



**MEDAC**   
Mediterranean Academy of Diplomatic Studies  
University of Malta



## What Future for the Iran Nuclear Deal?

Dr. Monika Wohlfeld and Prof. Stephen Calleya (Editors)

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# Acknowledgment

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This edited publication entitled 'What Future for the Iran Nuclear Deal?' has emerged from a Mediterranean Academy of Diplomatic Studies (MEDAC) postgraduate seminar on the same subject matter held on 5 December 2017 in Malta. The authors of the papers presented in this special volume of the Med Agenda engaged during the seminar in December 2017 in a lively interaction with MEDAC students, many of whom are young diplomats from countries of the Mediterranean and beyond.

The Seminar has been made possible by funding provided by the German Federal Ministry of Foreign Affairs as part of the German Chair for Peace Studies and Conflict Prevention project at MEDAC.

The Federal Republic of Germany has been a stakeholder in MEDAC since 2009. In recognition of the vital importance of a Mediterranean region with strong, co-operative Euro-Mediterranean relations, the German Ministry of Foreign Affairs established a German Chair in Peace Studies and Conflict Prevention at the Mediterranean Academy of Diplomatic Studies (MEDAC). The German Chair has been able to enhance the research and publication dimension of the Academy, in addition to teaching and supervision dimension of her work. The holder of the Chair, Dr. Monika Wohlfeld, has also edited this Med Agenda together with the Director of MEDAC, Prof. Stephen Calleya.

# An Historic Diplomatic Deal Worth Saving

Professor Stephen Calleya

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In contemporary international relations one of the most important diplomatic achievements has been the Joint Comprehensive Plan of Action (JCPOA) signed between Iran and the United States, Russia, China, the United Kingdom, France and Germany with the High Representative of the European Union for Foreign Affairs and Security Policy in 2015.

This nuclear proliferation agreement demonstrated that the international community is able to reach a consensus on such complex issues in the very erratic and volatile post Cold War international system that has emerged. It has also restored credibility in the Non-Proliferation Treaty (NPT) regime that was the bedrock of the Cold War and helped to avoid the escalation of a regional arms race in the Middle East between Iran and countries such as Egypt, Saudi Arabia and Turkey.

Moreover, this international nuclear agreement was a success for international diplomacy which sent a signal to everyone that compromise is possible and that there is no serious alternative to on-going dialogue between foes.

Those that are advocating that the JCPOA is not a perfect deal are of course correct. Yet it is also important to emphasize that there is a need to base aspirations on what is realistically possible to achieve.

The JCPOA provides a platform upon which a more comprehensive relationship between Iran and the international community can be established. At this moment of high stakes it is time for a hands on diplomatic process. Diplomatic vandalism that will see a return to bellicose exchanges between Iran and the United States and Europe must be avoided at all costs if post Cold War diplomacy is not to be severely weakened.

The signatories must seek to build on credibility of the Agreement. It is essential not to undermine the credibility of any of the actors to the Plan. If the United States or any other actor withdraws from the nuclear plan the agreement should still be implemented and monitored. All actors including the EU must be vocal and participate in the continuous dialogue with Iran.

Just as abandoning the deal must have very high severe consequences including pariah status and sanctions towards Iran, so should the international community provide tangible incentives to stay the course and seek to upgrade relations.

A sober analysis of the JCPOA makes it clear that too much is at stake to risk collapse: geostrategic relations across the Middle East are very unstable and one should not rule out the possibility of a military escalation should the JCPOA be abandoned. Such a turn of events would be an international calamity given the fact that the Middle East region is already witness to untold humanitarian suffering and the region is already over militarized.

Instead an alternative geo-strategic narrative needs to be promoted. The time has come to propose a regional dialogue that offers a more cooperative Middle East geo-strategic outlook. This would include ensuring implementation of the JCPOA as envisaged and also engaging Iran on issues pertaining to human rights, terrorism and missile production. A regional dialogue must also address on-going conflicts including the situation in Palestine, Syria and Yemen.

Enhancing stability in the region is a prerequisite to attracting international investment that the countries across the southern Mediterranean desperately require to meet the aspirations of their respective citizens. Above all else diplomacy must be given a chance to flourish by seeking a win - win outcome and avoiding the alternative lose - lose situation.

A rethink of the Middle East pattern of relations must also seek to bring Iran and Russia into the international community of states and offer economic dividends in return for abiding to international agreements such as the JCPOA.

Deterioration in relations with Iran will have a tremendous negative impact on both regional and international relations in the Euro-Mediterranean area. The collapse of the JCPOA will send shock waves across the Mediterranean and undermine Euro-Arab and Euro-African relations and also weaken American foreign policy in the Mediterranean.

It took 35 years after the Iranian Revolution of 1979 to arrive at better American/Iranian relations. It is in no one's interest to undermine this achievement. Looking ahead, all diplomatic attention should be focused on addressing the imperfections of the JCPOA in an effort to build a more stable regional outlook where cooperative relations are much more comprehensive in nature to the benefit of everyone.

# Keynote Welcome Address

Amb. Gudrun Sräga

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I compliment MEDAC for having chosen this not only interesting but very topical subject for the seminar today. Iran is a country with a rich history and culture, but it is also a very important economic and political player in the region. This region extends not only to the Middle East and the Mediterranean but also to the East, to Central Asia. I have served in Central Asia, in Kyrgyzstan, for four years until 2015, and I can say that the influence of Iran in this region is growing.

Before I share with you the German view on the Nuclear Deal I would like to let you know that Germany at this moment is greatly concerned about stability in the Middle East region. All sides must ease tensions and take steps to build up confidence. We are convinced that close relations built on trust are in both our and the region's common interest.

Building trust and easing tensions was also one of the driving forces which led the group of countries called E3/EU+3 to conclude the Nuclear Deal with Iran on 14th July 2015 after 12 years of contention.

When the Vienna Nuclear Agreement or more exactly the JCPOA, the Joint Comprehensive Plan Of Action, was signed, the partners hoped that this would be a long-term settlement to the conflict surrounding Iran's nuclear programme.

The key elements of the Vienna agreement were as follows:

- Iran significantly scales back its nuclear programme as a prerequisite for sanctions being eased on Implementation Day in January 2016. Among other things, it had to dismantle two thirds of its centrifuges, to export almost its entire stockpile of enriched uranium to Russia and to fill the core of the plutonium reactor in Arak with cement, thus rendering it unusable.
- Iran has agreed to restrict its uranium enrichment to 3.67 percent and is only allowed to enrich uranium for the next 10 years.
- The research reactor in Arak is being converted so that it cannot be used to make weapons-grade plutonium.
- Overall, Iran has consented to the strictest IAEA (International Atomic Energy Agency) controls in the world.

In return for Iran scaling back its nuclear programme, the UN, EU and US lifted economic and financial sanctions on Implementation Day, as laid down in the JCPOA. Implementation Day was 16th January 2016. Since then, Iran has been able to export oil and gas again and to use international financial channels. Should Iran break the agreement, the lifted UN sanctions can be re-imposed quickly and easily, without the need for a UNSC resolution (“snap-back” mechanism).

However, the bilateral embargo by the US against Iran (with the exception of aircraft, food and carpets) and the UN, EU and US’ lists of individuals and entities sanctioned for supporting terrorism and violating human rights remain in force. The restrictions against the Iranian missiles programme imposed by UN Security Council Resolution 2231 (2015) also remain in place.

The IAEA regularly verifies and monitors the technical restrictions under the Vienna agreement. It uses the strictest monitoring regime in the world. The Agency has been able to confirm in its reports so far that Iran is fulfilling its obligations.

The easing of the sanctions has had a positive impact on the Iranian economy. For the Iranian fiscal year from 21st March 2016 to 20th March 2017 the growth rate was approximately seven percent and thus reached the pre-sanctions level of oil production of some four million barrels. In 2016, the EU’s trade volume with Iran increased by 79 percent, compared with 2015, to approximately 13.7 billion Euros.

Germany alone exported goods worth around 2.6 billion Euros to Iran in 2016, an increase of 25 percent over the same period in 2015. A large number of economic policy measures boosted this development. Over 100 German businesses participated in the German-Iranian Business Forum in Teheran in May 2016. In June 2016, Iran repaid its outstanding Hermes debts of approximately 575 million Euros dating from the sanctions period. Since then, export credit guarantees (Hermes) have been available again for business with Iran. Following a 15-year suspension of its activities, the Joint German-Iranian Economic Commission held a meeting in Teheran on 3rd October 2016. The meeting was chaired by the two Economic Affairs Ministers and led to a large number of agreements on German investments in Iran.

In January 2017, Airbus delivered the first of a total of 100 aircraft to the state-run airline Iran Air. The contract had only been signed a few weeks earlier. Two further aircraft have been delivered since then. Boeing also signed a contract with Iran Air in December 2016 on the delivery of 80 aircraft. The aircraft orders represent important milestones in the implementation of the Vienna nuclear agreement and help to ensure the safety of civil aviation. Despite these positive developments however, it is obvious that the E3/EU+3 and Iran are only at the start of a long phase of mutual confidence-building. To this end, it is important that the Vienna agreement be implemented unconditionally.

How urgently essential it is that we work together to create a safer world is demonstrated by the current irresponsible actions of North Korea which pose a serious threat to world peace. It shows how important it is that the international architecture for arms control and disarmament does not crumble. Existing treaties and agreements must not be called into question. This applies in particular to the Iran Nuclear Deal. The agreement is a way out of the impasse of a nuclear confrontation which would jeopardize regional security and have an impact far beyond the region.



The US has recently raised doubts and is thinking of backtracking from its engagement regarding the Nuclear Deal. Germany does not see this as an option. Therefore, our aim is to achieve a US commitment to sustainably maintain the agreement. Its contents and its architecture cannot be unilaterally changed. Renegotiation is not feasible.

It is paramount to apply a principle of strict separation between the matters addressed by the stipulations of the JCPOA and any measures to address other issues we have with Iran. Separate tracks should be set up for issues going beyond the agreement.

We also criticize Iranian support for militias in the region; Iran's problematic policy towards Israel is of special concern to Germany; the human rights situation in Iran has not improved lately. While targeting problematic Iranian actions in the region with firmness, we should also keep the respective files separate – no single solution can fit the hugely complex issues of Syria, Iraq, Lebanon, let alone Yemen and Afghanistan.

Those who advocate for an aggressive policy towards Iran have, to date, not come up with ideas of how a sustainable political order for the region could look. We do not think that regional security can be achieved without or against Iran.

In November 2017 the acting German Foreign Minister Gabriel travelled to the US to meet with his counterpart Tillerson. One of the most important topics was the Nuclear Deal. Gabriel stated prior to his departure:

*"It is important that all sides strictly implement the agreement: it prevents Iran from producing nuclear weapons, thus making the region safer." Gabriel went on to say: "If the agreement fails, it would send a disastrous message with regard to rearmament, both in the region and around the world." He added that ultimately the aim was to contain conflicts via regulating mechanisms.*

There is a lot to discuss.



# What Future for the Iran Nuclear Deal?

Dr. Monika Wohlfeld

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Since the 2015 nuclear accord with Iran (Joint Comprehensive Plan of Action or JCPOA) was concluded, the International Atomic Energy Agency which is tasked with verification of its implementation has been regularly reporting that Iran has been adhering to the deal since it took effect<sup>1</sup>. Corresponding abolition of some sanctions and increased European economic ties to Iran followed, and the EU and the E3 - the EU countries involved in negotiating the deal - lauded the agreement as stabilizing the region, strengthening the transatlantic relations, and shoring up the global non-proliferation regime.

Still, the future of the agreement between Iran and the five permanent members of the UN Security Council plus Germany is unclear and precarious. US President Trump in January 2018 set a 120-day deadline (12th May 2018) for US lawmakers and European allies to “fix” the deal, one of President Obama’s main foreign policy achievements, otherwise the US would exit the agreement.

President Trump demands that the agreement be renegotiated so that it imposes limits on Iran’s ballistic missile program, provide for stricter inspections in Iran (and that would include military installations) and eliminates the so called sunset clauses according to which parts of the deal start are to expire between 2025 and 2030.<sup>2</sup> Furthermore, the Trump administration is concerned about Iran’s regional activities and its human rights abuses. One can assume that all or at least some of these issues are of concern to the other parties to the agreement as well, with the main difference being that other stakeholder - Russia, China, France, UK and Germany - wish to continue with the agreement as one that provides for increased regional and global security, and possibly build on it, while President Trump portrays is as ‘the ‘worst deal ever’<sup>3</sup>. They are thus working on saving the deal by attempting to move part-way to assuage US demands.

It is at this stage uncertain whether the US would remain in the deal. A US exit could kill the nuclear deal, which Iran has so far refused to re-negotiate. Iranian policy-makers also note

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<sup>1</sup> ‘IAEA Director General’s Introductory Statement to the Board of Governors’, 5 March 2018. <https://www.iaea.org/newscenter/statements/iaea-director-generals-introductory-statement-to-the-board-of-governors>

<sup>2</sup> The sunset clauses are expiry dates for elements of the agreement, without which Iran would have not agreed to the deal. Paulina Izewicz provides an in-depth explanation of the sunset clauses in her contribution to this volume.

<sup>3</sup> ‘Transcript: Trump’s Remarks On Iran Nuclear Deal’, 13 October 2017. <https://www.npr.org/2017/10/13/557622096/transcript-trump-s-remarks-on-iran-nuclear-deal>

that while Iran has reaped some limited economic benefits from the accord, for example by being able to resume oil exports, it is still severely constrained by US sanctions in other areas. Only limited relief with regards to the US sanctions regime was provided under the JCPOA. In fact, Iran has been protesting in the spring of 2018 that under President Trump, the US has not issued a single license to allow US investment in Iran. The Foreign Minister of Iran indeed claimed that 'the United States is already in violation' of the agreement for this reason<sup>4</sup>. In addition, as Paulina Izewicz points out in this volume, many US sanctions have an extraterritorial component which in effect imposes US laws on non-US persons. Consequently, companies doing business with Iran may jeopardize their relations with the United States – and that has a discouraging effect on trade and investment with Iran. Furthermore, the European response to the US demands for 'a better deal' may be centred on imposing sanctions on Iran that are not related to the nuclear deal but rather in response to other policies, and that would affect the economic situation in Iran further. There is thus a lack of an expected palpable economic impact of the nuclear deal in Iran that indeed appears to have led to social tensions and possibly also political disagreements among the elites in Iran concerning the wisdom of entering into the deal<sup>5</sup>.

At the time of the writing of this paper, the future of the Iran nuclear deal was difficult to predict. While Europeans appear to be willing to engage with the United States on ways to address issues related to provisions of the Iran nuclear deal and other issues that are outside of the scope of the agreement (such as the ballistic missiles program), Iran has not committed to any such steps, and some speculated that it would not be prepared to accept any such additional limitations. Indeed, Iranian representatives have been quoted as saying that a US withdrawal from the deal would have 'unpleasant consequences'<sup>6</sup>, which some take to mean that the country would actively pursue nuclear capability as a response.

Other partners in the deal have been hesitant to engage with the US in a way that EU countries do on addressing US grievances. The Russian Federation has been calling on European countries not to dilute the agreement and not to give in to US pressure, assuring them that Iran would not go along.<sup>7</sup>

The European countries' strategy has been so far to attempt to lobby the Congress on the Iran nuclear deal, as well as the Trump administration, arguing that the deal must be implemented and build on and that any other policy would make the nuclear program the centre of attention for the foreseeable future, create regional tensions, and undermine any future attempts at negotiations multilateral agreements with Iran or other countries. At the same time, European countries engage with the US administration at working level to find ways of addressing some of the American concerns. The first such working level meeting, which took place on in March 2018, did not appear as bearing much fruit in light of the fact that President Trump announced the replacement of State Secretary Tillerson just before the meeting. The new designated State Secretary Pompeo was reportedly much more critical of the Iran nuclear

<sup>4</sup> Nicole Gaouette, 'Macron will have to 'pull a rabbit out of the hat' to save Iran deal', CNN, 24 April 2018. <https://edition.cnn.com/2018/04/24/politics/iran-lobbying-macron-trump/index.html>

<sup>5</sup> The New York Times Editorial Board, 'Unrest Shows the Iran Nuclear Deal's Value, Not Its Danger', New York Times, 9 January 2018 <https://www.nytimes.com/2018/01/09/opinion/iran-unrest-nuclear-deal.html>

<sup>6</sup> Reuters staff, 'Iran warns of 'unpleasant' response if U.S. drops nuclear deal: TV. Reuters', 19 April 2018. <https://www.reuters.com/article/us-iran-nuclear-usa-deal/iran-warns-of-unpleasant-response-if-u-s-drops-nuclear-deal-tv-idUSKBN1HQ33J>

<sup>7</sup> 'US blackmailing EU on Iran nuclear deal: Russia', PressTV, 24 January 2018 <http://www.presstv.com/Detail/2018/01/24/550044/Russia-Chizhov-Trump-US-Iran-JCPOA-France-Germany-UK>

deal than Mr. Tillerson. The representative of the US administration during the talks with European countries was also rumoured to be among those who would be replaced under the new State Secretary.

E3 thus also pursued some other channels of communications, such as the French Foreign Minister's visit to Iran in March 2018 and to the US in April of the same year, to affirm European support for the deal, while echoing US positions on Iran's ballistic missile program and role in the region. All along, E3 countries refused to publically discuss a Plan B, in case this strategy failed.

As Jean-François Daguzan argues in this volume, the EU is heavily invested in the Iran nuclear deal. This is the case for a number of reasons- not only do EU countries believe that the deal is good for the non-proliferation regime, symbolical on the need for multilateral approaches and role of diplomacy and arms control and disarmament efforts, but also because of the belief that the deal is helpful in dealing with conflicts in the region as Iran could evolve into a more co-operative player in Syria, Yemen, Iraq or on the Palestine issue. The fight against the ISIS, and energy security issues are also reflected in the European approaches. The European role in the Iran nuclear deal was also showcasing a pro-active role regionally and globally - the deal gave EU foreign policy much needed credibility as an international actor. It also provided prospects for business opportunities. And it provided common ground with Russia.

The Europeans are intent on pursuing political and diplomatic solutions in the Middle East. Much has been written recently about what kind of approach Europeans should use in preserving the deal in face of Trump administration's objections, and Iranian opposition to any changes to it. Simon Gass and Ali Vaez provide some useful evaluations of the European options.<sup>8</sup>

Most recent events however bring into focus the broader picture. Among those events is a meeting of US President Trump with Saudi Arabian Crown Prince Mohammed Bin Salman at the White House in March 2018, during which President Trump lauded huge purchases of US military equipment by Saudi Arabia<sup>9</sup> and prospects of economic investments by Saudi Arabia in the United States. The visit of the Crown Prince in the United States underlined the strong and growing military, political and economic ties between the US and Saudi Arabia and US strategic interest in them.

One of the major foreign policy issues in the US is the security of Israel in an unstable region, and Saudi Arabian Crown Prince Mohammed Bin Salman (MBS), in an interview in Time Magazine provided a much highlighted statement that seems to acknowledge that Israelis have a right to their state (as do the Palestinians)<sup>10</sup>.

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<sup>8</sup> Simon Gass, 'Finding the Sweet Spot: Can the Iran Nuclear Deal be Saved?', Global Security Policy Brief, March 2018; Ali Vaez, 'Can Europe Save the Iran deal? Time for It to Consider Plan B', Foreign Affairs, January 2018.

<sup>9</sup> 'Supporting Saudi Arabia's Defense Needs. Fact Sheet', State Department, Office of the Spokesperson Washington, DC, 20 May, 2017. <https://www.state.gov/r/pa/prs/ps/2017/05/270999.htm>; Steve Holland, 'U.S. nears \$100 billion arms deal for Saudi Arabia: White House official', Reuters, 13 May 2017. <https://www.reuters.com/article/us-usa-trump-saudi/u-s-nears-100-billion-arms-deal-for-saudi-arabia-white-house-official-idUSKBN18832N>

<sup>10</sup> Time Magazine, 'Crown Prince Mohammed bin Salman Talks to TIME About the Middle East, Saudi Arabia's Plans and President Trump', 5 April 2018. <http://time.com/5228006/mohammed-bin-salman-interview-transcript-full/>

Asked about common interests with Israel, MBS stated: 'Well, it seems that we have a common enemy, and it seems that we have a lot of potential areas to have economic cooperation. And we cannot have a relation with Israel before solving the peace issue, the Palestinians, because both of them they have the right to live and coexist. And since that day happen, we will watch. We will try to support a peace solution. And when it happens, of course next day we'll have good and normal relations with Israel and it will be the best for everyone.'<sup>11</sup> Indeed, significantly in the context of the US position on the Iran nuclear deal, Israel's relations with Saudi Arabia have been quietly improving, with both identifying Iran as a common enemy<sup>12</sup>.

Similarly, President Trump emphasizes relations with United Arab Emirates, Egypt and to some degree also Turkey. Together with Israel and Saudi Arabia, this reads like a list of Iran's foes and perceived enemies, and whether intentionally or unintentionally, will increase the pressure on Iran and its concerns about its own security needs. It is thus hardly conducive to any serious negotiations on issues such as Iran's ballistic missile program or sunset clauses in the Iran nuclear agreement.

Thus, although possibly European countries' strategy aimed at maintaining the deal and trying to convince the United States to continue supporting it could work in the short term, one has to raise the question about longer-term prospects. Will Iran, faced with US policies and ties in the region, continue to adhere to the deal in the medium to longer term, irrespective of whether or not the United States remains on board in the JCPOA? The answer to that question is of speculative nature, of course, but it points to the fact that there are currently few (economic, political or security) incentives for Iran to adhere to the deal and even more so, to start negotiating on other issues. Particularly without the support of the United States, the European (and other) stakeholders cannot offer much in that respect to encourage Iran to engage on its ballistic missile program and other issues.

The work currently undertaken by Europeans to find a way out of the impasse on the Iran nuclear deal and convince the United States not to undermine or exit the deal can thus have only short- term impact. In the medium- and long-term, the issue of regional tensions and the US role in the region continues to make the deal an unstable one.

Is there a way out of the conundrum? Can the Iran nuclear deal be saved in the medium and longer-term? It appears that without addressing regional tensions and conflicts, this task will be very difficult, if not impossible. In particular, any sustainable effort to find a way out of the impasse must address the Syria conflict as priority. The conflict, which some are already dubbing a 'potential Third World War'<sup>13</sup>, involves a variety of external players and touches upon security perceptions and interests of Iran, other regional countries, and main international actors. In this context, EU countries that have been involved in negotiating

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<sup>11</sup> Time Magazine, 'Crown Prince Mohammed bin Salman Talks to TIME About the Middle East, Saudi Arabia's Plans and President Trump', The Time, 5 April 2018. <http://time.com/5228006/mohammed-bin-salman-interview-transcript-full/>

<sup>12</sup> Marc Champion, Jonathan Ferziger, and David Wainer, 'Israel, Saudis Find Common Cause in Warning of Iran Expansionism', Bloomberg News, 18 February 2018. <https://www.bloomberg.com/news/articles/2018-02-18/netanyahu-in-munich-speech-urges-west-not-to-appease-iran>; Udi Dekel, Yoel Guzansky, 'Israel and Saudi Arabia: Is the Enemy of My Enemy My Friend?', INSS Insight No. 500, 22 December 2013 <http://www.inss.org.il/publication/israel-and-saudi-arabia-is-the-enemy-of-my-enemy-my-friend/>

<sup>13</sup> See for example 'Will the tension in Syria lead to a third world war? Trump, the Saudis, and Israel vs. Putin, Iran, and Syria - Will this situation deteriorate into war?', Israel National News, <http://www.israelnationalnews.com/News/News.aspx/244371>

and now trying to salvage the JCPOA, and the EU overall, must develop a proactive conflict resolution (and in time post-conflict rehabilitation) policies to address it. There is a number of other unresolved issues that create an environment not conducive to a constructive way of addressing the Iran nuclear deal situation. To name only a few, the Palestinian question and Israel's security concerns remain a stumbling block. The future of Palestinian leadership succession and future Palestinian policies on Lebanon and Hezbollah may play a role in that respect as well. And lastly, the Iranian-Saudi Arabian animosity itself remains a massive obstacle to achieving a situation in which the Iran nuclear agreement would flourish. As Kinzer argues, 'both countries are the main drivers of sectarian hatred in the Middle East. Some kind of understanding between them is a prerequisite to a calmer Middle East'<sup>14</sup>.

There is currently no forum that could address such issues and tensions concurrently and comprehensively and that would give the supporters of the Iran nuclear deal a stage to attempt to address at least some of the aspects. Possibly, the time has come for the E3 countries to nudge their partners and allies towards a more determined and comprehensive way of addressing the problems of the deeply fractured Middle East region.

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<sup>14</sup> Stephen Kinzer, 'The United States Shouldn't Choose Saudi Arabia Over Iran', Politico Magazine, 4 January 2016. <https://www.politico.com/magazine/story/2016/01/saudi-arabia-iran-213504>

# The Iran Nuclear Deal Two Years On: Future Unclear and Getting Worse

Paulina Izewicz

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The Joint Comprehensive Plan of Action (JCPOA) was formally agreed on 14 July 2015 between Iran and the so-called E3/EU+3: United Kingdom, France, Germany, United States, Russia, China, and the European Union. It was a culmination of nearly two years of difficult negotiations, and is an extraordinarily complex document, spanning, with all its annexes, over a hundred pages. It ensures that Iran does not acquire nuclear weapons for 10-15 years in exchange for the easing of sanctions. The implementation is guaranteed by a comprehensive institutional framework and the most intrusive verification regime in the history of the International Atomic Energy Agency (IAEA). Its implementation began in January 2016, when Iran put in place a set of initial nuclear restrictions. These included the removal of the calandria (reactor vessel) of the Arak reactor; elimination of about 12,000 kg of low enriched uranium (LEU); removal of 60 out of 90 centrifuge cascades at the Natanz enrichment facility, and conversion of the Fordow facility into a nuclear technology centre where no uranium enrichment will take place.<sup>1</sup> Although many observers anticipated that these steps would not be completed before spring 2016, on 16 January 2016 the IAEA confirmed that Iran had completed them all, and thus the implementation of the JCPOA began. With it, UN sanctions resolutions were terminated, the Sanctions Committee and Panel of Experts were disbanded, and the EU and United States took appropriate steps with respect to sanctions relief, as outlined in Annex V of the agreement.

The JCPOA, formally agreed only by the E3/EU+3 and Iran, does not apply to all UN member states, it does so, however, through the UN Security Resolution (UNSCR) 2231 and its formal endorsement of the agreement. The new regime has been significantly relaxed. Sanctions – now called ‘specific restrictions’ – have been either modified, reduced in scope or removed altogether. Procurement by Iran of nuclear- and missile-related goods and materials, formerly prohibited with some limited exceptions, is now permitted subject to Security Council approval on a case-by-case basis. These restrictions will remain in place for ten and eight years, respectively. Procurement of conventional armaments is subject to similar regulations, albeit for five years.

With respect to EU measures, the agreement provides for a comprehensive lifting of all nuclear-related sanctions, but does so in stages. The first phase came on Implementation Day when all economic and financial sanctions were lifted. Restrictions on SWIFT (Society for

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<sup>1</sup> ‘Joint Comprehensive Plan of Action’, 14 July 2015. [http://eeas.europa.eu/archives/docs/statements-eeas/docs/iran\\_agreement/iran\\_joint-comprehensive-plan-of-action\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/iran_agreement/iran_joint-comprehensive-plan-of-action_en.pdf)



Worldwide Interbank Financial Telecommunication) were largely removed, with the exception of four institutions which will remain listed until Transition Day. Sanctions on arms transfers, ballistic missiles, and restrictions on software and metals will remain in place until Transition Day, accompanied by asset freezes and visa bans on certain persons and entities. Limitations related to proliferation-sensitive nuclear activities, in turn, will only be lifted on Termination. Sanctions related to human rights and terrorism also remain in place.

The US sanctions regime is much more complex, and only limited relief was provided under the JCPOA. Sanctions largely remain on US persons, with the exception of foreign subsidiaries, the civil aviation sector, as well as the importation of foodstuffs and carpets from Iran. Many US sanctions have an extraterritorial component which in effect imposes US laws on non-US persons, effectively forcing companies to choose between doing business with Iran or the United States. The sanctions relief provided by the United States under the JCPOA primarily came in the form of removing secondary sanctions related to Iran's nuclear programme, although secondary sanctions remain on the Islamic Revolutionary Guards Corps, as well as in connection with Iran's ballistic missile programme and human rights violations. Importantly, the continuing ban on transactions in US dollars has made major European banks wary of re-engaging with Iran, despite urgings by world leaders. While in reality these remaining US sanctions are only one factor complicating the return of business to Iran (the substandard banking practices there being also to blame), the issue has become a major bone of contention between the United States and Iran in the months after the deal's implementation.

The election of Donald Trump as the next US president significantly exacerbated the atmosphere of uncertainty surrounding the nuclear deal. During his presidential campaign, Donald Trump repeatedly made unfavourable, but often contradictory, comments about the agreement. At various times, he called it the worst deal ever made; accepted it as fait accompli and vowed to strictly "police" it instead;<sup>2</sup> and said he would renegotiate it early in his presidency.<sup>3</sup> A year in, this latter instinct appears to have prevailed.

Based on domestic US legislation, known as the Iran Nuclear Agreement Review Act of 2015 (INARA), the president has to certify every 90 days that Iran remains in compliance with its commitments, and that the continued suspension of sanctions – a key part of the deal – is vital to the national security interests of the United States. The Trump administration issued two reluctant certifications in April and July but declined to do so on 15 October 2017.<sup>4</sup> Without any apparent violation by Teheran, this decertification was based on the broader criterion of "vital US national interest." Although this gave Congress 60 days to consider legislation reinstating sanctions on an expedited basis, no such legislation was passed. Instead, on 12 January, when the subsequent sanctions waivers were due, President Trump did issue them but said that he was doing so for the last time unless US European allies and Congress "fix" the agreement. In his statement, he said:

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<sup>2</sup> 'Trump says he would 'police' U.S. - Iran deal, not rip it up', Reuters. com, Reuters (August 2015) <https://www.reuters.com/article/us-election-trump-iran/trump-says-he-would-police-u-s-iran-deal-not-rip-it-up-idUSKCN0QL0KS20150816>

<sup>3</sup> Ishaan Tharoor. 'Donald Trump is right about tearing up the Iran deal – says a leading Iranian hard-liner', Washingtonpost.com, Washington Post (April 2016) [https://www.washingtonpost.com/news/worldviews/wp/2016/04/04/donald-trump-is-right-about-tearing-up-the-iran-deal-says-a-leading-iranian-hard-liner/?utm\\_term=.4bcd3fda911f](https://www.washingtonpost.com/news/worldviews/wp/2016/04/04/donald-trump-is-right-about-tearing-up-the-iran-deal-says-a-leading-iranian-hard-liner/?utm_term=.4bcd3fda911f)

<sup>4</sup> Stephen Collinson, Kevin Liptak and Dan Merica. 'Trump says Iran violating nuclear agreement, threatens to pull out of deal', edition. cnn.com, CNN (October 2017)



“Today, I am waiving the application of certain nuclear sanctions, but only in order to secure our European allies’ agreement to fix the terrible flaws of the Iran nuclear deal. This is a last chance. In the absence of such an agreement, the United States will not again waive sanctions in order to stay in the Iran nuclear deal. And if at any time I judge that such an agreement is not within reach, I will withdraw from the deal immediately.”<sup>5</sup>

The statement identified three main points of contention. First, Iran must provide IAEA inspectors unfettered access to all its facilities, including military sites. Second, sunset provision must be eliminated and all restrictions of the nuclear deal must apply indefinitely. Third, Iran’s ballistic programme must be addressed, through both work with the European partners and by linking the nuclear and missile issues in US domestic legislation. The statement also makes multiple references to Iran’s regional activities, which Trump administration officials have on several occasions called contrary to the “spirit” of the JCPOA. While the first two issues fall within the scope of the JCPOA, Iran’s ballistic missile programme and its regional activities do not, making addressing them in the JCPOA context a somewhat tricky proposition.

### **IAEA access**

At its core, the issue centres on lingering suspicions about past “possible military dimensions” of Iran’s nuclear programme. The so-called PMD issue was a persistent sticking point in the negotiations. In its current form, it dates back to November 2011, when the IAEA issued a report in which it laid out 12 areas of concern over Iran’s nuclear programme. Iran was required to address those concerns as a precondition for the implementation of the agreement. On 2 December 2015, the IAEA issued the long-awaited report with the aim of closing the PMD file. Contrary to Iran’s insistence on its complete innocence, the IAEA concluded that Teheran indeed conducted a range of activities relevant to nuclear-weapons development before the end of 2003 “as a coordinated effort.” Some of these activities reportedly continued after that, although in a less coordinated fashion.<sup>6</sup>

The main site of this alleged work was the Parchin military complex, which Iran has heavily modified over the years in what many believe to be an effort to destroy evidence of prohibited activities. The IAEA report noted that Iran’s explanation of the base’s use – for storing chemical material for explosives – was inconsistent with the findings from the Agency’s environmental sampling, which detected man-made uranium particles. Importantly, however, the IAEA deemed this evidence inconclusive. An issue that many seized on was the fact that these samples were collected not by IAEA inspectors but by Iranian technicians, leading some to conclude that the issue was not, in fact, resolved.<sup>7</sup>

Adding to the controversy is the so-called Section T of the nuclear agreement, which restricts certain activities related to nuclear weapons development, some of which are suspected to have occurred at Parchin.<sup>8</sup> Somewhat problematically, the agreement does not include provisions on how exactly Section T is to be verified, and does not specifically mention the

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<sup>5</sup> ‘Statement by the President on the Iran Nuclear Deal’, The White House (12 January 2018)

<sup>6</sup> ‘Final Assessment on Past and Present Outstanding Issues regarding Iran’s Nuclear Programme’, GOV/2015/68, [iaea.org](http://iaea.org), International Atomic Energy Agency, (2 December 2015) <https://www.iaea.org/sites/default/files/gov-2015-68.pdf>

<sup>7</sup> David Albright, S. Burkhard, O. Heinonen, A. Lach, and F. Pabian, ‘Revisiting Parchin: With plenty of evidence of past Iranian nuclear weapons activity at Parchin, the IAEA needs to revisit the site’, [isis-online.org](http://isis-online.org), Institute for Science and International Security (21 August 2017) <http://isis-online.org/isis-reports/detail/revisiting-parchin/8#images>

<sup>8</sup> Ibid.

IAEA as the body in charge of such verification. That has led Russia to argue that the Agency has no authority over this area of the agreement, a conclusion contested by Western powers and the IAEA itself. In September 2017, in an attempt to push against Russian opposition, the Agency's Director General Yukiya Amano called on the parties to the agreement to clarify the IAEA's mandate.<sup>9</sup> This attempt backfired, however, with critics of the JCPOA concluding that the IAEA does not have the access necessary to verify the deal's provisions. The IAEA, for its part, continues to confirm in its quarterly reports that it is, indeed, monitoring the implementation of Section T; it has also on numerous occasions stated that its verification activities are going smoothly, and that Iran has granted it all the access that it needs.<sup>10</sup>

Confronted with the Trump administration's demands for "anytime, anywhere" access, Iranian officials have on several occasions stated that Iran's military sites are off limits to international inspectors. What is worth noting, however, is that under the JCPOA, the IAEA can request access to Iran's military sites. But such a request would only be warranted if the Agency had credible indications that a prohibited nuclear activity is taking place at a particular site. According to the Agency itself, it does not. In this context, the Trump administration's continued insistence on unfettered access appears to be motivated by political considerations rather than any concrete concerns, prompting stern opposition from Teheran.

### Sunset clause

The JCPOA aims to block the two potential pathways to a nuclear weapon – plutonium production and uranium enrichment. It does so by requiring Iran to convert its heavy water nuclear reactor at Arak to a light water one, less suited for the production of plutonium. To safeguard even against that, spent fuel from this reactor will be shipped out of the country for as long as the reactor remains operational, and Iran is not allowed to build heavy water reactors or engage in the reprocessing of spent fuel to extract plutonium for at least 15 years. The agreement also severely restricts Iran's uranium enrichment capabilities. It required Iran to dismantle two-thirds of its installed centrifuges, and diminished the country's stock of low enriched uranium by 98 percent, imposing a limit of 300 kg. These limits are to remain for 15 years. From year 11, however, Iran will be allowed to begin installing some advanced centrifuges, significantly improving its enrichment capabilities. The fact that these restrictions are set to expire has prompted concerns that at the end of this timeframe Iran will be left with a sophisticated, industrial-scale nuclear programme, paving way for the development of nuclear weapons should it chose to do so.

Iran, however, is adamantly opposed to restrictions in perpetuity, and particularly ones that do not apply to any other country. As Iranian officials tell it, there is no sunset clause in the JCPOA: Iran is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and, as such, has made a legally binding commitment not to ever pursue nuclear weapons. They also point out that Iran's nuclear programme will remain under the intrusive verification regime administered by the IAEA once it ratifies the Additional Protocol, which it is now implementing on a provisional basis.

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<sup>9</sup> Francois Murphy. 'IAEA chief calls for clarity on disputed section of Iran nuclear deal', reuters.com, Reuters (26 September 2016) <https://www.reuters.com/article/us-iran-nuclear-iaea/iaea-chief-calls-for-clarity-on-disputed-section-of-iran-nuclear-deal-idUSKCN1C12AN>

<sup>10</sup> 'Statement by IAEA Director General Yukiya Amano', [iaea.org](https://www.iaea.org/newscenter/statements/statement-by-iaea-director-general-yukiya-amano-13-october-2017), International Atomic Energy Agency (13 October 2017). <https://www.iaea.org/newscenter/statements/statement-by-iaea-director-general-yukiya-amano-13-october-2017>

Iranian officials often call the country's commitments under the nuclear deal unprecedented but such precedent does, in fact, exist—albeit in a somewhat different context. When engaging in nuclear cooperation with other countries, the United States insists that they commit to forego uranium enrichment and plutonium reprocessing as part of the so-called 123 Agreement. Countries such as South Korea and Iran's regional neighbour United Arab Emirates have made such voluntary commitments. There is no reason why Iran could not, in principle, consider a similar undertaking but it is doubtful that it would do so at gunpoint.

### **Iran's ballistic missile programme**

Iran began developing ballistic missile capabilities during the 1980–88 war with Iraq, which exposed serious deficiencies in Iranian military capabilities. To compensate for them, Iran turned to foreign suppliers, such as Libya, Syria and North Korea, to acquire a missile capability. Mindful of the limitations to its conventional capabilities, Iranian military doctrine employs the so-called mosaic defence, which “emphasises asymmetric strategies that avoid direct, force-on-force conflict and that leverage Iran's geographical advantages, strategic depth and large population.”<sup>11</sup> Deterrence is an important element of this strategy, and Iran's ballistic missiles play a key role. They are also an important element of national discourse, and a means of bolstering the credibility and legitimacy of the regime. Much like the nuclear programme, it is a source of pride in Iran's technological capabilities, which are meant to insulate Iran from foreign dominance.<sup>12</sup> Attempts at de-emphasising the role of Iranian missiles are not met favourably. A tweet on 23 March 2016 from the Twitter account of former president Ali Akbar Hashemi Rafsanjani that proclaimed that “the world of tomorrow is a world of discourse, not missiles” drew sharp domestic criticism, with Iran's Supreme Leader, Ayatollah Ali Khamenei, calling it “treasonous”<sup>13</sup>.

When negotiations over Iran's nuclear programme began in 2013, attempts were made to include ballistic missiles in a final agreement. Predictably, however, Iran's opposition to the idea proved too difficult to overcome, and its position was ultimately backed by China and Russia. As a result, the new UN Security Council Resolution, 2231, took a somewhat different approach to the issue.

Unlike Resolution 1929, which “decided” that Iran should not undertake any activities related to ballistic missiles, Resolution 2231 “calls upon” Iran not to do so, prompting doubts about whether this prohibition is even legally binding. To further complicate matters, the new resolution only prohibits missiles “designed to be capable” of delivering nuclear weapons where UNSCR 1929 spoke of missiles “capable” of delivering such weapons. Predictably, Iran claims that because its missiles have not been conceived to carry nuclear weapons, UNSCR 2231 does not apply to them.<sup>14</sup> Following a spate of missile tests by Iran, to which the Security Council failed to respond in any significant fashion due to opposition from China and Russia, the issue now appears to have been tacitly settled.

<sup>11</sup> ‘Missile-Defence Cooperation in the Gulf’, International Institute for Strategic Studies, (25 October 2016) 37.

<sup>12</sup> Karim Sadjadpur. ‘Reading Khamenei: the world view of Iran's most powerful leader’, [carnegieendowment.org](http://carnegieendowment.org/files/sadjadpour_iran_final2.pdf), Carnegie Endowment for International Peace (2009), [http://carnegieendowment.org/files/sadjadpour\\_iran\\_final2.pdf](http://carnegieendowment.org/files/sadjadpour_iran_final2.pdf)

<sup>13</sup> Arash Karami. ‘Rafsanjani missile tweet draws fire from Khamenei’, [al-monitor.com](http://www.al-monitor.com/pulse/originals/2016/03/khamenei-rafsanjani-treason-mohammadi-tweet-missiles.html), Al-Monitor, (31 March 2016) <http://www.al-monitor.com/pulse/originals/2016/03/khamenei-rafsanjani-treason-mohammadi-tweet-missiles.html>

<sup>14</sup> ‘Iran says UN resolution not linked to ballistic missiles’, AFP, (20 July 2015) <https://www.yahoo.com/news/iran-says-un-resolution-not-linked-ballistic-missiles-175508977.html?ref=gs>

The Trump administration has been much more vocal on the issue than its predecessor, with many public pronouncements and a spate of sanctions designations related to Iran's missiles. In his latest ultimatum, President Trump has tried to coerce European countries to work with the United States to address the issue. Although Iran's missile programme is certainly of concern to Europe, it is generally of a lesser priority than its nuclear programme. Iran, too, has on multiple occasions stated that its missiles are not up for negotiation.<sup>15</sup>

The underlying assumption in the new US approach appears to be that the JCPOA benefits Iran more than it benefits the United States. As a result, the Trump administration has resolved to use the agreement as leverage in addressing other issues of concern. From the European perspective, however, verifiable constraints on the nuclear programme eliminated the most significant source of tension. Unlike the United States, the EU maintained its ties to Iran after the Islamic Revolution and trade flourished; it was only during the controversial presidency of Mahmoud Ahmadinejad that the nuclear crisis erupted and relations took a turn for the worse. With the JCPOA in place, the EU wants to normalize its relations with Teheran, and its appetite for engagement is not limited to economic matters. During an April 2016 visit to Teheran, the High Representative of the EU for Foreign Affairs and Security Policy, Federica Mogherini, and Iran's Foreign Minister, Mohammad Javad Zarif, outlined a broad agenda for cooperation in a joint communiqué. The list includes a wide range of issues, from culture and education to migration and regional issues.<sup>16</sup> Notably, Iran also expressed willingness to engage with the EU in an area that until recently had been off limits: human rights. A high-level meeting on the subject, the first in a very long time, took place in Teheran in November 2016. Mogherini commented during her visit in April that the EU and Iran had "turned a new page" in their diplomatic relations.<sup>17</sup>

Meanwhile, the Trump administration and the Republican-led Congress have been highly critical of Iran's actions in the non- nuclear area. When the June 2017 report by the UN Secretary- General on Iran's compliance with UNSCR 2231 was briefed to the Security Council, for instance, EU representatives praised the benefits of the nuclear deal. The US ambassador to the UN, Nikki Haley, in turn concluded that the report was "filled with devastating evidence of the nature of the Iranian regime" and lambasted Iran's "destructive and destabilizing role in the Middle East."<sup>18</sup> It is increasingly apparent that the Trump administration intends to confront Iran in these other areas, and to hold the JCPOA hostage in the process; President Trump's latest ultimatum is a clear proof of that. In the January statement, he gave the United Kingdom, France and Germany until 12 May 2018 to "fix" the agreement, saying that barring that the United States would pull out.<sup>19</sup>

Set on preserving the nuclear deal, European powers have little choice but to at least try and engage, in the hope that President Trump may yet be swayed. As European diplomats acknowledge, there is some scope for an agreement on missiles and inspections, but extending

<sup>15</sup> 'Iran's missile program not open to negotiation: UN envoy', presstv.com, Press TV, (23 October 2017), <http://www.presstv.com/Detail/2017/10/23/539653/Iran-UN-Eshaq-Ale-Habib-ballistic-missile-Resolution-2231>

<sup>16</sup> 'Joint statement by the High Representative/Vice-President of the European Union, Federica Mogherini and the Minister of Foreign Affairs of the Islamic Republic of Iran, Javad Zarif', Brussels, (16 April 2016), [http://europa.eu/rapid/press-release\\_STATEMENT-16-1441\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-16-1441_en.htm)

<sup>17</sup> 'EU "turns page" in relations with Iran', bbc.co.uk, BBC, (16 April 2015), <http://www.bbc.co.uk/news/world-middle-east-36061664>

<sup>18</sup> Amb. Nikki Haley. 'Remarks at a UN Security Council Briefing on Non-Proliferation in Iran', usun.state.gov, US Mission to the United Nations (29 June 2017) <https://usun.state.gov/remarks/7886>

<sup>19</sup> "Statement by the President on the Iran Nuclear Deal".

the deal's timeframe could be much more problematic.<sup>20</sup> It is not at all clear however, how any agreement may fare if a key party – Iran – is not only left out of any discussions, but adamantly opposed to any change; China and Russia are two other unknowns. A crucial problem, too, is whether President Trump can be counted on to keep up his side of the deal, given his record of unpredictability and defying advisors. In his statement, he noted that the JCPOA “is under continuous review, and our participation can be cancelled by me as president at any time.”<sup>21</sup> As a consequence, while Europeans try to keep the United States in the agreement, discussions are under way about possible contingency planning. The most tangible tool Europe has at its disposal is the so-called blocking regulation. Until recently, it was regarded as a sort of “Plan C” but in recent weeks, EU officials have begun talking about it in public fora.<sup>22</sup>

This tool was created in 1996, in response to US secondary sanctions on Cuba (and, to a lesser extent, Iran), and is formally known as Council Regulation 2271/96. It comprises four elements. The first is a prohibition on EU individuals and organisations complying with US secondary sanctions, directly or indirectly. The second stipulates that judgments and administrative measures giving effect to covered sanctions will not be recognised or enforced on EU territory. The third establishes a reporting requirement, mandating that any person affected by the covered laws report it to the Commission within 30 days. The fourth, perhaps more crucially, supplements these restrictions with a clawback clause, which allows for the recovery of any damages suffered as a result of secondary sanctions in EU courts.

Despite this fairly comprehensive scope, however, the statute is no panacea. First and foremost, it requires implementation by individual European nations, something which thus far has been very uneven. Some member states construe violations as a criminal offence, some as an administrative one, and some have not adopted implementing legislation at all. Enforcement too, has been virtually non-existent. And the clawback clause would likely prove ineffective should it come up against the issue of US sovereign immunity.

Ultimately, it is unclear whether the statute would be of much utility. As a practical matter, it might well put companies in a sort double jeopardy of choosing between penalties imposed by the United States or EU member states—with the former most likely a far bigger deterrent. As such, Europe should pursue other avenues as a hedge against the effects of US secondary sanctions in the event they are reinstated.

In 1996, in addition to adopting its blocking statute, the EU launched a dispute settlement procedure against the US under the auspices of the World Trade Organization (WTO), followed by negotiations outside of this framework. Ultimately, those negotiations resulted in an agreement that the United States would ensure that certain provisions of its Cuba legislation would not affect third-country nationals, and the WTO mandate was allowed to lapse. These negotiated waivers have been issued every six months by successive US administrations for the past 20 years, including by the Trump administration.<sup>23</sup>

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<sup>20</sup> Mark Landler, D. E. Sanger and G. Harris. ‘Rewrite Iran Deal? Europeans Offer a Different Solution: A New Chapter’, *nytimes.com*, The New York Times (28 February 2018) <https://www.nytimes.com/2018/02/26/us/politics/trump-europe-iran-deal.html>

<sup>21</sup> “Statement by the President on the Iran Nuclear Deal”.

<sup>22</sup> John Irish, Parisa Hafezi. ‘EU could impose blocking regulations if U.S. pulls out of Iran deal’, *reuters.com*, Reuters, (8 February 2018) <https://uk.reuters.com/article/uk-iran-nuclear-eu/eu-could-impose-blocking-regulations-if-u-s-pulls-out-of-iran-deal-idUKKBN1FS2F0>

<sup>23</sup> Paulina Izewicz. ‘Iran deal decertification looms: what's next?’, *iiss.org*, IISS Voices, (12 October 2017) <https://www.iiss.org/en/iiss%20voices/blogsections/iiss-voices-2017-adeb/october-1537/iran-deal->



In the current political climate, bringing a case within the WTO framework could be a somewhat risky proposition. The Trump administration is already highly sceptical of the body, and could well see this as another reason for a US withdrawal. But a conversation with Congress would not go amiss, as many lawmakers, even those who were initially sceptical of the agreement, now see value in its continued implementation. And if the waiver process is conducted out of the public eye, removing the potential for showmanship aimed at domestic audiences, it may well prove to be a feasible solution.

Ultimately, what Iran might do would likely depend not on any particular action taken by the United States but rather on an assessment of whether it can continue to derive economic benefits from the nuclear deal. This, in turn, will depend largely on business decisions of economic operators. Even now, with the United States still a party to the agreement, there is a great degree of reluctance among foreign businesses to reengage with Iran. As Iran's deputy foreign minister Abbas Araghchi recently said, "The deal would not survive this way even if the ultimatum is passed and waivers are extended . . . If the same policy of confusion and uncertainties about the JCPOA continues, if companies and banks are not working with Iran, we cannot remain in a deal that has no benefit for us."<sup>24</sup> As a practical matter, then, the fate of the JCPOA is highly uncertain.

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<sup>24</sup> Bozorgmehr Sharafedin. 'Iran says may withdraw from nuclear deal if banks continue to stay away', reuters.com, Reuters, (22 February 2018) <https://uk.reuters.com/article/uk-iran-usa-nuclear/iran-says-may-withdraw-from-nuclear-deal-if-banks-continue-to-stay-away-idUKKCN1G610W>

# The Vulnerable Iran Nuclear Deal: A Failure in the Two-Level Game

Dr. Juliette Shedd

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Recent statements and decisions by the Trump Administration have signaled the Administration's willingness to destabilize the Iran nuclear deal. These events have been viewed through a variety of lenses in an attempt to both understand why current decisions were made, but also in an attempt to predict future action. The Administration's positions have been seen alternately as isolationist or heavy handed, as ignoring the international community and international commitments or putting America first. But the Trump administration's ability to back away from an international obligation is founded in what I believe is a political not a policy failure. It reflects the inability of the Obama Administration to sell the Iran Nuclear deal to the American public and their elected representatives, in terms that made the vastly complicated technical deal comprehensible to a public whose attention span is limited. More importantly, the Obama Administration did not fulfill the requirements of two level negotiation needed to bring the internal political constituency onboard and to get them committed to the deal as the best alternative.

In 1988 Robert Putnam<sup>1</sup> laid out the logic of his two-level game model of negotiation that attempts to sort out the complicated relationship between the domestic politics of a nation and its foreign policy and international relations. He questioned whether the domestic politics of a country drives foreign policy decisions or the opposite. His underlying logic is as follows:

*At the national level, domestic groups pursue their interests by pressuring the government to adopt favorable policies, and politicians seek power by constructing coalitions among those groups. At the international level, national governments seek to maximize their own ability to satisfy domestic pressures, while minimizing the adverse consequences of foreign developments. Neither of the two games can be ignored by central decision-makers, so long as their countries remain interdependent, yet sovereign.<sup>2</sup>*

He points out that the national leader is seated at both negotiating tables, the domestic political table and the international one. Putnam focused on a particular set of actors at the domestic level, including, "party and parliamentary figures, spokespersons for domestic

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<sup>1</sup> Robert D. Putnam, 'Diplomacy and domestic politics: the logic of two-level games.' (1988) International Organization, 42(3), 427-460. Cambridge.org. Cambridge University Press.

<sup>2</sup> Ibid. p. 434



agencies, representatives of key interest groups, and the leaders' own political advisors.<sup>3</sup> I would argue that this formulation potentially misses another important influential group: public opinion as a whole. Whether considering broad public opinion should conceptually add a third level to the game, or should be seen as complicating the decision making of the domestic opinion leaders, public opinion should certainly be seen as a separate but interrelated complication to the two-level game.

The July 2015 Joint Comprehensive Plan of Action followed years of tension between Iran and Western Nations over the development of Iran's nuclear program. Multiple observers have noted the unusual level of detail and minutia detailed in the agreement that exchanged the lifting of UN imposed sanctions against Iran for specific detailed limitations on the Iran nuclear program.<sup>4</sup> As detailed by other authors, the agreement called for Iran to decrease its stockpiles of low-enriched uranium; accept limitations on further enrichment; decrease the centrifuges in use; and to refrain from building additional enrichment facilities. The agreement allowed for Iran to continue certain limited nuclear development work under very specific conditions and a detailed inspection regime was laid out.<sup>5</sup> All of these terms have time limits associated with them; the bottom line is that analysts think these time limits move the "break out" time for Iran from a few months to a year, buying the international community time to react to any renewed nuclear activity.<sup>6</sup> The details of the agreement are well beyond the understanding of most non-experts and their elected members of congress.

At this point, President Obama needed to sell the complicated technical treaty to a divided domestic constituency and he made some specific strategic choices about how to achieve that. Iran's nuclear ambitions have been an issue of concern for the American public and elected officials for years. While the technical issues may be poorly understood, the historical enmity between Iran and the US and the concerns about adding another nuclear state to a complicated geopolitical system have meant fairly consistent public opinion in favour of taking action to keep Iran from becoming a nuclear state.

The political climate in which the agreement was developed was complicated for the President. In 2012, Pew Research found that 58% of Americans "say it is more important to prevent Iran from developing nuclear weapons, even if it takes military action. Just 30% say it is more important to avoid a military conflict with Iran, even if it means the country develops nuclear weapons."<sup>7</sup> They report that this has remained at relatively consistent levels since 2009. This is important because Americans held widespread beliefs that Iran was actively trying to develop nuclear weapons. A different 2012 survey found that 91% of respondents believed Iran was attempting to develop nuclear weapons.<sup>8</sup> Within the details of this February 2012 Pew survey there are some interesting variations across the political parties. Seventy-four percent of Republicans ranked preventing Iran from gaining nuclear weapons as more important than avoiding military conflict, while only 50% of Democrats made that choice. There are also substantial differences in how much the public knows about the Iran issue.

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<sup>3</sup> Ibid. p. 434

<sup>4</sup> M Sterio, *President Obama's Legacy: The Iran Nuclear Agreement*. Case W. Res. J. Int'l L., 48, 69.(2016) p. 70

<sup>5</sup> Ibid.

<sup>6</sup> Ibid. Break out time is defined as the time needed to build a nuclear weapon from the current state of technical development.

<sup>7</sup> Pew Research Center. *Public Takes Strong Stance Against Iran's Nuclear Program*. (15 February 2012) [people-press.org](http://people-press.org). Pew Research Center. Accessed 7 April 2018

<sup>8</sup> N. Mirilovic & M. Kim, 'Ideology and Threat Perceptions: American Public Opinion toward China and Iran', (2017) *Political Studies*, 65(1), p. 179–198. [journals.sagepub.com](http://journals.sagepub.com). Sage Journals.

“Republicans (47%) are more likely than independents (38%) and Democrats (31%) to say they have heard a lot about the dispute over Iran’s nuclear program. Additionally, two-thirds (67%) of Republicans and Republican-leaning independents who agree with the Tea Party say they have heard a lot about Iran’s nuclear program.”<sup>9</sup> Interestingly in the lead up to the 2015 agreement, President Obama’s own party had less interest in the Iran issue and was more reluctant in its support of a strong response than the Republican opposition voters. This dynamic continues to complicate the politics over the nuclear deal and is an important factor in the current debate over the Iran Nuclear deal.

Following the November 2013 Joint Plan of Action interim agreement between the United States, Russia, Great Britain, France, China, the European Union, and Iran that suspended portions of Iran’s nuclear program and reduced sanctions<sup>10</sup>, Pew did another round of public opinion research. At this point, 43% of the US population disapproved of the agreement while only 32% approved and 25% did not have an opinion.<sup>11</sup> By a two to one margin, respondents who had reported hearing at least some information about the agreement thought Iran’s leaders were not taking the issue seriously. Again, we see strong evidence of a partisan divide. “Nearly six-in-ten Republicans (58%) disapprove of the accord, while just 14% approve. By contrast, Democrats approve of the agreement by about two-to-one (50% approve, 27% disapprove). Among independents, more disapprove (47%) than approve (29%).”<sup>12</sup> This partisan distinction is a critical factor to understanding the Iran Nuclear deal and its future. As Falk points out regarding the divide between liberals (Democrats) and conservatives (Republicans), “Understanding the roots of the tension between these two camps is absolutely indispensable for understanding how the JCPOA battle played out in the US congress.”<sup>13</sup> It is also important to recognize the complicated relationship that the US maintains with Israel and the strength of the internal “Israel Lobby” in the United States and the framing of the Iran deal as a betrayal of the US’s relationship with Israel. We will return to this later in the discussion of the ratification process.

On July 14, 2015 President Obama announced the final deal to the American people with these words:

*This deal meets every single one of the bottom lines that we established when we achieved a framework earlier this spring. Every pathway to a nuclear weapon is cut off. And the inspection and transparency regime necessary to verify that objective will be put in place. Because of this deal, Iran will not produce the highly enriched uranium and weapons-grade plutonium that form the raw materials necessary for a nuclear bomb.*<sup>14</sup>

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<sup>9</sup> Pew Research Center, ‘Public Takes Strong Stance’, Accessed 7 April 2018. Tea Party affiliation is generally associated with more conservative views and more inclination to view military options and solutions for international conflicts.

<sup>10</sup> Sterio. p. 73

<sup>11</sup> Pew Research Center, ‘Limited Support for Iran Nuclear Agreement’, (9 December 2013). People-press.org. Pew Research Center. Accessed 7 April 2018.

<sup>12</sup> Ibid.

<sup>13</sup> Harrison Falk, ‘Partisan Politics and Foreign Pressure: The Ratification of the 2015 Iran Nuclear Agreement in the US Congress’, (August 2016) p. 8. leidenuniv.nl. Leiden University Repository. Accessed 7 April 2018.

<sup>14</sup> Time Staff, ‘Read President Obama’s Remarks on Iran Nuclear Deal’, (14 July 2015) time.com. Time. Accessed 7 April 2018.

He went on in the next 357 words or 7 short paragraphs, to lay out the basic parameters of the controls the deal would put on Iran's nuclear program. He referenced the historical nuclear agreements with the Soviet Union as the backdrop and emphasized the history of negotiating these kinds of arrangements with adversaries. Obama then went on to spend significant time talking about the options that would still be available to him and his successors in the event that Iran did not meet their obligations.

Having been thwarted before by the US Senate, with regards to previous treaties, President Obama set up the parameters of the negotiation with Iran so that he could pursue an alternative to the constitutional process for treaty ratification. Under Article 2, section 2 of the US constitution, the President, "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the senators present concur."<sup>15</sup> The Obama Administration's calculation during the negotiation phase was that they were unlikely to get 2/3 support from the Republican dominated Senate for the deal. To work around the Senate, they carefully crafted it as "a non-binding political commitment as opposed to a formal treaty or congressional-executive agreement".<sup>16</sup> There is precedence of American Presidents using this strategy to work around Congress, including US Supreme Court approval. The legal details of this strategy are well laid out by Sterio in a 2016 article.<sup>17</sup> Their removal from the approval process did not however, sit well with Congressional leaders. In the months leading up to the signing of the agreement in July 2015, both Democrats and Republicans got together to resist the Obama Administrations, surprisingly this included even those who in general supported the deal with Iran. In May 2015, by overwhelming majorities from both sides, Congress passed the Iran Nuclear Agreement Review Act (400 to 25 in the House and 98 to 1 in the Senate).<sup>18</sup> This gave congress a 60-day window to approve or disapprove any agreement the Obama Administration made.<sup>19</sup> As Falk points out, "This nearly unanimous support forced the President to sign the legislation, and thus to play the two-level game" he had been trying to avoid.<sup>20</sup>

An interesting and important note about what became known as the Corker-Cardin bill was the relative lack of teeth that this bill actually had. Because the structure it set up was a standard legislative one, it only required a simple majority of congress to vote a joint resolution of disapproval, which would scuttle the deal. However, that also meant the President could veto the resolution of disapproval which would then require a two thirds majority of both houses to override the veto.<sup>21</sup> Sterio points out that it is very unlikely that Congress could actually override the veto.<sup>22</sup> When the agreement was transmitted to Congress, the Republicans held a 246 to 188 majority in the House and a 54 to 46 majority in the Senate. In order to override the veto, even if all Republicans voted to override, the Republican majority would have to win the support of Democrats in both chambers.<sup>23</sup> "Specifically, the Republicans would have to gain 13 Democratic or Independent Senators and 43 Democratic Representatives to override a veto of a negative resolution."<sup>24</sup> This is crucial if we want to understand the precarity of the

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<sup>15</sup> U.S. Senate: Treaties. (n.d.). Accessed 7 April 2018

<sup>16</sup> Falk. Accessed 7 April 2018.

<sup>17</sup> Sterio. p. 80

<sup>18</sup> Falk. Accessed 7 April 2018.

<sup>19</sup> Sterio. p. 80

<sup>20</sup> Falk. Accessed 7 April 2018.

<sup>21</sup> Ibid. p. 11

<sup>22</sup> Sterio. p. 81

<sup>23</sup> Falk. Accessed 7 April 2018.

<sup>24</sup> Ibid. p. 11

Iran deal as a political failure. The Obama Administration's sidestepping of the two-level game with Congress meant they were more likely to get the deal approved, but were doing so with very little congressional support; in fact, the political maneuverings may have undercut what would have been broader congressional support. By doing this, the only people the Obama Administration had to convince to go along with the deal were within their own party. This strategy allowed them to claim a major foreign policy win (and on balance the deal probably is) but created the conditions for the majority of the House and the Senate to be able to disavow responsibility for it, since they hadn't voted for it.

In the immediate aftermath of signing the deal, Pew again surveyed Americans and the results were not good news for the Obama administration and their attempts to get the deal through the domestic constituency. A week after the deal was announced 33% of the public approved, 45% disapproved and 22% had no opinion.<sup>25</sup> What followed over the next 6 weeks was a full force press by proponents and opponents of the deal alike. On 5th August, President Obama took his appeal to the American people with a speech at the American University that laid out his case for Congressional approval. He again compared the Iran deal with negotiations over nuclear weapons during the cold war and pointed to previous administration's failures to do anything substantive about the Iran nuclear program. He tried once more to lay out in layman's terms the details of the agreement and then closed by taking on directly the critics of the agreement. He took on the Israeli concerns directly, and then directly challenged congress, "If Congress kills this deal, we will lose more than just constraints on Iran's nuclear deal or the sanctions we have painstakingly built. We will have lost something more precious: America's credibility as a leader of diplomacy. America's credibility is the anchor of the international system."<sup>26</sup>

His response to the Israel issue is particularly important because of the specific lobbying Israeli President Netanyahu was doing with Congress. In March of 2015, in something of a diplomatic scandal, Netanyahu was invited by Republicans to address a joint session of Congress. Netanyahu made no secret of his opposition to the deal and his argument that a better deal was possible. He attempted to undercut what would eventually be the Obama administration's argument that this deal is better than no deal. As Falk points out, "it constituted a pre-emptive strike against the Administrations likely rejoinder, stressing the high cost of the no-agreement."<sup>27</sup> While his speech synched well with Republican opposition it does not appear to have made an impact on Democratic lawmakers. In fact, "His strategy failed because it played neatly into a Democratic suspicion that the opponents of the deal with Iran were simply tearing down the President's proposals without offering anything constructive as a replacement."<sup>28</sup> The complicated relationship between the US and Israel was not enough for Democrats to vote against the Iran deal.

On a similar note, the European nations involved in the negotiation took on a similar tactic. While in their home countries there was virtually unanimous support, representatives of the UK, Germany, France, China and Russia met in August with key Democratic Senators to firm up their support. Interestingly again, in terms of the two-level game, this effort at

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<sup>25</sup> Pew Research Center, 'Support for Iran Nuclear Agreement Falls', (8 September 2015). People-press.org. Pew Research Center. Accessed 7 April 2018.

<sup>26</sup> Washington Post staff, 'Full text: 'Obama gives a speech about the Iran nuclear deal'', (5 Aug 2015) washingtonpost.com. Washington Post.

<sup>27</sup> Falk. Accessed 7 April 2018.

<sup>28</sup> Ibid. pp. 14-15

persuasion was only aimed to build support among Democrats. Following this meeting, 27 of the 42 Senators who voted in support of the Iran deal cited the meeting with the European representatives as crucial to their decision.<sup>29</sup>

With all this persuasion focused on Congress, the American public was increasingly left in the dark. As Congress prepared to vote in September, the September 3-7 survey by Pew:

*...finds that the contentious debate over the Iran agreement has not resonated widely with the public. In fact, the share saying they have heard either a lot or a little about the agreement has declined from 79% in July to 69%... The share saying they have heard 'nothing at all' about it has increased nine percentage points, from 21% to 30%.<sup>30</sup>*

This was a huge problem for the Obama Administration's two-level game. With limited support in Congress, the sustainability of the agreement was dependent on a wide basis of support among the public. The efforts by the Obama administration to sell the deal resulted in even less reported knowledge about the deal. Even worse, public support of the deal declined from July. By September, only 21% of those surveyed approved of the agreement and nearly 49% disapproved, while 30% did not have an opinion. Knowledge of the agreement had declined as well as approval. Along with this larger trend is an even more troubling one for the future of the Iran deal. Republicans reported having more knowledge of the deal than Democrats and Republican support for the deal had dropped to 6%. Approval among Democrats had slipped as well from 50% to 42%.<sup>31</sup> At the time of the Congressional vote, both the public and Congress were on balance more in opposition to the agreement than in support.

This lack of support made the Iran deal an obvious target for quick, symbolic wins for the Trump administration when they took power in January 2017. While it had gone through Congress, the Trump administration recognized that it lacked the domestic constituency to provide it wide based support.

Interestingly, during the two years the deal has been in place, support among the American public has grown. This phenomenon may well be related to an increased concern about North Korea's nuclear program. The Chicago Council on Global Affairs reported in 2017:

*Six in ten (62%) say that 'the possibility of any new countries, friendly or unfriendly, acquiring nuclear weapons' is a critical threat, below international terrorism (75%) and cyberattacks (74%). An even greater majority are concerned about North Korea's nuclear program (75% critical threat). When last asked in 2015, 57 percent of Americans described Iran's nuclear program as a critical threat.<sup>32</sup>*

Their data shows a surprising shift among Republican voters about the Iran deal:

<sup>29</sup> Ibid. pp. 20–25

<sup>30</sup> Pew Research Center, 'Support for Iran Nuclear Agreement Falls', (8 September 2015). [people-press.org](http://people-press.org). Pew Research Center. Accessed 7 April 2018.

<sup>31</sup> Ibid.

<sup>32</sup> Craig Kafura, 'Americans Support Continued US Participation in Iran Deal', (3 Oct 2017) [thechicagocouncil.org](http://thechicagocouncil.org). The Chicago Council on Global Affairs. Accessed 24 March 2018.



*While 73 percent of Democrats favor participation, just one-half (48%) of Republicans agree (58% among Independents). Forty-four percent of core Trump supporters (those with a very favorable view of the president) think the United States should participate in the Iran deal, a relatively high number given the prominence with which Trump has attacked the deal.<sup>33</sup>*

*This data is roughly supported by poll research from Forbes: Broken down by party, 68 percent of Democrats support the deal while a surprisingly large 22 percent share have no opinion on the matter. A slight 51 percent majority of Republicans are also in favor of the agreement while 23 percent are against it.<sup>34</sup>*

This change in public opinion complicates the Trump Administration's decision on moving forward.

The Obama Administration did not succeed in the two-level game to bring its domestic constituency along with the Iran deal. Through political maneuvering they got the deal approved but it lacked any kind of base of support either in Congress or among the American people. This lack of a base constituency made the agreement an easy target for the Donald Trump in his attacks on anything Obama implemented. The inability of the Obama administration to sell the public on the deal has left its future precarious. Hope for the agreement may lie with the increasing support for the agreement among the US population. Ironically, the Iran deal may be saved by the rising tensions around nuclear issues with North Korea.

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<sup>33</sup> Ibid.

<sup>34</sup> Niall McCarthy, 'Poll: Most Americans Support The 2015 Iran Nuclear Deal [Infographic]', (12 Oct 2017) [forbes.com](https://forbes.com). Forbes. Accessed 24 March 2018.

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# Iran Nuclear Deal and European Union: The End of a Myth?

Dr. Jean-François Daguzan

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On the 2nd of April 2015, the Joint Comprehensive Plan of Action between the Islamic Republic of Iran and the P5+1 (the permanent members of the United Nations Security Council—the United States, the United Kingdom, Russia, France, and China—plus Germany) and the European Union, (known as JCPOA), was signed in Vienna, and was considered by the European Union as a victory. For the EU, JCPOA represented the living demonstration that its soft power was a reality and that this organization, without military means, was able to have a political and diplomatic weight upon the world. However, this agreement, reached despite so many difficulties, is now in turmoil under the Trump presidency. Is this model condemned?

## **Building a European Defense and Security Strategy**

With the 1993 Treaty of Maastricht creating the European Union, like a little bird in a nest, a small and fragile European Foreign and Security Policy woke up. This emergence was very difficult. This new competence was strangled between every Foreign and Security Policy of each EU member state (some conciliating, such as Germany or France; others in opposition, Britain or Denmark; and some neutral states – Austria, Sweden, Ireland) and the defence and security alliances (essentially, NATO).

With time and the evolution of the EU, the Foreign and Security Policy (then the Common Security and Defence Policy (CSDP) with the Lisbon Treaty) slowly progressed. Various, catastrophic situations – Bosnia, Somalia, and Rwanda most importantly – progressively pushed the European Union to create a minimum of institutional coordination for some specific cases of security (five) most of them linked to protection of population, evacuation of citizens, support in case of catastrophes, etc. The agreements of Petersberg 1992 were included and expanded in the Lisbon Treaty<sup>1</sup>. Disarmament was integrated in these new tasks too.

Hopes in an ambitious political European Union broke with the failure of the Constitutional Treaty process. The Lisbon Treaty represents a simplified and limited ersatz of such ambitions. Nevertheless:

*"The Treaty also contains a number of important new provisions related to the CSDP, including mutual assistance and a solidarity clause, the creation of a framework for Permanent Structured Cooperation, the expansion of the*

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<sup>1</sup> Lisbon Treaty, article A 28 B (not consolidated).

*Petersberg tasks, and the creation of the European External Action Service (EEAS) under the authority of the High Representative for Foreign Affairs and Security Policy. The High Representative – currently Federica Mogherini – has additional roles as a Vice President of the European Commission (HR/VP) and chair of the Foreign Affairs Council<sup>2</sup>."*

At the same time, regional agreements, such as the Barcelona process launched in 1995 toward the Mediterranean states, tried to combine an economy, social and security policy approach.

A European military headquarters with a chief of staff was created with limited military means capable of managing small crisis, as well as a situation crisis room but due to the perception of concurrence with NATO by some States, this headquarters remained on a small scale.

In 2003, the invasion of Iraq by the United States and a coalition of willing participants meant Europe was obliged to react. In parallel, the appearance in the Treaty of Amsterdam (then Lisbon) of a person in charge of Foreign and Security Policy, the General Secretary High Representative<sup>3</sup> – in this case Mr. Javier Solana, former NATO General Secretary – gave an incentive to reshuffle the involvement of the EU in security. After a long battle, Solana imposed a text which can be considered as the EU's real entrance into security policies. The world was just entering the Iraq struggle with a background of proliferation issues –Saddam's supposed weapons of mass destruction– as a matter of fact Solana utilized this window of opportunity to install the EU as a major actor in non-proliferation issues. Solana's text quotes:

*"Proliferation by both states and terrorists was identified in the ESS as 'potentially the greatest threat to EU security'. That risk has increased in the last five years, bringing the multilateral framework under pressure. While Libya has dismantled its WMD programme, Iran, and also North Korea, have yet to gain the trust of the international community. A likely revival of civil nuclear power in coming decades also poses challenges to the non-proliferation system, if not accompanied by the right safeguards. The EU has been very active in multilateral fora, on the basis of the WMD Strategy, adopted in 2003, and at the forefront of international efforts to address Iran's nuclear programme. The Strategy emphasizes prevention by working through the UN and multilateral agreements, by acting as a key donor and by working with third countries and regional organizations to enhance their capabilities to prevent proliferation.*

*We should continue this approach, with political and financial action. A successful outcome to the Non-Proliferation Treaty Review Conference in 2010, with a view in particular to strengthening the non-proliferation regime, is*

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<sup>2</sup> 'Shaping of a Common Security and Defence Policy', [eeas.europa.eu](https://eeas.europa.eu/headquarters/headquarters-homepage/5388/shaping-common-security-and-defence-policy_en), European External Action Service (EEAS), (1 March 2016) [https://eeas.europa.eu/headquarters/headquarters-homepage/5388/shaping-common-security-and-defence-policy\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/5388/shaping-common-security-and-defence-policy_en)

<sup>3</sup> The function was created under the Treaty of Amsterdam as the High Representative for Common Foreign and Security Policy. Its missions were extended following the Treaty of Lisbon providing a seat on the European Commission and chair of the Council of EU Foreign Ministers. The High Representative is assisted by the European External Action Service (EEAS). Article 9 E 2. "The High Representative shall conduct the Union's common foreign and security policy. He shall contribute by his proposals to the development of that policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy."

*critical. We will endeavor to ensure that, in a balanced, effective, and concrete manner, this conference examines means to step up international efforts against proliferation, pursue disarmament and ensure the responsible development of peaceful uses of nuclear energy by countries wishing to do so.*

*More work is also needed on specific issues, including: EU support for a multilateral approach to the nuclear fuel cycle; countering financing of proliferation; measures on bio-safety and bio security; containing proliferation of delivery systems, notably ballistic missiles. Negotiations should begin on a multilateral treaty banning production of fissile material for nuclear weapons.”<sup>4</sup>*

Despite the breakdown of the Constitutional Treaty, from 2003 to 2016 non-proliferation remains a core axis of the EU Foreign and Security Policy. This may be one of the last issues where EU has a capacity to act. As a matter of fact, during this period, the EU engaged many initiatives in this area of concern:

- Javier Solana named a special assistant for proliferation affairs;
- A specific document (EU strategy against proliferation of Weapons of Mass Destruction, 10 December 2003) fixed the lines of EU actions in this specific framework;<sup>5</sup>
- Some symbolic programs were launched at the Council level: the EU consortium for non-proliferation (a group of EU think tanks charged to provide information and researches on the topic); a special program (led by the Fondation pour la recherche stratégique as implementing agency) for the universal extension of the Den Haag Code of Conduct against the proliferation of Ballistic Missile (HCoC).

Also, at the Commission level, some research programs were launched (creation of regional centres of excellence on non-proliferation), including the support of the financial efforts of non-proliferation of the International Atomic Energy Agency (IAEA). “Financial assistance to international organizations and direct to states, however, has always been a key part of the EU’s non-proliferation programmes”<sup>6</sup>;

- State oriented policy concerning North Korea, chemicals in Syria;
- Support and contribution to the development and implementation of various disarmament treaties.

But the “chef d’oeuvre” of EU policy was the nuclear agreement with Iran. As Lina Grip said: “This diplomatic solution to a long-standing proliferation challenge was the greatest achievement of the EU’s non-proliferation policy in 2014–17, and probably its greatest achievement to date. The EU both initiated and later coordinated the process throughout 12 years of negotiations. During the process, the role of the EU evolved from that of the main negotiator to a facilitator of US–Iranian bilateral negotiations<sup>7</sup>.”

<sup>4</sup> ‘European Security Strategy, A Secure Europe in a Better World’, Council of The European Union, (Brussels, 12 December 2009) [http:// www.european-council.europa.eu/media/30823/qc7809568enc.pdf](http://www.european-council.europa.eu/media/30823/qc7809568enc.pdf)

<sup>5</sup> Council of Thessaloniki. ‘Declaration on non-proliferation of Weapons of Mass Destruction’, (10 December 2003) <http://data.consilium.europa.eu/doc/document/ST-15708-2003-INIT/fr/pdf>

<sup>6</sup> Lina Grip. ‘The European Union an Non Proliferation 2014-2017, EU Non Proliferation Consortium, Final Report August 2017’, EU Non-proliferation Consortium, sipri.org, (August 2017) [https://www.sipri.org/sites/default/files/2017-09/eunpc\\_final\\_report\\_2017\\_0.pdf](https://www.sipri.org/sites/default/files/2017-09/eunpc_final_report_2017_0.pdf) p. 7.

<sup>7</sup> Idem, p. 5.

Globally, the EU endorsed the Obama position. The U.S. President's "Smart Diplomacy" concept perfectly corresponded with the EU soft power capabilities (influence by conviction, "kind persuasion", dangling an economic carrot, and a normative approach).

For 15 years, the EU worked on the Iranian agreement. This issue was on the menu of more or less every Foreign Minister's council and other specific statements<sup>8</sup>. As quoted in the introduction, the final signature, after diplomatic up and downs, was the victory that nobody expected. From this date, the JCPOA became the European mantra as an example of EU soft power capabilities for now and the future.

The pro-European Robert Schumann Foundation explained: "Whilst acknowledging that the Union could do more it is vital to note the positive results it has achieved in international politics, where sometimes it is the motor behind the action (Iran). Hence there is no question of challenging the role played by the Union as an emerging power; it is already a major player and a true international power, but it needs to strengthen this aspect however<sup>9</sup>."

### **The 2016 EU Strategy: JCPOA – a successful model**

Fifteen years after the first agreement, after months of debates, struggle, discrepancies and controversies, the High Representative, Mrs. Mogherini succeeded in publishing a second text clarifying the position of the EU on Security and Strategy. This paper takes into consideration the world major changes: the world economy and finance crisis, the Arab transformations, the growth of jihadism and terrorism, the return of war, the growing instability, and the huge movements of populations, etc.

The nuclear agreement is shown in example in three main issues at different levels:

**1. Global**, as a model of new world governance:

"A rules-based global order: (...) through our combined weight, we can provide agreed rules to contain power policies and contribute to a peaceful, fair and prosperous world. The Iranian agreement is a clear illustration of its facts." (p.15)

**2. Local**, as contributor to regional issues (in this case Middle-East), stabilization and development:

"... The EU will pursue balanced engagement in the Gulf. It will continue to cooperate with the Gulf Cooperation Council (GCC) and individual Gulf countries. Building on the Iran nuclear deal and its implementation, it will also gradually engage Iran on areas such as trade, research, environment energy anti-trafficking, migration and societal exchanges." (p.35)

**3. Sectorial**, as a significant part of the non-proliferation and disarmament policy:

"The EU will strongly support the expanding membership, universalization, full implementation and enforcement of multilateral disarmament, non- proliferation issues and arms control

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<sup>8</sup> 'EU Security and Defence: Core Documents', (Vol. I à VIII) Chaillot Papers, iss.europa.eu, Institute for Security Studies, <https://www.iss.europa.eu/publications/chaillot-papers?page=3>

<sup>9</sup> 'Questions d'Europe n°410, L'Europe et la souveraineté : réalités, limites et perspectives, Synthèse de la conférence du 29 septembre 2016', robert-schuman.eu, The Robert Schuman Foundation, (7 November 2016) <https://www.robert-schuman.eu/en/european-issues/0410-europe-and-sovereignty-reality-limits-and-outlook>

treaties and regimes. We will use every means at our disposal to assist in resolving proliferation crisis, as we successfully did on the Iran nuclear programme.” (pp. 41-42)

In this paper the JCPOA represents the alpha and omega of an EU successful policy. Moreover, inspired by this model some analysts pledge for an open and extended dialogue with some pivotal states on the basis of the imitation of the process: “In this context on-going work to provide a new shape to relations with vital partners like Turkey, Iran and Saudi Arabia seems to illustrate this need for shared goals within the European Union<sup>10</sup>.”

But nobody thought that the edifice was so weak. Nobody was able to imagine that the last U.S. Presidential election would create such a policy storm. By winning the White House, Donald Trump changed the game by destroying the Obama heritage. And the Iranian agreement is one of its main corners.

### **In defence of the Nuclear Agreement: the EU strategy**

The Trump position regarding the agreement was a stone in the EU's garden, as it is usually said in French language. For the EU the JCPOA was the living and breathing demonstration that negotiation by wise men and honest brokers could contribute to the stabilization of a conflicted zone in the world. The agreement demonstrated the fact that the EU was a real and efficient soft power. But more than a soft power, it proved its capability to weigh in on world affairs. JCPOA became an invocation –a leitmotiv of the EU special talent. It is the reason why the European representative has assumed a harsh defence of the agreement. The JCPOA was thought of as the corner stone of EU Grand Strategy. Some examples:

- The European Union will make sure that a landmark nuclear agreement between world powers and Iran “will continue to be fully implemented by all, in all its parts,” the EU foreign policy chief said on 10th November 2017. Federica Mogherini gave a conference in Samarkand, Uzbekistan, re-affirming that the deal was “a major achievement of European and international multilateral diplomacy that is delivering.”
- “The JCPOA, the culmination of 12 years of diplomacy facilitated by the European Union, unanimously endorsed by the UN Security Council Resolution 2231, is a key element of the nuclear non-proliferation global architecture and crucial for the security of the region. Its successful implementation continues to ensure that Iran's nuclear programme remains exclusively peaceful (...) At a time of acute nuclear threat the European Union is determined to preserve the JCPOA as a key pillar of the international non-proliferation architecture.”<sup>11</sup>

For two years now, the European Union has reaffirmed permanently its support for the 2015 nuclear deal between Iran and world powers, despite sharp criticism of the accord by President Trump. But which latitude, which safety margin can Mrs. Mogherini and the EU keep if Donald Trump continues the sanctions and blocks the fragile economic opening of Iran? Many Europeans companies have engaged in negotiations for returning to the country

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<sup>10</sup> ‘The Strategic Interests of the European Union’, robert-schuman.eu, The Robert Schuman Foundation, (26 September 2016) <https://www.robert-schuman.eu/en/european-issues/0404-the-european-union-s-strategic-interests>

<sup>11</sup> ‘Remarks by High Representative/Vice-President Federica Mogherini on the implementation of the Joint Comprehensive Plan of Action (Iran nuclear deal)’, eeas.europa.eu, European External Action Service, (16 October 2017) [https://eeas.europa.eu/headquarters/headquarters-homepage/33997/remarks-federica-mogherini-implementation-joint-comprehensive-plan-action-iran-nuclear-deal\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/33997/remarks-federica-mogherini-implementation-joint-comprehensive-plan-action-iran-nuclear-deal_en);

and investing. However, they could fall again in the coup of the American blacklist. Moreover, the EU and Russia cannot make the agreement alone. All depends upon U.S. willingness. In the European camp, some divergent voices appeared. French President Macron preached for maintaining the agreement but at the same time opening a new front on ballistic missiles proliferation. Of course, ballistic missiles are a threat to the regional area but one condition for the Iranian acceptance of the nuclear agreement was the fact that the missiles would be kept expressly out of the package. Whatever the pressures, it will be very difficult to engage Iranians with this dossier, which is much more for them a "casus belli" or at least a cause of rupture than anything else.

Finally, the European capability to make the agreement sustainable will rapidly represent an "acid test"<sup>12</sup>.

Reuters agency announced by mid-February that:

*"the United States has sketched out a path under which three key European allies would simply commit to try to improve the Iran nuclear deal over time in return for U.S. President Donald Trump keeping the pact alive by renewing U.S. sanctions relief in May. (...) "We are asking for your commitment that we should work together to seek a supplemental or follow-on agreement that addresses Iran's development or testing of long-range missiles, ensures strong IAEA inspections, and fixes the flaws of the 'sunset clause,'"*<sup>13</sup>.

For European diplomacy and its security strategy, the critical test has now begun.

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<sup>12</sup> Used in metallurgy to improve the solidity and the corrosion of materials.

<sup>13</sup> Arshad Mohammed, J. Irish and R. Emmott. 'Exclusive: For now, U.S. wants Europeans just to commit to improve Iran deal', (Reuters) yahoo.com, Yahoo, (18 February 2018) <https://www.yahoo.com/news/exclusive-now-u-wants-europeans-just-commit-improve-152151853.html>



## Authors

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### **Prof. Stephen Calleya**

Professor Stephen C. Calleya is Director and International Relations Professor at the Mediterranean Academy of Diplomatic Studies at the University of Malta. Professor Calleya is also advisor to the Ministry of Foreign Affairs, Malta with the status of Ambassador. Between 1996 and 2012 Prof. Calleya has been the Project Manager of the Euro-Mediterranean Information and Training Seminars in Malta. Most recently in September 2017 Prof. Calleya addressed the Presidents of the Arraiolos Group in Malta on the theme of 'Managing Security Challenges in the Mediterranean'.

Professor Calleya has compiled several analytical articles in refereed journals and the international syndicated press. Professor Calleya is also author of *Navigating Regional Dynamics in the Post-Cold War World*, *Patterns of Relations in the Mediterranean World*, published by Dartmouth 1997. He is also editor of the book *Regionalism in the Post-Cold War World*, published by Ashgate in March 2000. In 2002 he published the book *Looking Ahead, Malta's Foreign Policy Agenda*, published by Miller Publishing House. In 2005 he published *Evaluating Euro-Mediterranean Relations*, published by Routledge. His most recent book is entitled *Security Challenges in the Euro-Med Area in the 21st Century: Mare Nostrum*, published by Routledge in 2013.

### **Dr. Jean-François Daguzan**

Dr. Jean-François Daguzan, Ph.D. in Law and Political Science, is the Deputy Director of the Fondation pour la recherche stratégique (FRS), Paris. He is also the Director of the Maghreb-Machrek Review. He has been Associate Professor at University Paris II, Panthéon-Assas (2000-2015). He has been a Senior Research Fellow at the Centre de recherche sur les stratégies et les technologies de l'Ecole polytechnique – (1992-1998) and a civil servant at Secrétariat général de la défense nationale (National Defense General Secretariat of Prime Minister's Office – 1987-1991).

Some books: (with Olivier Lepick), *Le terrorisme non conventionnel* (Non Conventional Terrorism), PUF, Paris, 2003; (Ed. with Pascal Lorot) *L'Asie centrale après la guerre contre la terreur* (Central Asia after the War against Terror), L'Harmattan, Paris 2004; *Terrorisme(s) abrégé d'une violence qui dure* (Terrorism(s) short story of a long term violence), CNRS, °Paris, 2006; (Ed. with Stéphane Valter), *Les Forces armées arabes et Moyen-orientales après les printemps arabes* (Arab and Middle East Armed Forces after the Arab Springs), ESKA, Paris, 2014; (new and extended version: *Les armées du Moyen-Orient face à Daesh – Middle East*



Armed Forces vis-a-vis Daesh) MA Editions, 2016; *La fin de l'Etat-Nation? De Barcelone à Bagdad*, (The end of the Nation-State? From Barcelona to Bagdad), CNRS, Paris, 2015. He wrote a wide range of papers on the Arab World, Mediterranean studies, proliferation and terrorism issues.

**Ms. Paulina Izewicz**

Paulina Izewicz is a Research Associate with the Non-Proliferation and Nuclear Policy Programme at the International Institute for Strategic Studies (IISS) in London. Her work focuses primarily on Iran's nuclear and ballistic missile programmes, as well as sanctions policy and export controls more broadly; her research also follows the deterrence-disarmament debate, with a focus on legal issues. Prior to joining IISS, she worked at the Institute for Science and International Security in Washington D.C., where she analysed the technical aspects of Iran's nuclear programme, as well as conducted research into global stockpiles of fissile materials, both in military and civilian use.

**Dr. Juliette Shedd**

Dr. Shedd is currently the Associate Dean for Administration at the School for Conflict Analysis and Resolution, George Mason University and teaches both introductory courses and courses on terrorism, extremism, global conflicts, and ideologies. She holds a Ph.D. and M.Sc. in Conflict Analysis and Resolution from George Mason University and a B.A. in Political Science and Psychology from George Washington University. Her research includes work on the relationship of media to conflict, specifically focused on media coverage of terrorism and the role of women in political violence. She has shepherded S-CAR's efforts to increase distance education and overseen a wide range of innovations in experiential and service learning. She served as the academic project manager for the development of the Schools Point of View International Retreat and Research Center.

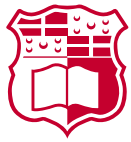
**Amb. Gudrun Sräga**

Gudrun Sräga is currently the Ambassador of the Federal Republic of Germany in Malta. From 2011 – 2015 she represented Germany as Ambassador in Kyrgyzstan, Central Asia. She has earlier served in the German Embassies in New Delhi/ India, Ankara/ Turkey and in the German Consulate General in New York. She joined the German Federal Foreign Office in 1986 and also worked several times in the headquarters both in Bonn and later in Berlin. She holds a Master's Degree in History and Political Sciences from the University of Constance, Germany.

**Dr. Monika Wohlfeld**

Dr. Monika Wohlfeld holds the German Chair in Peace and Conflict Prevention, established at the Mediterranean Academy of Diplomatic Studies (MEDAC), University of Malta by the German Ministry of Foreign Affairs. MEDAC is a regional higher education institution.

Previously she was the Deputy Director of the Conflict Prevention Centre of the Organization for Security and Co-operation in Europe (OSCE), responsible for the Organization's field operations. She served as Head of External Co-operation of the OSCE and, prior to that, as Senior Diplomatic Adviser to the OSCE Secretary General. She has been a Senior Research Fellow at the Western European Union (now European Union) Institute for Security Studies in Paris, and Researcher at the War Studies Department at King's College London. She holds a PhD in War Studies from King's College London. Dr. Monika Wohlfeld has published widely on matters related to European security, European institutions, regional co-operation, conflict prevention and crisis management.



**L-Università  
ta' Malta**

**Mediterranean Academy  
of Diplomatic Studies**

University of Malta  
Msida MSD 2080, Malta

Tel: +356 2340 2821

[www.um.edu.mt/medac](http://www.um.edu.mt/medac)

**Postgraduate Seminar, 5th December 2017**

(financed by the German Federal Ministry for Foreign Affairs)  
Corinthia St George's Bay Hotel, St Julians, Malta

**What Future for the Iran Nuclear Deal?**

09:15

Welcome

Ambassador Gudrun Sräga, German Ambassador to Malta and Prof. Stephen Calleya, Director, MEDAC

09:30-10:30

The Iran Nuclear Deal: Taking Stock and the Way Forward

Chair: Dr. Monika Wohlfeld, MEDAC

Ms. Paulina Izewicz, Research Associate, Non- Proliferation and Nuclear Policy, International Institute for Strategic Studies (IISS), London

10:30-11:00

Family Photo and Coffee break

11:00-12:00

The Iran Nuclear Deal: Implications for Iran

Chair: Dr. Derek Lutterbeck, MEDAC

Dr. Jochen Hippler, Research Fellow, Institute for Development and Peace (INEP), University Duisburg- Essen

12:00-13:00

Working groups

13:00-14:00

Buffet Lunch at Corinthia St George Hotel

14:00-15:00

The Iran Nuclear Deal: Regional and International Implications

Chair: Dr. Juliette Shedd, Associate Dean, The School for Conflict Analysis and Resolution (SCAR), George Mason University, Fairfax, Virginia

Dr. Jean-François Daguzan, Deputy Director, Fondation pour la recherche stratégique (FRS), Paris



Ambassador Gudrun Sräga, German Ambassador to Malta and Prof. Stephen Calleya, Director, MEDAC opening the Seminar.



(L to R) Ms. Paulina Izewicz, Research Associate at the International Institute for Strategic Studies and Dr. Monika Wohlfeld, MEDAC





Prof. Calleya, Amb. Sräga and Dr. Juliette Shedd, Associate Dean, The School for Conflict Analysis and Resolution, George Mason University.



Dr. Jean-François Daguzan, Deputy Director, Fondation pour la recherche stratégique, Dr. Shedd and Dr. Wohlfeld.



(L to R) Dr. Jochen Hippler, Research Fellow, Institute for Development and Peace, University Duisburg-Essen and Dr. Jean-François Daguzan.



(L to R) Dr. Jochen Hippler and Dr. Derek Lutterbeck, MEDAC.





MEDAC postgraduate students with Dr. Wohlfeld and Ms. Izewicz during a working group session.



Ms. Lourdes Pullicino, MEDAC and Dr. Hippler with MEDAC postgraduate students during a working session.





Prof. Calleya and Dr. Daguzan during a working group session with MEDAC postgraduate students.



MEDAC students with Dr. Shedd during a working group session.



A student working group rapporteur addressing the seminar.



A student working group rapporteur addressing the seminar.



A student working group rapporteur addressing the seminar.



A student working group rapporteur addressing the seminar.





Seminar's Group Photo.

## Selected titles of the Med Agenda series

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Prof. Guido de Marco (2007)

The Mediterranean Dilemma: A Bridge or a Great Divide?

Amb. Francesco Paolo Fulci (2008)

The reform of the Security Council of the UN: Why still an open question?

Dr. Ian O. Lesser (2009)

The United States and the Mediterranean: A New Strategic Context

Prof. S. Calleya & M. Wohlfeld (2011)

Towards a New Southern Mediterranean Region?

Fr. James L. Heft (2011)

The Necessity of Inter-Faith Diplomacy: The Catholic/Muslim Dialogue

Amb. Saviour F. Borg (2013)

The United Nations General Assembly and the Mediterranean

Monika Wohlfeld (2014)

Civil Society and Democratization in Societies in Transition

Prof. Robert Bowker (2014)

The Arab Middle East and the West: where to from here?

Amb. Klaus-Peter Brandes (2015)

A New Era after the Fall of the Berlin Wall: Challenges for Germany's Foreign Policy

Prof. Guido de Marco (2016),

Essays in Diplomacy 1992 – 2010

Prof. S. Calleya & M. Wohlfeld (2016)

Helsinki plus 40: The Mediterranean Chapter of the Helsinki Final Act and the Future of Mediterranean Co-operation

Hon. Didier Burkhalter (2016)

Good Offices: A Swiss Speciality

D. Lutterbeck and M. Wohlfeld (2016)

OSCE Code of Conduct: Outreach Conference for the Southern Mediterranean Region

Essays in Honour of Dr. Joe Borg (2016)

Perspectives in a Changing Mediterranean

H.E. Federica Mogherini, EU High Repr. for Foreign Affairs and Security Policy (2016)

The Mediterranean and the Global Strategy

Dr. Miguel Angel Moratinos (2017)

Contemporary Euro-Mediterranean Relations

Arraiolos Malta 2017 13th Meeting of the Heads of State of the Arraiolos Group

Professor Bichara Khader (2018)

Shifting geopolitics in the Arab World 1945-2017

Amb. Ahmed Ounaïes (2018)

The Mediterranean Dimension of Tunisian Diplomacy

## About MEDAC

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The Mediterranean Academy of Diplomatic Studies (MEDAC) is an institution of higher learning at the University of Malta offering advanced degrees in diplomacy and conflict resolution with a focus on Mediterranean issues.

MEDAC was established in 1990 pursuant to an agreement between the governments of Malta and Switzerland. The Academy is currently co-funded by the Swiss Agency for Development and Co-operation (SDC) and the Ministry of Foreign Affairs of Malta. The Geneva Graduate Institute of International and Development Studies (HEID) was among MEDAC's first foreign partners. More recently in 2009, MEDAC concluded an agreement with the German Federal Foreign Office and established a German Chair in Peace Studies and Conflict Prevention.

In academic year 2019/2020 MEDAC will celebrate its 30th anniversary. Since its inception, MEDAC has acquired a solid reputation both as an academic institution and as a practical training platform. We are fortunate to count over 800 alumni from 59 different countries who have completed successfully the post-graduate courses offered by the Academy. The EU's enlargement towards the Mediterranean, that included Malta in 2004, and the recent transformation of the political landscape throughout the Arab World have resulted in an ever increasing demand for MEDAC's programme of studies.

### Academy Courses

- Master of Arts in Diplomatic Studies (M.A.)
- Master of Diplomacy (M.Dip.)
- Diploma in Diplomacy (DDS)

See details of all courses on the website:  
[www.um.edu.mt/medac](http://www.um.edu.mt/medac)

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[www.facebook.com/um.medac](http://www.facebook.com/um.medac)





Mediterranean Academy of Diplomatic Studies  
University of Malta  
Msida MSD 2080, MALTA  
Tel: +356 2340 2821, Fax: +356 2148 3091  
e-mail: [medac@um.edu.mt](mailto:medac@um.edu.mt)  
[www.um.edu.mt/medac](http://www.um.edu.mt/medac)  
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