



A Nuclear Arrangement Doomed to Fail

Abraham D. Sofaer*

June 2015

The deficiencies in the nuclear arrangement being negotiated between the Five Permanent Security Council members plus Germany (P5+1) and Iran are by now obvious. The P5+1 abandoned the objective of depriving Iran of its nuclear-weapons capabilities. Instead, the “Joint Comprehensive Principles of Agreement” (JCPOA) will at best extend the time Iran needs to develop a nuclear weapon once it decides to have one. President Obama Administration claims this outcome is the “only” way to prevent Iran from acquiring nuclear weapons, and that those opposed to it must want to launch a “futile” attack on Iran’s nuclear facilities.

It is the JCPOA, however, that will prove futile. Not merely because its terms are flawed and Iran’s promises lack credibility. Its objectives are too limited. Its concessions will facilitate Iran’s radical aspirations and illegal conduct. And Iran’s continued misconduct will lead the US to re-impose sanctions, causing a confrontation more serious and potentially consequential than the US faces today.

The alternative to the JCPOA is not war, but continued pressure to force Iran to curb, not just its nuclear weapons activities, but also its ballistic missile program, its foreign interventions and attacks, its undermining of the Middle East peace process, and its inhumane and repressive domestic practices. This broader agenda is the only possible way Iran’s radical aims can be effectively circumscribed; and its current economic stagnation and costly international adventures make this the best possible time to pursue a strategically significant outcome.

* Senior Fellow in Law, Diplomacy and National Security, The Hoover Institution, Stanford University. Mr. Sofaer is author of “Taking on Iran” (Hoover Press 2013). Presented at the Herzliya Conference, IDC, Israel, June 9, 2015. All rights reserved.

No Meaningful Objective. The JCPOA's sole, avowed aim is to gain time. Time for what? President Obama explicitly supports the JCPOA because he believes an attack on Iran's nuclear facilities would be futile. If he is correct, what possible benefit could be gained from having one year instead of three months to stop Iran from breaking out? An attack will be no less futile at that time than it is now.

The Price. The price for the JCPOA includes, explicitly, "a new UN Security Council Resolution" that will "terminate all previous nuclear-related resolutions . . ." This language, together with the promise to end all sanctions, will be understood by Iran to mean that no sanctions will be imposed on Iran for any of its many, continuing violations of international law and human rights, so long as it satisfies its JCPOA obligations. In addition, lifting sanctions will release billions of dollars that Iran will use to fund its hegemonic aims, and to shore up its economy. The Obama Administration apparently hopes the arrangement will somehow lead Iran to alter its ambitions and conduct. But that hope is nowhere expressed in the JCPOA.

Immunity? The Obama Administration insists it will re-impose sanctions if Iran breaches the JCPOA. But what if Iran abides by the JCPOA but joins President Assad in using chemical weapons, or arranges for the bombing of another Jewish community center, or for the assassination of a US ally's ambassador in Washington DC? Iran will claim that it is entitled to assume sanctions will not be imposed.

Experience indicates, however, that if Iran continues its current policies the US will eventually re-impose sanctions, just as it did in reversing its promise in the Algiers Accords of 1979 to "end" all sanctions on Iran in exchange for Iran's releasing US hostages. Iran's proxies in Lebanon soon began seizing more hostages, however, and the IRGC continued to support terrorism and attacked US vessels in the Gulf. Consequently, the US re-imposed import sanctions in 1987, and by 2010 had adopted the current, comprehensive sanctions regime.

It is idle now, as it was in 1979, to expect a radical regime to refrain from activities deliberately excluded from a negotiation. Re-imposing sanctions could be far more consequential now, moreover, than after the Algiers Accords. Iran will likely respond by renewing its nuclear-weapons program. The arrangement the Administration pursues to reduce risk will actually increase it. And no legal rule could prevent this outcome. Whether the JCPOA takes the form of a treaty, executive agreement or mere "understanding," any US President could repudiate it.

Missed Opportunity. The JCPOA could not be more unfortunately timed. Iran's economy is in shambles. Its ambitious foreign interventions are proving far more costly than expected. Hezbollah has lost thousands of fighters in Syria, and the IRGC is sending its own forces into that war, along with Shiite militiamen from Iraq. The fighting in Iraq is also costly, as are Iran's arming of terrorists in Gaza, Houthi fighters in Yemen, and other Shiite allies. Sanctions are depriving Iran of funds it desperately

needs. Keeping them in place at this critical time could well force Iran to agree to negotiate the full range of issues related to its misconduct.

Iran would cry foul at such a shift in US strategy. But so did the Soviet Union when the US moved intermediate range missiles into Europe and demanded that the Soviets withdraw all their missiles in exchange for the US doing so. The US was accused of negotiating in bad faith and bringing the world closer to war. In fact, by negotiating from strength and insisting on a meaningful outcome the US moved the world towards peace. The only way to undermine the IRGC's power and influence in Iran is to make its strategy unaffordable.

Conclusion. The negotiation with Iran has grabbed the world's attention. The P5+1, expert analysts, and the worldwide press, are focused on specific aspects of the arrangement as though an improvement here or there would matter. But criticisms of the details of the JCPOA are like finding deficiencies in the dress of an emperor without clothes. The same seriousness with which the current negotiation is taken also surrounded the latest US peace initiative in the Middle East. In retrospect, the proposal to make peace in nine months is seen by all as hopeless from the start.

The same judgment will emerge in due course regarding the JCPOA. It deals with important and complex issues, properly a part of any negotiation with Iran. But it is hopeless from the start. It would suspend sanctions exclusively for "nuclear related" concessions, leaving Iran to continue conduct certain to lay bare the strategic nakedness of the entire arrangement. Instead of pressing Iran for concessions needed for a lasting peace, the US and its partners are preparing to give Iran a massive economic lift in exchange for nothing more than questionable promises that provide a few more months to come to the conclusion – already openly announced – that an attack aimed at preventing Iran from acquiring a nuclear weapon would be futile.

The result will be familiar. Every US Administration since 1979 has failed to take on Iran with strength and robust diplomacy, opting instead for policies fluctuating wildly from refusing to negotiate to settling for arrangements that fail to confront Iran's radical agenda. This failure will be especially painful. The US is missing an historic opportunity to negotiate for the full range of essential terms with an Iran that is economically weak and militarily overextended.