade Exchanges (INSTEX), a payment system to facilitate humanitarian trade with Iran, including food, medicine, and medical devices, that are specifically exempt from US sanctions. However, the EU has struggled to render INSTEX operational; no transactions have been made to date, partly due to concerns about losing access to the US market and financial system. A number of transactions have been teed up,

according to several European participants, but have been stymied by a lack of resourcing and political will.

Meanwhile, the private sector has little hope for INSTEX, one Iranian participant remarked, for fear of US sanctions. European efforts to prop up INSTEX have been merely symbolic, this participant added, and were at best an expression of the EU's 'soul searching' for strategic autonomy from the US. Others suggested that Iran may have deliberately slowed its cooperation with INSTEX to reinforce the perception that the E3 is not fulfilling its commitments. Some participants mentioned that the E3 has expanded INSTEX to include six new EU shareholders (Belgium, Denmark, Finland, the Netherlands, Norway, and Sweden) in an effort to bolster INSTEX's credibility, but Iran has yet to ratify two treaties related to the Paris-based Financial Action Task Force (FATF) to meet international standards against money laundering and terrorist financing. Although it is possible that INSTEX could in the future be expanded to include non-humanitarian trade with both EU and non-EU member states, this remains a remote prospect given Europe's exposure to US secondary sanctions and Iran's breaches of the nuclear deal.

Ambiguity over UN 'snapback'

Despite the transatlantic divide on the JCPOA, Iran's nuclear breaches raise the question of whether the E3 will further diverge or gradually realign itself with the Trump administration. In November 2019, the E3/EU reportedly threatened for the first time to invoke the dispute resolution mechanism under the JCPOA in response to Iran's resumption of enrichment at Fordow. This would be the death knell of the JCPOA, one participant argued, since it could lead to 'snapback' sanctions under UN Security Council Resolution 2231. Yet, according to an E3 representative, the snapback sanctions are not an automatic outcome of invoking the JCPOA's dispute resolution mechanism. Under the JCPOA, any party (including Iran) can raise a concern about non-compliance through the JCPOA Joint Commission, as per the procedures outlined in paragraph 36 of the JCPOA. By contrast, the UN route, according to Resolution 2231, allows a complainant to treat any unresolved issue as 'significant non-performance' and cease implementing its commitments. The Security Council would then need to vote on a resolution to continue the suspension of sanctions on Iran—a unanimous veto would reimpose sanctions. The distinction between these two routes is important, some European participants explained, because the JCPOA parties could decide by consensus to forestall snapback sanctions or refrain from notifying the UN Security Council. However, there is also a risk of undermining the integrity of the dispute resolution mechanism process, which is intended to resolve disputes within 60 days.

IV. Future outlooks for the JCPOA and regional non-proliferation

With the ebb and flow of US-Iran tensions, it is difficult to ascertain whether or when the JCPOA could collapse and what consequences this might entail. To frame and guide discussion on the future of non-proliferation in the region based on the fate of the JCPOA, the following three scenarios were raised during the workshop:

Scenario 1: New deal. Iran assents to renewed negotiations with the current or successor US administration leading to a new deal, or an all-encompassing ‘grand bargain’. Under such a deal, Iran would ostensibly extend or abolish time-bound constraints on its nuclear programme, limit its ballistic missile activity, and address concerns about its regional behaviour.

Scenario 2: JCPOA 2.0. Iran and the parties to the JCPOA (with or without US participation) achieve a follow-on agreement, referred to as a ‘JCPOA 2.0’ or a ‘JCPOA plus’, in advance of the expiry of the JCPOA’s sunset clauses. A JCPOA 2.0 would seek to preserve the parameters of the original deal while strengthening some of its aspects such as its verification and enforcement provisions. Separate supplemental agreements may be reached concerning Iran’s ballistic missile and regional activities.

Scenario 3: No deal. In this scenario, no deal is reached and the JCPOA collapses in the absence of a viable alternative. This could occur if: 1) the remaining parties invoke the JCPOA’s dispute resolution mechanism and possibly snapback UN Security Council sanctions in response to Iran’s breaches of the deal, or 2) Tehran decides to fully withdraw from the JCPOA as a result of pressure from US sanctions.

Participants were invited to comment on the validity, likelihood, and non-proliferation implications of each of the above scenarios. Several participants argued that a no-deal scenario is not a stable situation and would ultimately default to either an all-encompassing grand bargain or a JCPOA 2.0. Some took this as a positive sign since there are few indications that Iran is racing to build nuclear weapons, at least in the short term. Yet, many participants also believed that there was little reason to be sanguine about the prospect of a new agreement given current political realities in Washington and Tehran.

Moreover, it is not in Iran’s interest to escalate to the point that no deal can be reached and the JCPOA collapses. Iran stands to benefit from waiting until the US presidential election in November 2020 to see whether Trump will be re-elected or if the US, under a Democratic president, might re-enter negotiations on the JCPOA. All leading US Democratic candidates have pledged to return to the deal. And, as noted above, upholding the JCPOA a little longer would allow Iran to benefit from the expiration in October 2020 of the UN-imposed conventional arms embargo. Iran may therefore continue to gradually reduce its compliance with the JCPOA as the November 2020 election approaches. But, as several participants emphasised, the higher up Tehran climbs the escalation ladder, the harder it will become to return to the status quo ante or to restart negotiations. The deal’s sunset provisions also introduce a particular challenge insofar as a simple return of the US to the original JCPOA may no longer be an achievable outcome if restrictions on Iran’s nuclear programme begin to lapse after 2023.

As for the first and second scenarios, both will require the US and Iran to return to the negotiating table. If both sides do eventually decide to negotiate, it is clear that such a dialogue cannot be conducted through the pageantry of presidential summits. An American participant recommended that negotiations should be conducted with maximum discretion and at a credible level, ideally below the Secretary of State, to build on and revise the JCPOA. Under a JCPOA 2.0, new provisions would likely include Iran’s ratification of the IAEA’s Additional Protocol, extension of the JCPOA’s sunset provisions, commitments on Iran’s ballistic missile testing ranges, and strengthening of IAEA safeguards. Iran, for its part, would seek the

removal of US sanctions and to retain its enrichment programme within mutually agreed limits, but it would need to demonstrate flexibility on the sequencing of steps.

While a few participants pointed out that Iran's regional rivals, Israel and Saudi Arabia, would strongly prefer a grand bargain to a JCPOA 2.0, several others argued that the complexities of the issues at stake and deep mistrust among regional states would make it difficult, if not impossible, to address all aspects of Iran's behaviour simultaneously. Although not ideal, a refinement to the aforementioned scenarios was suggested in which non-nuclear issues could be addressed through supplemental agreements or confidence-building measures with participation from Iran and neighbouring countries.

Beyond 2020, it is plausible that the JCPOA could collapse in the absence of a viable alternative. Under such circumstances, the US would need to create incentives to prevent Saudi Arabia and other regional states from pursuing a nuclear hedging strategy against Iran. The potential for armed conflict between Iran and Israel, or Iran and Saudi Arabia, is likely to increase, but military action is not a sustainable solution to the challenges posed by Iran's nuclear programme and its regional activities. In the long term, the central issue will be how to engender greater trust among states to advance the goal of non-proliferation. The decades-long stalemate in negotiations on a Middle East Weapons of Mass Destruction Free Zone shows that a new approach is needed to bolster the credibility of the NPT given a general culture of non-compliance with arms control and non-proliferation treaties in the region. In this regard, the new US initiative 'Creating an Environment for Nuclear Disarmament' (CEND), first introduced in May 2018, could provide a regional forum outside of the auspices of the NPT review process to reduce incentives for states to seek nuclear weapons and strengthen non-proliferation efforts more broadly.