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Strengthening the JCPOA

Ephraim Asculai, Emily B. Landau, Dan Shapiro, and Moshe Ya'alon

In light of efforts spearheaded by the Trump administration to re-address the Iran nuclear deal (JCPOA) – in particular the issues of missiles (left outside the deal), the sunset provisions, and inspections that have not reached military sites – this article offers ideas for strengthening the deal, without opening it to renegotiation. It focuses on five main areas of concern – missiles; inspections; transparency; sanctions; and the sunset provisions. The recommendations are guided not only by an assessment of the most pressing issues, but by the question of feasibility. It is not clear how much progress has been made in the framework of US-European talks currently underway; until Macron's recent visit to Washington, it seemed clear that any agreement reached between the US and European partners would not include Iran at this stage, but would rather delineate areas where Iranian violations will not be tolerated, and will elicit specific punitive measures. While in the press conference this week Macron spoke about reaching a supplementary deal with the Iranians on the outstanding issues, the recommendations here follow the original logic, from before Macron's proposal.

Regarding Iran's missile program, the regime's insistence on not including its missiles as part of the nuclear negotiation effectively left the field open to the US and Europeans to introduce whatever new understandings they see fit. And this topic has elicited the most common ground between the US and Europeans. However, a source of concern is the tendency in recent months to relate to "long range missiles" rather than "missiles." It is imperative to drop this misguided emphasis on range, as medium range missiles already cover Israel, the Gulf states, and Turkey. Discussion must encompass all missiles of concern – ballistic and cruise; medium and long range – that can carry a nuclear warhead. We urge reintegrating the standard for dangerous missiles in the WMD realm that was set by the Missile Technology Control Regime (MTCR) in 1987: any missile with a range over 300 km that can carry a payload of over 500 kg.

As to inspections at military facilities, several issues deserve attention. First, regarding the provisions in the deal for inspecting a suspicious military facility: the P5+1 demand for anytime/anyplace inspection rights was downgraded to convoluted provisions that in the best case enable Iran to delay an inspection for 24 days, but a closer examination of paragraphs 75-76 (JCPOA Annex I) reveals additional room for Iranian abuse and playing for time. This ambiguity must be resolved. Moreover, regular inspections must be

conducted at military facilities to reach the “broader conclusion.” Iran has resisted any inspection of military facilities, which is unacceptable. Nor has the International Atomic Energy Agency (IAEA) used its broader inspection rights according to the Additional Protocol. These are topics that can be cleared up directly with the IAEA. A repeat inspection at Parchin – where suspicious particles were found in the one post-JCPOA inspection of September 2015 – is also imperative. The recent revelation that the nuclear reactor in Syria destroyed by Israel in 2007 was under construction for two-three years before anyone knew underscores something similar could be happening in Iran. The inspection regime of the JCPOA must be strengthened to provide reassurance that it is not.

Conversations with the IAEA must also address the lack of transparency regarding Iran’s nuclear activities and plans that has become the norm since the deal was implemented. The quarterly IAEA reports on Iran now lack essential data that had been included in pre-JCPOA reports, and there are side-deals concluded between Iran and the IAEA that have been kept confidential. Iran insists on being treated as a “normal” member of the NPT (with confidentiality rights) when in reality it lost the trust of the international community by working on an IAEA confirmed military nuclear program – thus violating the treaty for years.

On the sanctions front, there is a need to shore up pressure in any realm that does not impinge directly on the nuclear deal. The need to increase pressure on Iran is particularly acute in light of its provocative conduct and repeated declarations that indicate nothing has changed in terms of its nuclear motivation. The head of Iran's Atomic Energy Agency, Ali Akbar Salehi, stated clearly in the summer of 2016 that Iran “[has] done nothing that could not be undone with the turn of a screw.”

The focus here is primarily on what the US can do on its own. The aim is both to deliver a short term message that the US views many facets of Iranian behavior as unacceptable, and will act in accordance with that view. But increasing pressure on Iran – including in response to missile tests, support for terror, action in Syria, and human rights violations – is essential also with an eye to the longer term, as part of a broad effort to accumulate leverage over Iran. Absent such leverage there will be no possibility of strengthening the deal through renewed negotiations with the Iranians.

The sunset provisions in the JCPOA are the most difficult to address at present, without opening the deal to renegotiation. One direction is what the Trump administration is trying to achieve with the Europeans: namely, a supplementary accord between these states that would cover the pressing issues of Iran’s missile developments and need for strengthened inspections, with no time limits. The administration also wants to significantly extend the limitations on Iran's work on the fuel cycle. If the other issues of

concern raised here are addressed in a satisfactory manner, perhaps there will be more time and more leverage on Iran that can be deployed in future negotiations aimed at securing Iran's agreement to substantive benchmarks that would have to be met before restrictions are lifted.

Everything turns on political will – if it exists, agreeing to these steps should not entail a lengthy process, and implementation can realistically begin in relatively short order. Significant results at or above the threshold described here will mean the international community emerges with reinforced solidarity and a strengthened JCPOA. If negotiations are seriously progressing on this basis, it would make sense for the Trump administration to allow additional time beyond May 12 to complete them.