

Principles and Guidelines for a Comprehensive Nuclear Deal with Iran

Emily B. Landau

Introduction

The “interim deal” with Iran – also known as the Joint Plan of Action (JPA or JPOA) – was announced on November 24, 2013, and implemented on January 20, 2014 for a six-month period. After the parties failed to reach a deal within this time framework, a decision was taken on July 20, 2014 to extend the negotiation period for another four months, until November 24, 2014.

The interim deal was never intended to be more than a temporary arrangement that would put time on the clock in order to enable the P5+1 negotiators the time and space they needed to negotiate a comprehensive nuclear deal with Iran that would put an end to the decade-long crisis. The United States was very clear about this, and the deal was presented as a necessary agreement so that for the duration of the negotiations with Iran – which were expected to take months – this proliferator would not be able to proceed unhindered with its nuclear activities. However, while Iran did agree to halt uranium enrichment to the 20 percent level, the deal enabled other activities to continue. Moreover, not surprisingly – and this is the danger of interim deals – the deal has also taken on a life of its own, and has been (ab)used by Iran as a benchmark for what should and should not be covered in the comprehensive deal. But this was never the stated intention of the deal.

Be that as it may, it is the comprehensive deal with Iran that is intended to be the final deal. As its name alludes, this deal is meant to cover all of Iran’s nuclear program’s problematic aspects, with the aim of distancing Iran from the ability to move quickly and undetected toward development

Dr. Emily B. Landau is a senior research fellow and head of the Arms Control and Regional Security Program at INSS.

of a nuclear bomb. While the P5+1 negotiators should be pressing – using the leverage they gained with the biting sanctions of 2012 – to bring Iran to the point where it signals its intention to back away from its military nuclear ambitions, the negotiating powers have deemed this an unachievable goal. Instead, and contrary to their long-held goal, their current aim is much more modest – to extend Iran’s breakout time to a nuclear weapon, should it decide on this course of action. In other words, the international negotiators are no longer trying to get Iran to reverse course in the nuclear realm by indicating that it is backing away from its military aspirations. Rather, at this point they seek only to slow it down, with the hope that they will be able to prevent in time an Iranian rush to concretize its military nuclear capability.

The Elusive Criterion of “Clear Evidence” of Violation

This more limited goal is a dangerous gamble; success critically depends on the responsible international actors’ ability to act in a timely manner to stop Iran. That implies that they will be able to successfully manage three crucial tasks: to detect that Iran has committed a violation and is moving to produce nuclear weapons; to secure international agreement that this Iranian violation has indeed occurred, is significant, and needs to be confronted; and to then act on this information – in a quick, coordinated, and determined manner to stop Iran.

This is a tall order; indeed, there are potential problems at every turn. In order to understand what *could* go wrong, all one has to do is to carefully reflect upon the past decade and note everything that actually *has* gone wrong: how Iran was able to progress from having several hundred centrifuges to 19,000 of these machines, and to accumulate a stockpile of LEU in an amount that if enriched to higher levels could produce fissile material for 6 or 7 nuclear devices. Iran achieved these gains by manipulating and abusing the ambiguity that is ingrained in the NPT, while leveraging the apparent difficulty for international actors to act in a timely and coordinated manner to confront an emerging proliferation challenge. Unfortunately, there is enough wriggle room within the confines of the NPT for a state like Iran to create a dangerous breakout capability.

Specifically, anyone hoping to base the solution of this crisis – in the context of a comprehensive deal – on the idea that decisive action will be taken by the international community in the wake of “clear evidence” of an Iranian violation, should perhaps take a closer look at what has transpired

over the past ten years. Defining “clear evidence” is not a simple short step before resolution, but is rather the point where serious problems begin. What is “clear evidence?” Who decides, and who has to agree with the decision in order for action to be taken? The truth is that there are no objective criteria that have been set for making this call – in the NPT or any other format. Instead, everything turns on *interpretation of the evidence*; and interpretations are very much a reflection of state interests and international politics.

Therefore, securing great power consensus that a violation has occurred is a very shaky business, as has been underscored time and again by events over the past decade. This is why, for example, the four rounds of UN Security Council sanctions that were imposed on Iran from 2006 to 2010 were very slow in coming; and when each decision was finally taken, the measures themselves were a watered-down version that reflected compromises among the permanent members. The end result was sanctions that ended up being largely ineffective. Russia and China in particular consistently disputed the evidence upon which other states based their assessments, and international politics in the Security Council dictated that an agreement could be reached only at the lowest common denominator. It was only when the US, EU, and some other states decided to impose strong sanctions outside the UN framework that the necessary leverage for initiating the current round of negotiations was secured.

Essential Principles and Guidelines for Reaching a Comprehensive Deal

In light of the above, beyond the issue of the particular aspects of Iran’s nuclear program that must be dealt with in the context of a comprehensive deal, there are certain principles and guidelines that must be followed in order to improve the international negotiators’ ability to get the best possible deal.

The first of these principles is to end the charade whereby Iran continues to claim that it has an “inalienable right” – per Article IV of the NPT – to work on any and all aspects of a civilian nuclear program because no proof of Iranian wrongdoing has been presented. In order to undercut Iran’s consistent refrain in this regard, the country must be brought face to face with its military nuclear program. Iran must be confronted with the full evidence of the “possible military dimensions” (PMD) of its program, and the P5+1 must demand immediate access and answers. The PMD are those elements of Iran’s nuclear program that cannot be explained away

as supporting civilian purposes, such as designs for creating a warhead or experiments with neutron detonators.

The reason that it is essential to clarify that Iran has been working on a military nuclear program for decades is thus not to humiliate Iran or “bring it to its knees.” Rather, this is imperative in order for the comprehensive deal to have a chance of fulfilling its original mandate: namely, eliciting a necessary Iranian strategic U-turn in the nuclear realm. How can the international negotiators effectively demand that Iran back away from its military ambitions when Iran says that it has none, and is not confronted with the evidence that it has? An adequate final deal cannot be reached if Iran is allowed to continue to insist upon its rights according to the NPT, on the grounds that no evidence has been produced that it committed a violation.

Some argue that if Iran is not forced to concede that it has been engaged in wrongdoing for years, this will actually make it easier for Iran to back down from the military direction without losing face. But these analysts are ignoring Iranian statements that continue to steadfastly advocate their “rights.” For example, head of Iran’s Atomic Energy Organization, Ali Akbar Salehi, was quoted in April 2014 claiming that Iran had the “right” to enrich uranium even to weapons grade levels (90 percent) according to the NPT, and that it will not relinquish this right.

A second guideline for reaching a comprehensive deal has to do with understanding that Iran does not want to be in a position where it will have to blatantly violate the terms of the deal, should it decide to move to nuclear weapons. Iran much prefers to abuse ambiguous language than to set itself up for being easily caught in a violation. Therefore, it is critical that the terms of any comprehensive deal are formulated in a manner that reduces ambiguity – and subsequent problematic interpretations – to an absolute minimum. The international community cannot count on Iran to act in good faith or in the spirit of an agreement. Iran will follow the deal to the letter, and if provided maneuvering room, Iran will use it to its best advantage. This seems to be what happened regarding the reference to advanced centrifuge research and development (R&D) in the interim deal. The P5+1 did not mean for Iran to be able to work on increasingly advanced generations of centrifuges. However, it used language in the interim deal that was not specific enough, and therefore failed to prohibit Iran from doing so. From Iran’s point of view, the door remained wide open for Iran to advance whatever R&D aspect it desired, short of operation.

A third guideline refers to the question of verification and violations. Generally speaking, as noted above, it is very dangerous to hinge a comprehensive agreement on successful verification. There are simply too many things that can go wrong in this regard. Verification should be treated as a back-up mechanism to ensure compliance, but not as a replacement for an expectation that Iran will uphold the agreement. Moreover, when the P5+1 say: “if there is ‘clear evidence’ of an Iranian violation, we will proceed to...,” this violation must be very clearly defined, not only vis-à-vis Iran, but in a manner that creates clear benchmarks for the relevant international actors, so that they have the best possible chance of arriving quickly at a common basis for making this assessment.

A fourth and final guideline regards the importance of not only maintaining, but effectively employing international leverage in the negotiations process. The success of this process critically hinges on the maintenance of strong leverage, because Iran will not agree to the deal that the international community is seeking unless it feels it has no choice. Therefore, the P5+1 must continue to hold onto the sanctions leverage throughout the process in order to get where they want to go. Early in 2014, the White House acted decisively to stop Congress from passing new sanctions legislation, but remained quite complacent in the face of evidence that Iran is selling more barrels of oil per day than permitted under the terms of the interim deal. Projecting determination in this negotiation is critical. Unfortunately, more often than not, when the United States tries to act reasonably toward Iran – for example, by not reacting to horrific rhetoric issued by the Supreme Leader – this is chalked up as weakness to be exploited at the bargaining table, and not as positive goodwill to be reciprocated by Iran.

Conclusion

Rather than defining and setting forth the specific nuclear issues that need to be covered in a comprehensive deal with Iran – which is done elsewhere in this volume – this piece lays out some of the principles for getting a better deal. The hour is very late, and the chances for a good comprehensive deal are unfortunately looking rather dim. Nevertheless, as the parties move toward that goal, these ideas are offered as critical guidelines for avoiding some of the problems and pitfalls with which the international community has been grappling in its ongoing efforts to prevent Iran from achieving a military nuclear capability.