



# Dangerous ambiguity

The ambiguities in the Iran deal must be scrutinized by the only forum that is conducting a serious review of this flawed deal: the US Congress

**FROM THE** moment the nuclear deal with Iran known as the Joint Comprehensive Plan of Action or JCPOA was circulated on July 14, it was clear the details would need to be carefully scrutinized with an eye to identifying whether and where the formulations might be ambiguous, leaving room for different and disingenuous interpretations.

The chief concern is that Iran will be able to misinterpret and abuse ambiguous portions of the agreement down the road, in order to advance a nuclear weapons capability under the cover of the deal.

Experience gained in the past 12 years of dealing with Iran through on-again, off-again negotiations suggests a need to exercise extreme caution. These long years exposed Iran's negotiating tactics, as well as its attitude toward commitments made along the way. Simply put, Iran has shown that it has no qualms about cheating or reneging on commitments it makes. But it always seeks to do so in a manner that makes it difficult, if not impossible, for the other side to pronounce it an undisputed cheater.

For this, Iran relies on ambiguity. Ambivalence over the precise terms agreed is extremely helpful to Iran in playing its game of "violation without guilt." Iran's biggest success in this regard was in dodging demands to clarify its past nuclear weaponization activities – the strongest smoking gun the P5+1 (US, Russia, China, UK, France plus Germany) negotiators could have used against it

in the context of the JCPOA negotiations.

This was probably one of the international negotiators' gravest mistakes because it set the stage for the many later concessions they made to Iran, ultimately producing a severely flawed deal.

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It should have been patently obvious that non-specific formulations in the final document of the JCPOA should have been avoided like the plague. But they were not. On the contrary, the agreement is riddled with dangerously ambiguous provisions on the most crucial issues at stake. These will provide Iran with a platform for cheating, with the added advantage of being able to accuse the other side of bad faith, ostensibly leaving Iran no choice but to take whatever steps it sees fit.

The US administration has been presenting the Iran deal as virtually fool-proof, claiming that it cuts off all potential routes to a nuclear bomb. But that is simply not the case. The loopholes and ambiguity throughout the pages of the JCPOA bear eloquent testimony to its shortcomings.

The problem can be demonstrated by

highlighting three examples that touch upon critical aspects of the deal: verification requirements; Iran's obligation to clear up the "Possible Military Dimensions" (PMD) of its program by the end of 2015 – an issue which impinges both on verification and Iran's nuclear narrative of having "done no wrong"; and Iran's ability to immediately exit the deal.

On the verification issue, many critics have pointed to the 24 days that Iran will have before being required to open newly suspect military facilities to International Atomic Energy Agency (IAEA) inspections. The administration insists that it is not too much time because Iran will not be able to eliminate incriminating evidence that quickly, while others note that Iran could be conducting problematic weapons-related activities that do not leave long-term traces, and that therefore 24 days is far too long.

Two points of ambiguity arise. First, it is not clear whether even after 24 days Iran will allow entry to a suspicious non-nuclear facility. Its leaders have issued statements according to which it will not allow any inspection of its military facilities. The most recent was by the supreme leader's foreign policy adviser Ali Velayati who declared that this was Iran's position regardless of the P5+1 interpretation of the deal. And, indeed, the text itself is ambiguous: It talks about resolving the IAEA's concerns through "necessary means," without specifying that this would necessarily mean entry



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into the location in question.

Equally interesting is the fact that the focus on 24 days is misplaced. Paragraph 78 of the JCPOA points to the 24-day period, but if one carefully reads the preceding paragraphs (75 and 76), it is clear that the clock for the 24 days starts only when the IAEA requests access to the location in question. Worse, the IAEA must first provide the basis for its concerns and request clarification from Iran, and there is no time limit set for this preliminary stage. So while the IAEA will certainly be pressing for quick clarification, Iran could play for time, as we have seen it do so many times in the past.

**INDEED, IRAN** could conceivably drag this out for days, weeks, and maybe even more, which means that it could easily double the time at its disposal to clean up a suspicious site. We do not know how much time this might take because there is no answer in the document. And anything that is not specifically defined can be misinterpreted and abused by Iran. Remember back in 2014 when Iran had an August 25 deadline to clear up just two or three of the 12 outstanding questions on past weaponization work? Well, the IAEA is still waiting for those clarifications.

This brings us to the issue of the PMD, which basically refers to Iran's past work on creating a workable nuclear bomb. The question here is whether clearing up the 12 outstanding questions that the IAEA has put to Iran on this to the

agency's satisfaction is a definite prerequisite for the lifting of sanctions. There is no clear answer to this simple question. When one scrutinizes the relevant passages from the JCPOA and the Iran-IAEA work plan, the ambiguity is apparent. Must the IAEA be satisfied with Iran's answers? Not clear. It's all about "assessments" and activities "aimed at resolving" all outstanding issues. Why doesn't it say "to resolve"? Why "aimed at resolving"?

Others, too, have noted the absence of a clear answer. According to US Republican Senator Bob Corker of Tennessee, the conclusion of the IAEA investigation of the PMD is not linked to lifting of sanctions, and the terms are secret. Ali Akbar Salehi, head of Iran's Atomic Energy Organization, notes that the IAEA report on the PMD will be submitted to the Board of Governors on December 15, but insists that this submission is not linked to JCPOA implementation. Unfortunately, it looks like both might be correct. According to an unsettling report in the Wall Street Journal, US lawmakers assess that Iran will not be pressed to fully explain its past weaponization work even though this was the clearly stated goal of the US administration throughout the negotiating process.

Moreover, the terms of investigating Parchin – the military facility where Iran is suspected of having carried out weaponization work, and to which the IAEA has tried to gain entrance repeatedly since early 2012 – are also kept

secret. The work plan says that "Iran and the IAEA agreed on another separate arrangement regarding the issue of Parchin." We have no further information and the US administration has acknowledged that this remains classified.

Suspicious are that it might entail an agreement for Iran to take its own soil samples from the site! Not something that inspires confidence, to say the least. And come December, if Iran has upheld the terms of the deal for several months, who is realistically going to jeopardize it for the sake of the PMD investigation? We'll be told it's no longer important.

Finally, we come to the question of Iran's ability to exit the deal at a time of its choosing. Here the clause in which Iran states that any re-imposition of sanctions is cause for it to cease performing its commitments under the JCPOA, in whole or in part, is basically an exit clause open to abuse. Any imposition of sanctions, for whatever reason, could be used by Iran as a pretext to leave the deal at a time of its choosing.

Regardless of whether these ambiguities were purposely introduced or inadvertently included, they must be scrutinized by the only forum that is conducting a serious review of this flawed deal – the US Congress. ■

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