

EU Non-Proliferation Consortium

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**The participation of the EU in the negotiation
and implementation of the Iran nuclear
agreement**

Analysis for the EU Non-Proliferation Internship

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Introduction

On 14th July 2015, after more than a decade of tensions and never ending negotiations an agreement has been reached about the future of the Iranian nuclear programme. Named as the Joint Comprehensive Plan of Action, the agreement, while not a treaty itself, outlines several key measures to ensure the peaceful nature of the Iranian nuclear programme.¹ The parties of the agreement (China, Germany, France, the Russian Federation, the United Kingdom, the United States of America, the European Union and Iran) have agreed, that in return to ceasing the internationally disputed activities of the Iran's nuclear programme, the other parties will lift all the sanctions imposed upon Iran for said activities.

Almost two years after the landmark accord between the parties involved on resolving the controversies of the Iranian nuclear programme, it is timely to draw a balance of the role of the EU in the treaty. The EU, whilst struggling for a more effective and coherent common foreign policy, took the center stage in resolving this specific issue. Leading diplomatic efforts while underlining effective multilateralism, the EU and its Common Foreign and Security Policy have been given a chance to prove their effectiveness in crisis management, cooperation and engagement in tackling a serious and complex foreign affairs issue.

Despite the EU leading the negotiations, the role the EU played in the events that led to the adoption and implementation of the JCPOA is not yet well researched. Unfortunately, the EU as a party which played a significant role in the adoption of the JCPOA is widely omitted. The media and the world's scientific opinion makers, probably under heavy US influence, have adopted the notion of P5+1 (the 5 permanent members of United Nations Security Council and Germany) as the parties negotiating the agreement with Iran. This label does not give proper respect to the EU, which proved instrumental in adopting the JCPOA. Furthermore, the text of the JCPOA itself is using a different label, which contains the EU as a valid and equal partner. This label is the E3/EU+3. The E3 are the three European states, Germany, France and the United Kingdom. The plus three are the other great powers, China, Russia and the United States.

This paper seeks to address the lack of scrutiny and unduly negligence of the role the EU played. By examining the EU's efforts on resolving the Iran nuclear crisis, the author hopes to prove that (a) the EU can make a coherent and effective foreign policy and (b) can make other parties engage in mutually beneficial peaceful solutions to a specific crisis. The efforts of the EU and

¹ European External Action Service (14.07.2015) (JCPOA) p.2

the results achieved will provide important lessons for the future common foreign policy-makers in dealing with situations.

This paper will address two main questions: First, how can the role of the EU as global actor be evaluated? Second, what can be learned from the EU's engagement for the future of the CFSP? Several detail questions regarding negotiation and implementation are also relevant. Regarding the negotiations, the following questions need to be addressed: How has the EU performed through the first phases of the negotiations (from 2002 until 2013)? How much has the EU leadership contributed to the success throughout the last phase negotiations? Here, the role of the whole EU negotiation team is important, not just that of High Representatives Ashton and Mogherini. Regarding the implementation process, the following question requires answer: How much can the verification (mediation), nuclear cooperation and cessation of sanctions on the side of the EU contribute to a nuclear-weapon free Iran?

Concerning theory, the author would make several preliminary theoretical assumptions. First, both the negotiation and the implementation involved leadership and effective multilateralism. The question is, has the EU only played a mediator role in the background, or has been a leading force determining the outcome of the multilateral exchanges? The author believes that it is a mix of the two. Second, during the negotiation phase, the EU has committed, aside from leadership and multilateralism, to reach a mutually beneficial peaceful consensus. During the implementation phase, the EU participates in the verification whilst lending a hand to Iran as well (cooperation). Furthermore, it is assumed that the E3/EU considered the clandestine activities of Iran as a threat, and wanted to eliminate it without war (E3/EU priority). In contrast, Iran wanted to remove the sanctions, whilst retaining their (lawful) right for peaceful use of nuclear energy (Iran priority).

The following research method has been applied: Using the existing scientific literature, and utilizing the aid of my supervisor and other experts, the efforts of the EU will be examined according to the criteria set out. These are: (a) the success and failure of the efforts on engaging Iran, the E3+3; (b) the „seriousness” of the engagement (could there have been other, better steps? Has the EU done everything it could?); and (c) the dedication to the commitments set out before during and after the negotiations.

Chapter I.: First success and failure (2002-2005)

Iran started its nuclear weapons programme in the 1980s, with the goal of establishing a nuclear deterrent against Iraq (because of the Iraq-Iran war, and evidence of a covert Iraqi nuclear

weapons program), the United States and Israel². Despite US suspicions relating to an Iranian clandestine nuclear weapons programme³, the Iranian nuclear programme has not been an issue of the EU-Iran relations until 2002. The EU (European Economic Community) played no role in the Iranian nuclear programme until 2002 either. The EU aimed at conducting trade negotiations with Iran in hopes of signing a trade and cooperation agreement.⁴

However, the revelations of the National Council of Resistance of Iran on 14th August 2002 raised international attention to the nuclear programme of Iran. The opposition group announced in Washington DC, that Iran has clandestinely constructed a “large uranium-enrichment facility in Natanz and a heavy-water reactor in Arak”.⁵ This raised the suspicion on whether Iran is trying to use the undeclared facilities to produce weapons grade Uranium or Plutonium, and what would Iran intend to do with them. The revelations and the international suspicions prompted the International Atomic Energy Organisation (IAEA) to conduct investigations regarding the alleged nuclear facilities.⁶

The first time the European Council has made the clandestine Iranian nuclear programme an item on its agenda was at the meeting in Thessaloniki on 19th and 20th June 2003. In the Presidency Conclusions, the European Council expressed its concerns about the Iranian nuclear programme, and ensured support for the IAEA. Furthermore, the European Council expressed its desire that Iran immediately and unconditionally adopts the Additional Protocol (AP) as a confidence building measure.⁷ The EU had to take a stand at the highest level regarding Iran’s nuclear programme. However, this only meant that the EU took a position in the issue, and was not involved yet.

On the European Council meeting in Brussels on 16-17th October 2003, the European Council reiterated its concerns and requests. Since this meeting, diplomats of three EU member states, Germany, France and the United Kingdom (the E3) led diplomatic efforts to solve the issue of the Iranian nuclear programme. These efforts culminated in the Tehran Joint Statement of the E3 and Iran on 21st October 2003, in which Iran announced the suspension of its uranium enrichment activities, and that it would ratify the Additional Protocol.⁸ The E3 have operated without the assistance of the EU at this point. According to Peter van Ham, the E3 were “determined not to be sidelined as it was following the Iraq fiasco”(the Iraq war in 2003), hence

² Albright, David/Stricker, Andrea (09.2015)

³ Nuclear Threat Initiative (03.2016)

⁴ Meier, Oliver (02.2013) p. 3

⁵ Meier, Oliver (02.2013) p. 3

⁶ IAEA.org (06.06.2003)

⁷ Council of the European Union (01.10.2003) p. 27.

⁸ UN.org (21.10.2003); Iranwatch.org (15.11.2004) p.2.

their preparedness to “play a central role in the international community’s efforts to keep Iran from acquiring nuclear weapon capabilities”⁹. However, it has been revealed in 2004, that Iran has not met its self-imposed commitments, and continued its activities¹⁰.

Nevertheless, diplomatic efforts of the E3 to pursue successful dialogue with Iran continued. However, some member states, Italy Spain and Portugal in particular have expressed concern about the authority of the E3 to negotiate with Iran and represent the EU.¹¹ They were probably concerned that the E3, all of them great powers, would only consider their own interests and not those of the other member states. The E3 was only an *ad hoc* coalition of three EU member states, while the EU/EEC had an appointed High Representative of the Common Foreign and Security Policy since 1999, Javier Solana Madariaga¹². According to some EU officials, Solana “bullied his way on to the negotiation table with Iran”, after being excluded from the negotiations by the E3.¹³ The dealings of the E3 and the concerns of the other member states seem to be the reason for the involvement of the EU and its foreign affairs chief¹⁴. However, the reservations of the other EU members about the “Big Three” remained at least as long as 2005.¹⁵

However, Peter van Ham contradicts the idea of EU member states rejecting the leadership of the E3. He states that the engagement of the E3 has been “met with few suspicions and with no significant resistance within the EU”, because “something had to be done to avoid a new European imbroglio à la Iraq”. However, the formal involvement of the EU “would strengthen the EU’s hand and offer a unique opportunity to fortify the EU’s global security image”¹⁶.

According to Meier, Solana joined in November 2004.¹⁷ The timing was critical. On 15th November 2004, the representatives of the E3 and Iran, supported by the High Representative Solana signed the Paris Agreement.¹⁸ This was the first time the role of the EU was recognised. According to Fitzpatrick, “what had been the E3 became the E3/EU”¹⁹.

Although a great achievement, the Paris Agreement barely presented new developments. Iran confirmed that it did not seek to acquire nuclear weapons and will ratify the AP, both of which

⁹ Van Ham, Peter (09.2011) p. 11

¹⁰ Sinha, Satyabrat (04.01.2005)

¹¹ Meier, Oliver (02.2013) p.4

¹² Who was also Secretary General of the Council of the European Union: EUR-LEX (13.09.1999)

¹³ Bilefsky, Dan (11.08.2006)

¹⁴ According to a European diplomat who participated in some phases of the negotiations.

¹⁵ Meier, Oliver (02.2013) p. 4

¹⁶ Van Ham, Peter (09.2011) p. 11

¹⁷ Meier, Oliver (02.2013) p. 4

¹⁸ IAEA.org (26.11.2004)

¹⁹ Fitzpatrick, Mark (13.07.2015)

Iran confirmed before. Furthermore, Iran stated that it would suspend the enrichment activities, but on a voluntary basis, i. e. without legal obligation. The E3/EU recognised Iran's rights under the Non-Proliferation Treaty, i. e. the right for a peaceful nuclear programme. Solana welcomed the agreement,²⁰ but as a mediator, he did not sign it.²¹

The EU has played a role in the negotiations (aside from the necessity of taking a stand and the concerns of other member states with the authority of the E3) because of the special political constellation at the time. The US severed their diplomatic ties with Iran after the seizure of the US embassy in Iran in 1979, imposed sanctions on Iran²². Therefore, the US did not want to play a part in solving the issue of the Iranian nuclear programme. The Bush administration even tried to dissuade the E3 from conducting negotiations.²³ Because the US did not want to negotiate with Iran, the E3/EU could step forth to try to solve the issue. Iran might have sought rapprochement with the US as a long term goal, and the EU could have acted as a substitute to the lacking relationship to the US²⁴. Iran was satisfied with the E3/EU because they would eventually engage the U.S, and Iran trusted the EU rather than the US. The other great powers, China and Russia did not want to play a role, and they were satisfied with the E3/EU taking charge of diplomatic efforts, and they as well trusted the EU over the US.

Highest priority of the E3/EU was the prevention of a US military strike against Iran. It was feared that after the Iraq war in 2003, and the Axis of Evil speech in 2002, the Bush administration would target Iran next.²⁵ Another war would have further destabilised the region. That is why the EU always promoted a peaceful solution over a military one.

The IAEA needed to be supplemented by the E3/EU, because it has no coercive or political power, whereas the E3/EU does. It would not have been able to give incentives either. The United Nations Security Council, as the body responsible for maintaining international peace and security, was also not an option, because Russia did not want the issue to be referred there²⁶, and the US would have acted on their own, as they did in Iraq without a clear UNSC mandate.

The efforts of the EU have been largely influenced by the adoption of the European Security Strategy (ESS) and the European Strategy against Proliferation of WMD (WMD Strategy) on 12 December 2003²⁷. The ESS described the importance of a coherent European foreign policy,

²⁰ Iranwatch.org (15.11.2004) p.1.

²¹ IAEA.org (26.11.2004) p.2.

²² Arms Control Association (01.08.2016)

²³ Meier, Oliver (02.2013) p. 5

²⁴ Parsi, Rouzbeh (Winter 2011) p. 30.

²⁵ Meier, Oliver (02.2013) p. 3

²⁶ Statements by a professor of an European think tank.

²⁷ Meier, Oliver (02.2013) p. 2.

transatlantic cooperation and “effective multilateralism”. The latter commits the EU to cooperate with other international institutions, like the United Nations²⁸ and international law. The ESS outlines a dual-track approach in dealing with countries which do not abide by the rules of the international community. This means that the EU will assist these states if they want “to rejoin the international community”, but “those who do not should understand that there is a price to be paid”.²⁹ The WMD Strategy ties the coercive measures of the EU to the UNSC.³⁰ At this time, the dual-track approach has not been dual. The EU wanted to provide incentives, and no coercion was on the table. The E3 offered in the Tehran Declaration “easier access to modern technology and supplies in a range of areas”³¹ The greatest incentive was the Trade and Cooperation Agreement.³² This means that there was “carrot” but no “stick”.

After he joined, Solana and his team played an important role in the negotiations. He was characterised as “a committed multilateralist” with a strong will. However, "Solana may have the hardest diplomatic job in the world because he can't do anything when the EU member states don't agree, which is often the case," said Daniel Keohane. Keohane also stated, that "The EU weakness is an advantage because no one expects the EU to bomb anyone, and that can give Solana great leverage as a mediator," and to play as a „good cop”³³. His team consisted of Annalisa Gianella, the personal representative of the High Representative for the non-proliferation of WMD and her staff, as well as Robert Cooper, Director-General for External and Politico-Military Affairs at the Council. The process of consultation and cooperation between the E3 and the EU has been established: In the E3, political directors are responsible for coordinating the Iran policies of their countries. The negotiators of the E3 and since 2004, the negotiators of the EU brief other EU members on Iran “through the Political and Security Committee as well as at Council meetings”.³⁴

The election of Mahmoud Ahmadinejad in 2005, and his uncompromising approach towards the nuclear negotiations have stalled diplomatic efforts. Iran resumed its enrichment programme in August. In response, the E3 withdrew from the negotiations.³⁵ Iran accused the E3/EU with non-compliance of the Paris Agreement, and they rejected the E3/EU pledges to

²⁸ Ramani Samuel (25.06.2017)

²⁹ Meier, Oliver (02.2013) p. 2.

³⁰ Meier, Oliver (02.2013) p. 2.

³¹ Meier, Oliver (02.2013) p. 5.

³² Fitzpatrick, Mark (13.07.2015)

³³ Bilefsky, Dan (11.08.2006)

³⁴ Meier, Oliver (02.2013) p 4.

³⁵ Arms Control Association (01.08.2016)

fully implement it³⁶. The EU members began supporting coercive measures against Iran, and voted for an IAEA resolution paving the way for sanctions of the UN Security Council.³⁷

The E3/EU was successful in reaching an agreement in Paris in 2004. At this point, neither the US nor Russia and China have been involved. This means that the successes of this phase are due to the efforts of the E3/EU. Javier Solana and his team played an important role. Moreover, military escalation of the issue from the side of the US has been prevented.

However, the E3/EU could not prevent Ahmadinejad to reject the Paris Agreement, quit negotiations and resume Iran's nuclear enrichment. The incentives had no effect. Beside the "carrot", the stick had to be introduced in the form of multilateral sanctions.

Chapter II.: Sanctions and the E3/EU+3 (2006-2009)

In January 2006 Solana himself endorsed the action of the UNSC.³⁸ In March 2006, the IAEA Board of Governors referred the issue to the UNSC.³⁹ This expanded the scope of the actors involved from E3/EU to E3/EU+3, the plus three being China, Russia and the US. The first time the new formation met was 1 June 2006⁴⁰.

Washington refused to negotiate until the enrichment was suspended⁴¹. Moscow and Beijing opposed sanctions, because these would have affected their own economies, as well as they viewed sanctions as an "interference" into the internal affairs of the target state.⁴² This prompted the E3/EU to play a pivotal role. Solana "remained in charge of leading the talks". This was not only acknowledged by the three new parties; they were also happy for the EU to lead. According to Gianella, the US would feel "comfortable", because they would not have to expose themselves directly; Russia and China was "more comfortable with an EU leadership than an American one". The E3 could make sure that "important elements" deemed necessary for the proposals to Iran "could be delivered". Moreover, the involvement of the UNSC allowed new possible sanctions, which were inaccessible in the previous format.⁴³

The first Resolution of the UNSC was unanimously adopted on 31st July 2006. UNSCR 1696 demanded that Iran immediately ceased all enrichment, and complied with the requests of the IAEA.⁴⁴ In case of non-compliance, the UNSC would impose measures according to Article 41

³⁶ Kutchesfahani, Sara (03.2006) p. 18.

³⁷ Meier, Oliver (02.2013) p. 7.

³⁸ Meier, Oliver (02.2013) p. 7

³⁹ IAEA.org (08.03.2006)

⁴⁰ According to a European diplomat, as well as: Council of the European Union (01.06.2006)

⁴¹ Meier, Oliver (02.2013) p. 7.

⁴² Meier, Oliver (02.2013) p. 8.

⁴³ Meier, Oliver (02.2013) p. 8.

⁴⁴ United Nations Security Council (31.07.2006) p. 2.

of the UN Charter, that is, sanctions.⁴⁵ Nevertheless, Iran has already admitted that it enriched Uranium in April 2006⁴⁶.

This Resolution was an important achievement for the E3/EU. The role of the EU was endorsed in the Resolution⁴⁷. The previous demands of the E3/EU for suspension of enrichment have been repeated and through international law strengthened. These achievements were the success of the effective multilateralism. The diplomatic efforts of the EU have been recognised on the top level of the international cooperation for crisis-management. This was only possible due to the EU consulting with all parties involved. Therefore, the decision-makers were aware of the *bona fide* intentions of the EU.

However, Iran did not comply with its obligations, and the UNSC adopted Resolution 1737 on 23 December 2006, in which the first sanctions (restriction of technology transfer and asset freeze) have been imposed.⁴⁸ The EU implemented these in Common Position 2007/140/CFSP⁴⁹.

Due to Iran staying defiant, the second set of sanctions have been unanimously adopted on 24th March 2007. Besides reinforcing previous demands, UNSCR 1747 prohibited weapons exports to Iran.⁵⁰ The EU has again implemented the sanctions ((2007/246/CFSP)⁵¹, and even put more names on the “black list”.⁵² A National Intelligence Estimate of the CIA from November 2007 stated that Iran halted its nuclear weapons programme by 2003. This meant that there was no immediate danger of an Iranian nuclear weapon, which made the European approach of negotiations a more rational option compared to a military strike.⁵³

The third set of sanctions have been adopted on 3th March 2008. UNSCR 1803 placed more people on the “blacklist” and allowed the inspection of Iranian ships and planes for contraband of prohibited items.⁵⁴ The EU has again adopted the resolution (2008/652/CFSP).⁵⁵

On 8th April 2009, the new US President, Barack Obama announced that the United States would fully participate in the negotiations unconditionally. The EU welcomed the engagement of the US, which the EU has strived to achieve for years. However, European concerns emerged

⁴⁵ United Nations Security Council (31.07.2006) p. 3.

⁴⁶ Arms Control Association (01.08.2016)

⁴⁷ Meier, Oliver (02.2013) p. 8.

⁴⁸ United Nations Security Council (27.12.2006)

⁴⁹ EUR-LEX (26.07.2010) p.1.

⁵⁰ United Nations Security Council (24.03.2007) p. 2.

⁵¹ EUR-LEX (26.07.2010) p.1.

⁵² Meier, Oliver (02.2013) p. 9.

⁵³ Meier, Oliver (02.2013) p- 11

⁵⁴ United Nations Security Council (03.03.2008) p. 4.

⁵⁵ EUR-LEX (26.07.2010) p.1.

about the decreasing importance of the EU's role.⁵⁶ By this point, the EU advocated tougher sanctions⁵⁷, whereas the US wanted to ease them. The roles have been changed. Since the election of Nicolas Sarkozy as president in 2007, the French pressed for tough sanctions and opposed any softening. Foreign Minister Bernard Kouchner even remarked that the EU should "prepare for war", which questioned the European efforts on reaching a peaceful solution.⁵⁸ British foreign minister Bill Rammell threatened with tougher sanctions in case of Iranian non-compliance with her obligations.⁵⁹ Germany was against any stricter sanctions, but became quickly isolated.⁶⁰

In 2009, Ahmadinejad was re-elected and the protests of the Green Movement have been subdued, which further strained EU-Iran relations.⁶¹ It has been discovered in September 2009, that Iran has secretly built an enrichment plant in Qom (Fordow Enrichment Plant).⁶² By this point, Iran has accumulated 1000 kg of LEU and 3000 centrifuges were installed in Natanz. Full dismantling of these capacities seemed very unlikely.⁶³

The importance of the EU grew in this phase. Solana was accepted to lead the E3/EU+3. Sanctions have been introduced, which were impossible before, and the EU implemented them all. This enforced the dual-track approach with coercion. The effective multilateralism was also successful, the UNSC endorsed the efforts of the EU. The US also was compelled to at least indirectly participate in the process. Military escalation has again been prevented.

However, continuation of the disputed Iranian enrichment activities was not prevented. In fact, they were expanded with the secret construction of the Fordow Enrichment Plant. The sanctions have been introduced to no avail: they could not achieve suspension of the enrichment. The new leadership of the CFSP was forced to make a stronger stance, including the introduction of unilateral sanctions.

Chapter III.: Unilateral Sanctions and the Interim Deal (2009-2013)

In November 2009, Catherine Ashton replaced Solana as the High Representative. She was deemed successful in engaging Iran and maintaining E3 coherence, but was criticised for her "lack of leadership" and "bureaucratic style". Giannella kept her post but her influence was

⁵⁶ Meier, Oliver (02.2013) p. 11

⁵⁷ Meier, Oliver (02.2013) p. 12

⁵⁸ Meier, Oliver (02.2013) p. 9

⁵⁹ Meier, Oliver (02.2013) p. 12.

⁶⁰ Meier, Oliver (02.2013) p. 9

⁶¹ Freeman, Colin/Blair, David (14.06.2009)

⁶² Arms Control Association (01.08.2016)

⁶³ Meier, Oliver (02.2013) p. 12.

reduced.⁶⁴ Ashton's deputy became Helga Schmid, she was tasked with the consultation among the EU members and Iran⁶⁵.

After the failed negotiations in 2009, the fourth, most comprehensive UNSC Resolution was adopted.⁶⁶ UNSCR 1929, adopted on 9th June 2010 placed an embargo on Iran for the transport of heavy weapons, and prohibited the acquisition and use of ballistic missiles for Iran. All activities relating to heavy water production have also been prohibited.⁶⁷ The role of the EU was again recognised.

The EU implemented these sanctions and for the first time, introduced its own sanctions against Iran. In a Council Decision adopted on 26th July 2010, the export and import of weapons and enrichment technology was constrained⁶⁸. Investment, particularly in oil and gas was limited.⁶⁹ The financial sector has also been sanctioned.⁷⁰ The EU sanctions were aimed to complement the UN sanctions. The UN sanctions targeted Iran's nuclear activities, whereas the EU sanctions targeted Iran's economy. The goal of the EU sanctions was to encourage Iran to return to the negotiating table.⁷¹

However, the negotiations stalled in 2011. This is indicated by several statements of High Representative Ashton. In her statement from January 2011, after the negotiations in Istanbul failed, she blamed Iran for them not willing to meet unconditionally, and expecting two preconditions (recognition of the right to enrichment and lifting all sanctions) be met, which the E3/EU+3 refused.⁷² In October, Ashton sent a letter to the chief negotiator of Iran, Saeed Jalili, "calling for 'meaningful discussions on concrete confidence-building steps' to address international concerns about Iran's nuclear ambitions", but an answer only arrived in February 2012.⁷³

On 8th November 2011, the IAEA released a Report, detailing the military dimensions of Iran's nuclear programme. The Report reinforced the findings of the 2007 NIE, that Iran pursued ways to attain nuclear weapons before 2003⁷⁴. This prompted an international response. However, China and Russia did not want to adopt another UNSC Resolution, which forced the

⁶⁴ Meier, Oliver (02.2013) p. 15.

⁶⁵ Meier, Oliver (02.2013) p. 4.

⁶⁶ European Parliament (2016) p. 6. (p.5. in text)

⁶⁷ United Nations Security Council (09.06.2010) pp. 1. 4. 5.

⁶⁸ EUR-LEX (26.07.2010) p. 3.

⁶⁹ EUR-LEX (26.07.2010) p. 5.

⁷⁰ EUR-LEX (26.07.2010) p. 6.

⁷¹ Meier, Oliver (02.2013) p. 15.

⁷² Council of the European Union (22.01.2011); Arms Control Association (01.08.2016)

⁷³ Crail, Peter (02.03.2012)

⁷⁴ Meier, Oliver (02.2013) p. 15.

EU and the US to act on their own. In December 2011, the EU foreign and defence ministers decided that “the EU should extend the scope of its restrictive measures against Iran”.⁷⁵ The EU has introduced an unprecedented sanction: Council Decision 2012/35/CFSP imposed a ban on the import of crude oil from Iran. Furthermore, trade in dual-use items has been restricted, as well as trade in equipment for petrochemical use. Moreover, trade in gold and other precious metals with the government of Iran has been prohibited.⁷⁶

These sanctions were “the most far-reaching against an individual country adopted by the EU since the sanctions on Iraq in the 1990s and the broadest unilateral sanctions regime ever adopted by the EU”⁷⁷. The leaders of the E3 argued that the sanctions were aimed at undermining Iran’s ability to fund its nuclear programme and set an example. However, no full-scale trade embargo was adopted by the EU.⁷⁸

In 2012, the EU adopted three more sanction packages. First, on 15th March 2012, access of Iranian banks and enterprises to the money transfer service SWIFT was denied.⁷⁹ Second, on 23th March, Council Regulation 267/2012 broadened sanctions on trade (especially dual-use items) and further restricted investments and financial services.⁸⁰ Third, on 15th October, all transactions between European and Iranian banks have been prohibited, unless authorised⁸¹.

As Fitzpatrick put it, the sanctions “had real bite”: they cut the oil sales by 18%⁸². Furthermore, the Iranian currency, the *rial* dropped 10% after the introduction of the oil embargo.⁸³ Before the sanctions, the EU was the first largest trading partner of Iran, making it dependent on the EU, today it is still the fifth.⁸⁴ But the EU has also been affected by the sanctions, especially those members struggling with the financial crisis.⁸⁵ Some members resisted the economic coercion, besides Germany. These are Austria, Belgium, Cyprus Greece, Malta and Sweden. Nevertheless, unity has been achieved eventually.⁸⁶

⁷⁵ Meier p. 15.

⁷⁶ EUR-LEX (23.03.2012) p. 1.

⁷⁷ Meier pp. 15 16

⁷⁸ Meier p. 16.

⁷⁹ DerStandart.at (15.03.2012)

⁸⁰ EUR-LEX (23.03.2012)

⁸¹ Council of the European Union (15.10.2012)

⁸² Fitzpatrick, Mark (13.07.2015)

⁸³ Al Arabiya (23.01.2012)

⁸⁴ European Commission (21.04.2017)

⁸⁵ Bolton, John R. (26.01.2012)

⁸⁶ Van Ham, Peter (09.2011)p.12.

Meanwhile, the negotiations have been restarted after a 15 month break in Istanbul, Bagdad and Moscow in 2012, but to no avail.⁸⁷ At the end of the meeting in April 2013 in Almaty no new round has been scheduled⁸⁸, and Iran was still not cooperating.

With the introduction of unilateral sanctions on an unprecedented scale, the EU proved that the members were coherent on solving the issue of Iran's nuclear programme, and that the economic might of the EU is a viable coercive instrument of the CFSP. When the UNSC was divided, the EU enhanced its role. However, diplomatic efforts failed to reach a comprehensive solution. The two Iranian preconditions remained unfulfilled. The shift in US policy after Obama became president threatened with the EU falling behind in importance.

In June 2013, the reformist Hassan Rouhani was elected president of Iran.⁸⁹ This meant that Ayatollah Khamenei wanted to pursue the negotiations on a deeper level to which Ashton declared her preparedness.⁹⁰ From this time forward both Iran and the US was fully engaged in seeking a solution for the issue. Obama called Rouhani in September, which marked the restart of bilateral relations at the highest level.⁹¹

The negotiations were resumed in Geneva on 15-16 October. Iran made a proposal containing "a broad framework for a comprehensive agreement and an interim confidence building measure to be instituted over the next 3-6 months".⁹² The parties met again on 7-10th November, but no agreement was reached.

On 24 November 2013, after many years of failure, an agreement has been reached. Iranian chief negotiator and Minister of Foreign Affairs Javad Zarif and Catherine Ashton signed the Joint Plan of Action, an interim agreement meant to pave the way to a comprehensive solution. During the initial phase, which was to last six months, Iran had to convert its stock of 20% enriched uranium to fuel for the Tehran Research Reactor, relinquish any intention for further enrichment, and allow extensive monitoring of the IAEA.⁹³ In return, the E3/EU+3 would suspend certain sanctions and not impose new sanctions.⁹⁴ Implementation started on 20 January 2014: by that time Iran implemented the nuclear measures in the JPOA, and Ashton declared that the E3/EU+3 will start suspending the required sanctions.⁹⁵ The implementation

⁸⁷ Iranian Diplomacy (28.07.2012); Arms Control Association (01.08.2016)

⁸⁸ Arms Control Association (01.08.2016)

⁸⁹ BBC.com (15.06.2013)

⁹⁰ European Union (15.06.2013)

⁹¹ Roberts, Dan/Borger, Julian (28.09.2013)

⁹² Arms Control Association (01.08.2016)

⁹³ European External Action Service (24.11.2013) p1-2.

⁹⁴ European External Action Service (24.11.2013) p3. (Only the most important provisions are mentioned here.)

⁹⁵ Arms Control Association (01.08.2016)

was to last until 20 July 2014, and a comprehensive solution was to be reached in one year, until 24 November 2014.⁹⁶ It is important to note that all of these measures were voluntary, just like by the Paris Agreement in 2004.

According to Fitzpatrick, the “sanctions alone did not bring Iran to the negotiating table”, however, they acted as incentives for Iran to make a deal, and “they contributed to Rouhani’s election”⁹⁷. Finally, both Tehran and Washington were ready to seriously engage in finding a solution, which was supplemented by the crucial role the EU played in adopting the JPOA.

Chapter IV.: The final steps to the agreement (2013-2015)

Negotiations aiming at a comprehensive solution started on 17-20 February 2014 in Vienna, where the agenda was laid out. After meeting in March and April, the drafting of the comprehensive agreement started in May.⁹⁸ On 19 July, one day before the deadline of the interim agreement, the parties agreed to extend the talks through November 24, and outlined new measures for implementation.

Bilateral negotiations have started between the US and Iran as early as June 2014, with the participation of Deputy Secretary of State Bill Burns, Under Secretary Wendy Sherman and Iranian Deputy Foreign Minister Abbas Araqchi.⁹⁹ The bilateral (Iran, US) and multilateral negotiations (E3/EU+3) continued through September, October and November, and a new trilateral formula has been introduced with the inclusion of the main negotiators of the EU, Catherine Ashton (replaced by Frederica Mogherini in November 2014) and Helga Schmid (EU, Iran, US). Schmid has also negotiated extensively with her Iranian counterpart Araqchi and US counterpart Sherman¹⁰⁰. However, no agreement was reached until the extended deadline of 24 November 2014, and talks were for a second time extended until 30 June 2015.¹⁰¹

Negotiations continued until the end of March 2015, but to no avail. The ice was broken during the round in Lausanne between 25 March and 2 April. On 2 April 2015, in a joint press conference a framework agreement has been presented, which would serve as the foundation of the comprehensive deal, due to be finalised by 30 June. However, the 30 June deadline was passed, and it was again extended until 7 July¹⁰² and then again. The negotiations and drafting

⁹⁶ European External Action Service (24.11.2013) p.4; Arms Control Association (10.2015)

⁹⁷ Fitzpatrick, Mark (13.07.2015)

⁹⁸ Arms Control Association (01.08.2016)

⁹⁹ Rozen, Laura (07.06.2014)

¹⁰⁰ Iranian Students’ News Agency (21.06.2015)

¹⁰¹ Arms Control Association (01.08.2016)

¹⁰² Dockins, Pamela (30.06.2015)

continued until 14 July 2015, when the Joint Comprehensive Plan of Action was signed in Vienna.¹⁰³

The major challenge was to reconcile the differing positions of the US and Iran. The distrust between the two has affected the details of the draft agreement. The agreement had to simultaneously guarantee that Iran will not pursue nuclear weapons and it can exercise all its rights under the NPT. This means balancing on a thin line, which required compromises from all parties. The US had to accept the lifting of sanctions relating to the nuclear issue (not all sanctions!), as well as allowing Iran to pursue some nuclear activities. Iran had to accept that its enrichment activities will be severely curbed, and that the IAEA will have a broad authority to conduct inspections. However, agreeing on the details has proven difficult: the most problematic aspects were “the amount of uranium that Iran would be able to enrich, and the extent to which sanctions against it would be lifted”¹⁰⁴. The importance of bringing Iran and the US to a joint understanding is shown by the several bilateral talks between Iran and the US and trilateral talks between Iran, US and the main negotiators of the EU. It was understood, that “ultimately it is Iran and Washington who will determine if a deal is done”.¹⁰⁵

The EU negotiation team, led by the High Representative and her deputy, Helga Schmid (Deputy Secretary General of the EEAS)¹⁰⁶ played a vital role in reaching the final agreement. Ashton went “zero to hero” already by the successful adoption of the JPOA, which was nicknamed “Ashton Accord”, earning the praise of John Kerry and Javad Zarif.¹⁰⁷ As a “chosen representative of the world’s six most powerful countries” she played “the most important role in world diplomacy”, “negotiating a solution to one of the world's most dangerous and complex problems”.¹⁰⁸ According to Jolyon Howorth, this policy area is one where Ashton “is credited with having made a difference”, earning further praise for her work on the JPOA from the Guardian (“diplomatic breakthrough of the decade”) and Le Monde (she has “strategic vision”)¹⁰⁹. Her successor, Federica Mogherini persuaded her to remain involved in the talks, as a representative of the EU, to maintain “diplomatic continuity”¹¹⁰, and a special advisor to Mogherini¹¹¹. Howorth states that “there was consensus among all those involved from US Secretary of State John Kerry to the urbane and sophisticated Iranian chief negotiator, foreign

¹⁰³European External Action Service (14.07.2015) (Statement)

¹⁰⁴ BBC.com (24.11.2014)

¹⁰⁵ Pawlak, Justyna (20.04.2014)

¹⁰⁶ European External Action Service (15.06.2016)

¹⁰⁷ As well as the praise of french diplomats who called her „nulle” or „zero”: Blair, David (24.11.2013)

¹⁰⁸ Blair, David (24.11.2013)

¹⁰⁹ Howorth, Jolyon (12.2014) pp. 16-17

¹¹⁰ Howorth, Jolyon (12.2014) p.17

¹¹¹ De La Baume, Maia (17.07.2015)

minister Javad Zarif, that her continued presence was essential to any successful outcome”. Her “sheer force of personality” allowed her to gain the confidence of her counterparts, make herself “indispensable” and to keep the negotiations going, despite seemingly insurmountable odds.¹¹² Ashton was essential in promoting the relations between Iran and the E3/EU+3.

Nevertheless, some experts and diplomats expressed reservations regarding the role Catherine Ashton has played. In his essay, Meier cites sources pointing out “her lack of leadership and bureaucratic style in dealing with Iran” (as already mentioned in Chapter III).¹¹³ According to Van Ham, with Ashton as the high Representative, the EU’s Iran policy “lost the profile acquired by the personal determination of Solana”. Under Ashton, the EU played a reactive role in formulating its policy, waiting for the decision of the IAEA or the UNSC: As Ashton remarked in 2010: “We just have to wait and see what comes out of the discussions of the Security Council”¹¹⁴.

The other key EU player in the negotiations was Helga Schmid. A senior western diplomat called Schmid “a linchpin” in the negotiations, who “negotiated the agreement itself and its five annexes”.¹¹⁵ Schmid was the main negotiator together with Sherman and Araqchi. An EU official underlines Schmid’s technical expertise compared to the political one of Mogherini. Schmid participated in all US-Iran bilateral talks as well, and has been involved in the Iran negotiations for several years. Schmid was labelled a “smart negotiator”, representing the “continuity” between Ashton and Mogherini by Stefano Stefanini. Ashton could rely on Schmid and her expertise, who “is also widely considered to be the negotiator behind the interim accord” of 2013.¹¹⁶

Frederica Mogherini took over as High Representative in November 2014.¹¹⁷ Mogherini was praised for her role in the negotiations as well. She set the agenda and drove the process by chairing meetings.¹¹⁸ Mogherini included experts in her team who have been deep in the negotiations: for example, she retained Helga Schmid as her deputy (and Catherine Ashton, as mentioned above). Mogherini only participated in the negotiations between November 2014 and July 2015. Those who came before her, including Solana, Ashton and Schmid have laid down a solid framework in which success could be achieved. Mogherini acknowledged the

¹¹² Howorth, Jolyon (12.2014) p. 17

¹¹³ Meier, Oliver (02.2013) p. 15

¹¹⁴ Van Ham, Peter (09.2011) p. 13

¹¹⁵ De La Baume, Maia (17.07.2015)

¹¹⁶ De La Baume, Maia (17.07.2015)

¹¹⁷ Ondarza, Nicolai von/Scheler, Ronja (16.03.2017)

¹¹⁸ De La Baume, Maia (17.07.2015)

work of the EU negotiation team after the adoption of the agreement: “we made it thanks to the team!”¹¹⁹.

The EU negotiation team consisted of seven or eight people, including an official from DG ENER of the Commission. The EURATOM has also played a role in negotiations¹²⁰. Special advisor Nathalie Tocci stated, that “the pen has been in the EU team’s hands”: the EU team drafted “technical bridging proposals” to bring differing positions closer, which could then be accepted by all the parties. Thus, the EU team drafted the agreement¹²¹. The small size of the team made coordination easier.

An important aspect of the negotiations was that the Iranians accepted a negotiation team with prominent female characters. According to a senior Western official, the “presence of so many women at the negotiating table with the Iranians was never a problem”.¹²² Catherine Ashton even wore a “conservative Iranian dress” as “a gesture of peace”.¹²³ It is a success of the EU that several female experts from the bottom to the highest level have been involved, who possess excellent negotiation skills and political and technical knowledge. Consensus could be achieved in both the complicated technical questions and a political framework. Difficult situations (like the occasion when Zarif told Mogherini after an argument: “Never threaten an Iranian!”)¹²⁴ have also been defused.

The EU has been successful in drafting an agreement that every party could accept. This was possible due to several factors. All of the parties were ready to accept the EU as the party leading the negotiations. The EU could set the agenda. This does not mean however, that the EU’s role ended with putting Javad Zarif and John Kerry, or their deputies to table: the other parties’ interests had to be considered as well. Russia and China were also wary of the US whereas the E3 were coherent on ceasing Iran’s clandestine nuclear programme. The EU stood in the middle of all parties, whilst not being neutral (the E3 are part of the EU and connected to the US through NATO, as well as the EU imposing its own sanctions). This unique perspective, combined with the trustworthiness and skill of the entire EU negotiation team, and their determination to reach a consensual solution has proven paramount in reaching an agreement.

¹¹⁹ De La Baume, Maia (17.07.2015)

¹²⁰ Which was assumed by a professor of an European think tank also assumed.

¹²¹ This was also stated by the European diplomat who participated in some phases of the negotiations

¹²² De La Baume, Maia (17.07.2015)

¹²³ Theodoulou, Michael (04.05.2014)

¹²⁴ BBC.com (14.07.2016)

Chapter V.: Implementation and Challenges (2015-today)

After the international sigh of relief of an agreement reached, the next step was to assure the full implementation of the JCPOA. The EU plays a role in three areas of the implementation: lifting sanctions, verification (through participation in the Joint Commission) and civil nuclear cooperation.

Annex V of the JCPOA details the schedule of implementation.¹²⁵ On Finalisation Day (14 July 2015), Iran and the E3/EU+3 endorse the JCPOA and refer it to the UNSC to adopt a resolution, in which the UNSC also endorses the JCPOA (this was done with UNSC Resolution 2231¹²⁶ on 20 July 2015). The EU also endorsed Resolution 2231¹²⁷, and according to that Resolution lifted some of the sanctions¹²⁸.

Adoption Day (18 October 2015) marks the entry into force of the JCPOA in all states involved. All participants were required to make “preparations, including legal and administrative preparations, for the implementation of their JCPOA commitments”¹²⁹. The EU “adopted legal acts providing for the lifting of all nuclear-related economic and financial EU sanctions as specified in the JCPOA, taking effect as of Implementation Day, simultaneously with the IAEA-verified implementation by Iran of agreed nuclear-related measures”¹³⁰. The Council also declared, that in case of “significant” non-compliance of Iran with its commitments under the JCPOA, the nuclear related sanctions will be reintroduced¹³¹.

Implementation Day occurred on 16 January 2016, when the IAEA verified that Iran implemented the nuclear related measures of the JCPOA. In response, the EU was required to lift all nuclear-related economic and financial sanctions according to Section 16 of Annex V¹³². The EU lifted all listed sanctions¹³³. Nevertheless, some sanctions remain in force, concerning “arms embargo, sanctions related to missile technology” as well as restrictive measures concerning certain persons and entities.¹³⁴ These remain in force until Transition Day, 8 years after Adoption Day, or after the IAEA reaches a “Broader Conclusion that all nuclear material

¹²⁵ European External Action Service (14.07.2015) (Annex V)

¹²⁶ United Nations Security Council (20.07.2015)

¹²⁷ Council of the European Union (20.07.2015)

¹²⁸ Council Decision 2015/1336 and Council Regulation 2015/1327. Source: Council of the European Union (01.08.2016)

¹²⁹ European External Action Service (14.07.2015) (Annex V); Council of the European Union (01.08.2016)

¹³⁰ Council Regulation 2015/1861, Council Implementing Regulation 2015/1862, Council Decision 2015/1863. Source: Council of the European Union (01.08.2016)

¹³¹ EUR-LEX (18.10.2015)

¹³² European External Action Service (14.07.2015) (Annex V); Council of the European Union (01.08.2016)

¹³³ Council of the European Union (16.01.2016)

¹³⁴ European External Action Service (23.01.2016) pp. 17-20

in Iran remains in peaceful activities”. On Termination Day, 10 years after Adoption Day, “all remaining EU measures will be terminated”¹³⁵. The EU is so far honouring its commitments determined in Annex V of the JCPOA concerning sanctions.

The second area where the EU is involved, is verification. First, it has to be cleared that the JCPOA authorises only the IAEA with the verification. The EU organisation responsible for verification of the use of nuclear material, the EURATOM, only has authority within the EU, and is not even mentioned in the JCPOA, therefore it is not involved in the verification. Instead, the EU is involved in the verification through participation in the Joint Commission “established to monitor the implementation” of the JCPOA¹³⁶. Its function is detailed in Annex IV: review and approve Iran’s nuclear activities; review and consult to address issues concerning the lifting of sanctions; and review and address “any issue that a JCPOA participant believes constitutes nonperformance by another JCPOA participant of its commitments under the JCPOA”. The EU is involved on the highest position of the Joint Commission: “The High Representative of the Union for Foreign Affairs and Security Policy, or his/her designated representative will serve as the Coordinator of the Joint Commission”.¹³⁷ The High Representative also serves as the Coordinator of the Procurement Working Group, a procurement channel aimed at authorising transfer of nuclear and non-nuclear material to benefit Iran’s nuclear programme¹³⁸. Furthermore, the High Representative serves as the Coordinator of the Working Group on Implementation of Sanctions Lifting¹³⁹. In July 2016, the Joint Commission established a Technical Working Group, which is chaired by the representative of the High Representative¹⁴⁰. The first Joint Commission meeting was held on 19 October 2015, one day after Adoption Day and was chaired by Helga Schmid.¹⁴¹ There have been seven meetings until now,¹⁴² five after Implementation Day, with the latest occurring on 25 April 2017, chaired again by Helga Schmid¹⁴³. Thus, the EU plays a central role in the dispute resolution mechanism, as a leader as well as mediator. Mediation and reaching consensus here is crucial, otherwise the issues are referred to the UNSC¹⁴⁴, where Iran has no voice.

¹³⁵ Council of the European Union (01.08.2016)

¹³⁶ European External Action Service (14.07.2015) (JCPOA) p.4.

¹³⁷ European External Action Service (14.07.2015) (Annex IV) pp. 1-2.

¹³⁸ European External Action Service (14.07.2015) (Annex IV) p. 4.

¹³⁹ European External Action Service (14.07.2015) (Annex IV) p. 6.

¹⁴⁰ European External Action Service (22.10.2016); Albright, David/Stricker, Andrea (01.09.2016) p.3.

¹⁴¹ European External Action Service (19.10.2015)

¹⁴² Islamic Republic News Agency (24.04.2017)

¹⁴³ European External Action Service (25.04.2017)

¹⁴⁴ According to Article 37 of the JCPOA: European External Action Service (14.07.2015) (JCPOA) p. 17.

One of the points discussed at the latest Joint Commission meeting was “the importance of implementation of Annex III of the JCPOA on civil nuclear cooperation”.¹⁴⁵ This constitutes the third area of the EU’s involvement in the implementation of the JCPOA. Nuclear cooperation between Iran and the EU started on 16 April 2016 when the European Commission, and the Atomic Energy Organization of Iran made a “Joint Statement on Cooperation in the Peaceful Uses of Nuclear Energy”¹⁴⁶. This would establish “a regular high-level dialogue meeting once a year (the Framework for Partnership on Nuclear Energy) to review topics of common interest in the nuclear field”. The two sides would utilise the Instrument for Nuclear Safety Cooperation and EU funding for the project Enhancing the capabilities of Iran nuclear regulatory Authority (INRA). The activities include cooperation in stress tests, joint review of Iran’s regulatory framework, training of nuclear security professionals, exchange of experience for Iran from EU nuclear safety regulators, and facilitating Iran’s participation in fission and fusion research actions under Euratom Framework Research Programme 2014-2018¹⁴⁷. This means that the EURATOM, although not involved in the verification itself, plays a role in the implementation of Annex III.

Iran and the EU also held a High-Level Seminar on 'International Nuclear Cooperation: Expectations and Responsibilities' in Brussels between 28 February and 1 March 2017. The seminar “allowed for fruitful exchanges between a high level delegation from Iran” and “participants from several European Commission services, the External Action Service, as well as representatives from third countries and the International Atomic Energy Agency”¹⁴⁸. The importance of Annex 3 of the JCPOA was stressed, and a common understanding was reached on its role in providing a “sound framework for working together in the nuclear area” and in the successful implementation of the JCPOA. It was also mentioned that successful cooperation in the nuclear field would have a positive spillover effect on a “larger economic-industrial level, particularly in the field of energy, and even on a political level”. Both sides agreed to organise a follow-up seminar in Esfahan (Iran) by the end of 2017¹⁴⁹.

On 18 April 2017, “the first ever project for nuclear safety co-operation with Iran” was signed by the European Commission¹⁵⁰. The goal of the project is to use the 2.5 million EUR to strengthen the capacities of the INRA, through preparation of a “feasibility study for the

¹⁴⁵ European External Action Service (25.04.2017)

¹⁴⁶ Nuclear Engineering International (19.04.2016)

¹⁴⁷ Nuclear Engineering International (19.04.2016)

¹⁴⁸ European Commission (02.03.2017)

¹⁴⁹ European Commission (02.03.2017)

¹⁵⁰ European Commission (18.04.2017):

Nuclear Safety Centre foreseen in the JCPOA” and developing the Iranian nuclear regulatory framework, aimed at facilitating Iran’s accession to international legal instruments concerning nuclear safety, such as the Convention on Nuclear Safety. This is the first project of a 5 million EUR action approved in 2016 under the Instrument for Nuclear Safety Cooperation. This project is the fruit of the Joint Statement made on 16 April 2016.

High Representative Frederica Mogherini established the Iran Task Force within the European External Action Service already on 20 July 2015, “to coordinate the different strands of action in relations with Iran”. Consisting of a minor staff of the EEAS, the Iran Task Force promotes cooperation and coordination “with the European Commission, with other institutions, third countries and civil society” regarding the implementation of the JCPOA and “exploring ways for a more cooperative regional framework”.¹⁵¹

It is clear that the EU is making a significant contribution to the implementation of the JCPOA. The nuclear related sanctions of the EU are lifted according to plan, and they have not been reintroduced (sanctions responding to serious human rights violations in Iran are still in place)¹⁵². Through chairmanship in the Joint Commission and its various Working Groups, the EU is aware of all the issues arising which could threaten the implementation, and can coordinate efforts in resolving them. The civil nuclear cooperation has been gradually enhanced since 2016, and received major boosts in 2017. The EU will remain engaged in further facilitation of the implementation of the deal. This promotes a nuclear free Iran in three ways: 1. The scheduled lifting of sanctions promotes trust in the EU from Iran; 2. through the Joint Commission, issues arising about the implementation can be solved; and 3. the nuclear cooperation helps in developing Iran’s nuclear programme in a controlled manner.

However, several challenges need to be tackled to preserve and fully implement the agreement. One major challenge is the continuation of ballistic missile tests. The latest missile test was conducted on 29 January 2017¹⁵³. Mogherini stated that the missile tests do not constitute a breach of the JCPOA¹⁵⁴. Although Annex B of UNSCR 2231 states, that “Iran is called upon not to undertake any activity related to ballistic missiles designed to be capable of delivering nuclear weapons”, this phrasing does not mean a clear prohibition, thus no violation can be ascertained¹⁵⁵. However, the tests clearly provoked response, especially from the US, which

¹⁵¹ Pawlak, Patryk (02.2016) p. 8.

¹⁵² Council of the European Union (11.04.2017)

¹⁵³ Elleman, Michael (03.02.2017)

¹⁵⁴ European External Action Service (23.09.2016)

¹⁵⁵ Kenyon, Peter (03.02.2017)

introduced sanctions against Iran¹⁵⁶. It is possible that the Iranian Revolutionary Guard Corps, which is responsible for the missile tests wants the US to terminate the implementation of the JCPOA¹⁵⁷. Indeed, the position of the new US administration towards the deal is posing a challenge as well. President Trump and several Republican hardliners criticised the agreement, the US administration is reviewing the agreement, as well as having announced non-nuclear related sanctions¹⁵⁸. President Trump has also expressed his desire to cancel the agreement, nevertheless, this has not happened yet. This will make investors think twice before doing business with Iran, which makes it harder for Iran to reintegrate into the world economy. This could sway public opinion in Iran against the agreement, and play into the hands of Iranian hardliners, who want to cancel the agreement. Furthermore, the situation in the Middle-East is endangering the implementation of the JCPOA. The agreement has provided a new dynamic to the regional power play through enhancing Iran's position. Israel and Saudi Arabia strongly oppose the agreement¹⁵⁹, and could use their leverage by the US government to reintroduce sanctions. The US could easily do this due to the "snap back" mechanism outlined in Article 36 and 37 of the JCPOA: If an issue of non-compliance (i. e. the reintroduction of sanctions) could not be resolved by the Joint Commission, then the complaining party (Iran) could refer the issue to the UNSC. The UNSC will vote on a resolution to continue the sanctions lifting. However, this can be vetoed by Washington. If the resolution is not adopted, all nuclear related sanctions are reintroduced, and neither Russia, nor China can prevent it¹⁶⁰. Moreover, other states in the Middle East could evaluate the deal as insufficient in preventing Iran from acquiring nuclear weapons, and this could lead to a regional nuclear arms race, which would jeopardise the JCPOA¹⁶¹.

Nevertheless, Iran and the US is complying with the agreement. Israel has not attacked Iran. Iran is slowly returning to the world market. The sanctions are being lifted on schedule and nuclear cooperation is also expanding into other areas. The EU's efforts are significantly contributing to the implementation of the JCPOA. Other than that, the EU is responsible for utilising all its tools to safeguard the agreement. The EU should further use its economic and diplomatic power to ease tensions among the parties, especially in Tehran and Washington, to try to reduce the impact of the aforementioned challenges.

¹⁵⁶ Kenyon, Peter (03.02.2017)

¹⁵⁷ As a professor of an European think tank assumed.

¹⁵⁸ The Guardian (19.04.2017)

¹⁵⁹ Al Jazeera (25.06.2017)

¹⁶⁰ Panda, Ankit (15.07.2015); European External Action Service (14.07.2015) (JCPOA) p. 17.

¹⁶¹ Pawlak, Patryk (02.2016) p. 4

Conclusion

The aim of this essay was to analyse the EU's role in the negotiation and implementation of the JCPOA, as well as to demonstrate that the European Union's role in solving the non-proliferation issue presented by Iran's nuclear programme is unduly neglected. To achieve this goal, the participation of the EU in the several phases of the solution finding process was detailed, in order to be able to evaluate the EU's role as a global actor and provide lessons for future CFSP decision makers.

The importance of the EU has grown steadily since the beginning of the conflict. In the first phase (2002-2006), Javier Solana and member states other than the E3 needed to pursue the involvement of the EU. In the second phase (2006-2009), Solana and the EU coordinated efforts of the E3/EU+3 and were endorsed by the UNSC. The third phase (2009-2013) saw the "toughening" of the EU's position with the introduction of unprecedented EU sanctions, and the pivotal role in adopting the JPOA. The EU was responsible for the drafting of the JCPOA in the final phase (2013-2015), and bringing Tehran and Washington to a common position. Finally, the EU is directly involved in the implementation, in sanctions lifting, verification and cooperation, which are very concrete, tangible roles. Also the balance of the dual track approach has shifted throughout the process. The "carrot" dominated until 2006, and then slowly the coercive measures gained in importance until 2012, the EU's own harsh sanctions package. Then the balance shifted back to assistance until today. The effective multilateralism was also successful. The EU stood in the middle between Iran (and Russia and China) as well as the US (and the E3), and earned the recognition and trust of both sides. Military escalation was prevented. The member states were largely coherent. These results constitute a major success of the EU as a global actor.

The EU's role is also perceived positively by several experts. According to Van Ham," foreign policy analysts considered Iran's nuclear ambitions a test case for the EU's CFSP and an opportunity for the EU to establish itself as an influential independent actor with global security ambitions"¹⁶². Meier notes that "never before had EU member states jointly taken the lead on such a high-profile non-proliferation issue", and direct, collective negotiations with a possible proliferator state was "a new type of activity for EU members"¹⁶³. Hungarian experts point out

¹⁶² Van Ham, Peter (09.2011) p. 11.

¹⁶³Meier, Oliver (02.2013). p. 5

that “This was the first instance when besides realizing member state interests, a common EU stance was taken and role played in a key issue of global security”¹⁶⁴.

However, there are downsides of the EU’s engagement as well. The fact that no result was achieved for more than 10 years in the original issue, the enrichment, shows that the EU’s leeway is limited. The EU waited for the IAEA, the E3 and the UNSC make their move. Washington’s involvement, which was a goal of the E3/EU, especially the UK, after 2009 possibly made the EU a relatively weaker actor. The “carrot” was inadequate and the “stick” made Iran presumably more defiant. Until the election of Rouhani, the EU could not enforce a common position in an implementable agreement. The lack of military might, the need of coherence of the 28 member states for economic sanctions, and the lack of authority of the High Representative (no military might to give leverage, 28 member states have to agree on his/her mandate) are factors undermining the EU’s credibility.

All things considered, the EU did a fantastic job. Nonetheless, there are several lessons to be learned, which would hopefully improve the EU’s future foreign policy endeavours. First, the EU needs to act proactively, and not wait for the member states to start the involvement, like the E3. If the member states can act together in a short time, that would provide a much larger leverage than a few member states, and might bring about a solution sooner. Second, coercive measures, sanctions need to be on the table sooner, should diplomatic efforts fail. One year after the introduction of the EU’s sanction package in 2012, Rouhani was elected and the JPOA was signed, which led to the adoption the JCPOA. Third, the instruments of the CFSP need to be expanded in order to deal with such crises. This also includes the promotion of the human capital of the CFSP, which is key to any foreign policy success. Fourth, the EU “should look around for constellations”¹⁶⁵, which allow European facilitation of peaceful conflict resolution.

The final conclusions are the following: 1. The EU has played an essential role, ranging from mediation, facilitation of diplomatic efforts, and imposition of unprecedented sanctions, the absence of which would have made reaching an agreement less likely. 2. The EU has used everything in its disposal to find a peaceful solution. 3. The EU played a reactive role: it acted after the involvement of the E3 at the beginning, the sanctions and decisions of the UNSC, the findings of the IAEA. 4. In contradiction, the EU took the initiative with fostering negotiations when they were stalled, introduction of its own sanctions when the UNSC would not, and engaging in nuclear cooperation with Iran, when the US would not. 5. Finally, it is important

¹⁶⁴ Gálik Zoltán et al. p. 7.

¹⁶⁵ As a professor of an European think tank told me.

to recognise that no deal could have been achieved without the active and sincere engagement of Iran and the US. The deepest divide was between Tehran and Washington, which was successfully bridged, not at least for the efforts of the EU. The adoption and implementation of the JCPOA prove that the EU can make a coherent and effective foreign policy and can make other parties engage in mutually beneficial peaceful solutions to a specific crisis. The EU must build upon these strengths to further its foreign policy goals. This is the responsibility of the EU, to foster a future of international safety and security.

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