

# Policy Briefing

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## Iran Nuclear Talks: The Fog Recedes

### I. Overview

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The failure of Iran and the P5+1 (the five permanent members of the UN Security Council plus Germany, also known as EU3+3) to reach a comprehensive nuclear agreement by their self-imposed 24 November deadline was no surprise. The process had been deadlocked for months over two key issues: the size of Iran's enrichment program and sanctions relief. For want of a last-minute breakthrough, the parties agreed to a new seven-month extension, with the goal of reaching a political agreement by 1 March 2015 and a comprehensive agreement, including an implementation plan, by 1 July 2015. A landmark agreement can still be found if both sides adopt more flexible postures. As Crisis Group has previously written and here reiterates, they can do so without violating their core principles and interests.

Though many sceptics took the extension as confirmation that the entire process is doomed, the parties made considerable progress in Vienna and narrowed their differences on a multitude of issues over the past twelve months. Talks were slowed by the cumbersome multilateral framework and an ill-advised decision to jointly tackle political and technical questions, but as the deadline loomed, negotiators tweaked the process, increased the pace and seriousness of the talks, and affirmed a heightened spirit of dialogue and trust. While an agreement proved elusive, both sides expressed their core political requirements more clearly than before. As a result, never have negotiators had a better understanding of their counterparts' positions and constraints.

While ultimate success is far from guaranteed, negotiations, in a little more than twelve months, have achieved more than years of escalation: the P5+1 has managed nearly to double both the tempo of inspections and Tehran's nominal breakout time, the interval required to enrich enough fissile material for one weapon; Iran has pared back sanctions and started to restore its image by honouring its commitments under the November 2013 interim accord. Yet differences remain sharp and overcoming them will grow more difficult with time, as the voices of sceptics get louder. Iran's redlines are two-fold: first, recognition of its right to industrial-scale enrichment and, secondly, that any irreversible concessions it makes will be met with commensurate steps on sanctions – specifically their termination, not just suspension. As for the P5+1, it insists on denying Iran a breakout time of any less than a year, as well as on maintaining the sanctions architecture – even if some are suspended – for the duration of the comprehensive agreement, since they are the group's most effective leverage.

As difficult as forging an agreement will be, there is considerable value in having clarified what stands in the way. It would be as grave a mistake to underestimate how far the negotiators have come as it would be to overestimate their chances of success. Obstacles notwithstanding, there is a credible path to an agreement. It would require for Iran to postpone its plans for industrial-scale enrichment while the P5+1 countenances controlled growth of that program and clearly defines target dates for a phased lifting of sanctions.

Now that the fog has receded, the parties should move ahead quickly. The positive momentum will soon fade, and with it, the chances for a peaceful resolution of this protracted crisis.

## II. **Redlines: Clearer but Clashing**

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While neither side publicly discussed an extension in the run-up to the November deadline, both saw it coming.<sup>1</sup> The parties had made progress over the twelve months of talks<sup>2</sup> and particularly during the rush to the end,<sup>3</sup> but they were trying to resolve a nuclear crisis that had been more than twelve years in the making. Most arms control negotiations have taken substantially longer than one year to conclude.<sup>4</sup> That

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<sup>1</sup> The relatively long seven-month window, designed to avoid potentially having to agree on another short extension, incorporates nearly one month of downtime in May 2015 when both sides' experts will be engaged in the Non-Proliferation Treaty (NPT) review conference. Crisis Group interview, Iranian official, 24 November 2014. Sanctions relief that Iran received under the interim agreement will continue during the extension, as will the prorated release of \$700 million per month of its frozen assets. "U.S. and allies extend Iran nuclear talks by 7 months", *The New York Times*, 24 November 2014. In return, Iran will convert 35kg of its remaining approximately 75kg of 20 per cent enriched uranium oxide into reactor fuel; double the frequency of inspection of its centrifuge production facilities; limit research and development on advanced centrifuges by refraining from semi-industrial-scale operation of IR-2M machines, feeding or testing IR-5 and R-6 machines, and installing IR-8 machines at the Natanz Pilot Plant; and forego any other forms of enrichment, including laser enrichment. Crisis Group email correspondence, U.S. official, 26 November 2014.

<sup>2</sup> "Joint Statement by Catherine Ashton and Iranian Foreign Minister Mohammad Javad Zarif following the talks in Vienna", European Union External Action Service, 24 November 2014. The parties agreed to cap enrichment below 5 per cent, reduce the size of Iran's stockpile of enriched material, bar reprocessing of spent fuel to extract plutonium, convert the heavy-water reactor in Arak to a proliferation-resistant reactor, repurpose the bunkered enrichment facility in Fordow as a research and development site and enhance safeguards and transparency measures. Crisis Group interviews, European, Iranian and U.S. officials, New York, Vienna, September-November 2014.

<sup>3</sup> U.S. Secretary of State John Kerry said, in the last days "progress was indeed made on some of the most vexing challenges", allowing the parties to "see the path toward potentially resolving some issues that have been intractable". He also praised his Iranian counterpart, Mohammad Javad Zarif: "The Iranian Foreign Minister has worked hard, and he has worked diligently. He has approached these negotiations in good faith and with seriousness of purpose, and that's what it takes to try to resolve the kind of difficult issues here". In Tehran, President Hassan Rouhani said, "positions have become closer and many gaps have been bridged ... everybody wants this ... sooner or later we will reach a final deal". "Iran, world powers fail to reach nuclear agreement by deadline", *The Wall Street Journal*, 24 November 2014.

<sup>4</sup> Strategic Arms Limitation Talks between the U.S. and Soviet Union took two and a half years (SALT I) and six and a half years (SALT II). The Strategic Arms Reduction Treaty (START I) was signed after more than nine years of negotiations.

said, procedural shortcomings and unwise tactical decisions – as well as fundamental misunderstandings – delayed the talks.<sup>5</sup>

In both their structure and substantive focus, in contradistinction with the first-step November 2013 Joint Plan of Action (JPOA), these talks were unwieldy and not conducive to decision-making. At the core of the crisis is the regional competition, with its attendant animosity and mistrust, between the U.S. and Iran. The JPOA negotiations reflected this reality: they were predominantly negotiated by Washington and Tehran via a bilateral backchannel.<sup>6</sup> The comprehensive talks, by contrast, were conducted mainly in a multilateral framework, which included a plethora of actors with competing interests.<sup>7</sup> The JPOA, a political agreement, took three months to negotiate; only after it had been concluded did the negotiators turn to the technical implementation plan, which took another two months.<sup>8</sup> By contrast the comprehensive talks, until the very last round, tried to address simultaneously both political questions and technical annexes, which diluted focus and further prolonged the process.<sup>9</sup>

The lack of focus was complicated by the negotiating strategy that both sides adopted. Their opening postures mixed maximalist bluster on certain issues with more realistic positions on others, obscuring for their rival what was negotiable and what was not.<sup>10</sup>

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<sup>5</sup> Iran demanded the removal of all UN Security Council sanctions based on the JPOA, only to learn later that, from the P5+1's perspective, nearly one-third of sanctions promulgated in the six UN Security Council resolutions are proliferation-related and therefore will remain in place. Crisis Group interview, senior Iranian official, Vienna, 19 November 2014. See Resolutions 1696, 31 July 2006; 1737, 27 December 2006; 1747, 24 March 2007; 1803, 3 March 2008; 1835, 27 September 2008; and 1929, 9 June 2010. Likewise, while U.S. officials believed that the eight-page proposal that they showed to their Iranian counterparts in Muscat in mid-November constituted their most forward-leaning solutions for bridging the remaining gaps, the Iranians saw it as a hardening of the U.S. position. Crisis Group interviews, U.S. and Iranian officials, Vienna, 18-25 November 2014.

<sup>6</sup> A senior Iranian official said, "the reason we succeeded in Geneva was that we had done our homework in Muscat. There were a few hiccups after we brought the fruit of that bilateral channel to the multilateral table, but ultimately everyone came on board". Crisis Group interview, Vienna, 25 November 2014. U.S. officials agreed. Crisis Group interviews, Vienna, 18-25 November 2014. "Burns led secret US back channel to Iran", *Al-Monitor*, 24 November 2013.

<sup>7</sup> An Iranian official said, "negotiating with six countries is cumbersome". Crisis Group interview, Vienna, 24 November 2014. Echoing the same view, a U.S. official noted, "sometimes I feel like the Iranians don't know who they are negotiating with. If they are going to make a concession, it has to be to the right address". Crisis Group interview, Washington, September 2014.

<sup>8</sup> "Summary of Technical Understandings Related to the Implementation of the Joint Plan of Action on the Islamic Republic of Iran's Nuclear Program", 16 January 2014. For more details on the Geneva process see Crisis Group Middle East Report N°152, *Iran and the P5+1: Solving the Nuclear Rubik's Cube*, 9 May 2014.

<sup>9</sup> Crisis Group interviews, Iranian, European and U.S. officials, Vienna, 18-25 November 2014. A European official noted, "negotiating JPOA's implementation plan was not easy, because the devil is in the details, but negotiating everything at once is even harder". Crisis Group interview, Vienna, 19 November 2014.

<sup>10</sup> Crisis Group interviews, Iranian and U.S. officials, Vienna, 18-25 November 2014. A U.S. official said, "while our opening gambit of 500 Separative Work Units (SWU, a measure of enrichment capacity) was not our bottom line, the fact that we cannot lift our unilateral sanctions was. To us, their demand for lifting the sanctions looked just as maximalist and unrealistic [as our 500 SWU demand], as did their extremely short sunset time". Crisis Group interview, Vienna, 19 November 2014. An Iranian official noted, "we insisted for four months that our aspiration to have 190,000 SWU capacity in the near future was not a bluff. It took a public statement by the Supreme Leader for the P5+1 to believe us". Crisis Group interview, Vienna, 25 November 2014. "Supreme Leader's speech in meeting with government officials", *Khamenei.ir*, 7 July 2014.

During the last round in Vienna (18-24 November), the parties corrected course by incorporating bilateral meetings of high-level U.S.-Iranian officials and by focusing on securing a political agreement before fleshing out the technical details. Highlighting that at heart this is a conflict between the U.S. and Iran, the two countries' foreign ministers held productive meetings without the EU coordinator.<sup>11</sup> Most importantly, by the end of the final round, the parties had gained a better appreciation of each other's true positions.<sup>12</sup>

Two pairs of incongruous redlines lie at the heart of the disagreement. One relates to the scale and scope of Iran's uranium enrichment. Tehran's redline is recognition of its right to industrial-scale enrichment,<sup>13</sup> because, it argues, it will need to take over the fuelling of its sole nuclear power plant in Bushehr by 2021 when the reactor's fuel supply agreement with Russia expires.<sup>14</sup> The P5+1 – beyond its refusal to recognise such a right lest it prompt proliferation of dual-use technologies<sup>15</sup> – views this demand with suspicion given what it sees as Iran's minimal practical needs in the near future.<sup>16</sup> The P5+1's own redline is curbing the enrichment program for a sufficiently long period (measured in “two digits”, according to a senior U.S. official)<sup>17</sup> that it prolongs Iran's nominal breakout time to one year.<sup>18</sup>

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<sup>11</sup> “A nuclear deal for U.S. and Iran slips away again”, *The New York Times*, 24 November 2014.

<sup>12</sup> Both sides say that after spending long hours with each other, they feel more comfortable and communicate more effectively. Crisis Group interviews, Iranian, U.S. and European officials, Vienna, 18-25 November 2014.

<sup>13</sup> “We did not suffer years of sanctions and isolation to end up with a token enrichment program. The P5+1 should understand that any solution on enrichment should be presentable to our people as a win-win outcome”. Crisis Group interview, senior Iranian official, Vienna, 24 November 2014.

<sup>14</sup> On 12 November, Russia agreed to build up to eight nuclear reactors in Iran. All the new reactors will be fuelled by the supplier during their lifespan, but Russia nevertheless agreed to set up a local facility for the production of zirconium-sheathed fuel rods in Iran. “Russia reaches deal with Iran to construct nuclear plants”, *The New York Times*, 12 November 2014. Iran and the West see the Russian deal very differently. While a European official noted that “the deal undermines the *raison d'être* of Iran's enrichment program – that it needs indigenous capability because it distrusts Russia as a reliable source of fuel”, an Iranian official said, “the clause on joint fuel production ventures has reaffirmed our practical needs for fuelling the Bushehr reactor, which will be done in cooperation with Russia”. Crisis Group interviews, European and Iranian officials, Vienna, 18-25 November 2014. Crisis Group had suggested previously that Russia could simultaneously alleviate Iran's fuel security concerns and defer its practical need for industrial-scale enrichment by providing Tehran with a multi-year fuel supply in an escrow account. See Crisis Group Report, *Solving the Nuclear Rubik's Cube*, op. cit.

<sup>15</sup> The U.S. has a series of bilateral agreements in which it provides nuclear cooperation to countries that refrain from uranium enrichment and reprocessing of spent fuel. The concern is that recognising Iran's enrichment could undermine U.S. efforts to stem the practice in other countries. Kingston Reif, “A necessary evil”, *Bulletin of the Atomic Scientists*, 22 January 2014. A former senior Saudi official recently said, “I think we should insist on having equal rights for everybody, this is part of the NPT”. “Saudi Arabia may go nuclear because of Obama's Iran deal”, *Daily Beast* (online), 14 February 2014.

<sup>16</sup> Crisis Group interviews, EU officials, Brussels, 27 October 2014. A U.S. official said, “per JPOA Iran will assert the right at the end of the agreement like any other member of the NPT in good standing. The concern is that this abstract concept is a Trojan horse for concealing an ambitious ramp up of their nuclear program in the short-term”. Crisis Group interview, Vienna, 24 November 2014. Crisis Group warned in May that “negotiators will not get far, however, by trying to define Iran's practical needs”. See Crisis Group Report, *Solving the Nuclear Rubik's Cube*, op. cit.

<sup>17</sup> “Background Briefing on P5+1 Negotiations”, U.S. State Department, 12 July 2014.

<sup>18</sup> Crisis Group interviews, U.S. and European officials, Vienna, February-November 2014. Crisis Group has cautioned against attempts to delineate an acceptable enrichment program on the basis

Iran rejects breakout time as a relevant calculation and views the P5+1's stringent restrictions as a pretext for forcing it to forego enrichment altogether.<sup>19</sup> Its negotiators appear amenable to creative trade-offs that could lengthen its breakout time, but insist that as confidence increases, its program should evolve without regard for breakout time.<sup>20</sup> The P5+1, for its part, is willing to countenance growth but, in the words of a U.S. official, its view of "how much evolution over how much time" is "light-years" away from what Iran aspires to.<sup>21</sup>

The second pair of redlines concerns sanctions relief. While Iran appears amenable to accepting the suspension – as opposed to the outright lifting – of some sanctions in the early stages of the agreement, it expects any irreversible concessions it makes to be reciprocated with commensurate measures, namely terminating – not just suspending – sanctions.<sup>22</sup> Tehran is also convinced that merely suspending sanctions would not bring economic relief, as foreign investors would hesitate to return so long as the threat of renewed sanctions persists.<sup>23</sup>

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of "theoretical, unpredictable and plastic breakout calculations". See Crisis Group Report, *Solving the Nuclear Rubik's Cube*, op. cit. For other analyses challenging the breakout construct, see James Acton, "Who cares about an Iranian nuclear breakout? Beware of an atomic 'sneak-out'", *National Interest*, 4 November 2014; "A misconception that could scuttle nuclear talks with Iran", Reuters, 24 November 2014.

<sup>19</sup> An Iranian official asked, "why would Iran break out after it has subjected itself to rigorous and unprecedented monitoring?" Crisis Group interview, Vienna, 19 November 2014. Another senior Iranian official said, "the U.S. has two options, either insist on shortening the breakout time based on a promise that the White House has given to Israel, or to bring the breakout closer by scuttling the deal. Instead of focusing on such subjective and artificial criteria they should make sure that for Iran the benefits of staying within the agreement outweighs the costs of breaking out. The solution is to connect the enrichment program to a civilian-purpose with maximum transparency". Crisis Group interview, Vienna, 19 November 2014. Highly sceptical of Iran, Israeli officials believe Tehran would do all it could to erode a one-year breakout limit and that a sneakout, in covert facilities, is as important a risk as breakout. Crisis Group interview, Jerusalem, 30 November 2014.

<sup>20</sup> Crisis Group interviews, Iranian officials, Tehran, Vienna, July–November 2014. One such trade-off for lengthening the breakout time, also recommended by Crisis Group in May, would allow a higher number of operating centrifuges in Iran in return for shipping out its 7-8-tonne stockpile of 5 per cent enriched uranium to Russia. "Resolving key nuclear issue turns on Iran-Russia Deal", Inter Press Service, 28 October 2014.

<sup>21</sup> Crisis Group interviews, U.S. official, Vienna, 18 November 2014; EU officials, Brussels, 27 October 2014.

<sup>22</sup> A senior Iranian official said, "Iran is willing to work with the P5+1 within a short timeframe so that in return for our reversible measures they take reversible action and in return for our irreversible steps they take irreversible steps. We understand that it takes time to implement our respective measures. For example, once we agree to reconfigure the Arak reactor, it will take time before we complete the preparatory work and produce the new equipment. During that time suspension of sanctions is fine. But once we replace the reactor's calandria [vessel containing main internals and coolant], its reversal will take three years. In return for such action that is not easily irreversible we expect termination of some sanctions". Crisis Group interview, Vienna, 25 November 2014.

<sup>23</sup> An Iranian official noted, "the experience of JPOA, during which European companies refrained from returning to Iran and investing even in areas that were exempt from sanctions was a valuable lesson for us. As long as the sanctions architecture is intact so is their chilling effect". Crisis Group interview, senior Iranian official, Tehran, 28 June 2014. "In Iran, nuclear deal brings little economic relief", *The Los Angeles Times*, 7 April 2014.

The P5+1, however, is reluctant to take such decisive measures because sanctions are more difficult to turn on and off than centrifuges.<sup>24</sup> The group argues that once the UN sanctions are terminated, they will prove extremely difficult to reinstate in the event of an Iranian violation, given the divisions in the Security Council. Restoring EU restrictions also could prove thorny because they take their legitimacy from UN sanctions; since their resuscitation would require a consensus decision by all 28 member states, any outlier could block it.<sup>25</sup>

Too, interaction among various U.S., EU and UN sanctions complicates matters, as removing one piece might not be effective without removal of others. For instance, suspending restrictions on insuring Iranian oil shipments would necessitate modifications in both U.S. and EU legislation; even were that accomplished, such a change likely would have minimal practical effect because – assuming elimination of transportation obstacles – Iran could not access the oil revenues as long as financial restrictions remained in place. Likewise, any EU reversal would hinge on parallel steps in Washington to neutralise overlapping secondary sanctions.<sup>26</sup>

As for the U.S., the problem lies not in re-imposing sanctions but in terminating them in the first place. The power to do so is vested in Congress, which is highly sceptical of Iran's intentions and therefore unlikely to comply with a presidential request to rapidly lift sanctions.<sup>27</sup> The incoming Republican-dominated Congress appears both determined to deny Iran substantial upfront sanctions relief and hostile to an unrestrained Iranian nuclear program, even at the back-end of the deal.<sup>28</sup> Given these political obstacles, the P5+1 insists on maintaining its sanctions leverage until Tehran conclusively demonstrates its commitment to a nuclear agreement and confirms the peaceful nature of its nuclear activities by resolving its outstanding issues with the International Atomic Energy Agency (IAEA).

Iran, of course, is loath to surrender its leverage while its counterparts keep theirs.<sup>29</sup> The P5+1 argues, however, that the demand for parallelism misstates the problem;

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<sup>24</sup> Crisis Group interviews, U.S. and European officials, New York, 19-25 September 2014. On the sanctions regime and challenges in dismantling it, see Crisis Group Middle East Report N°138, *Spider Web: The Making and Unmaking of Iran Sanctions*, 25 February 2013.

<sup>25</sup> EU Council Conclusions, which reflect political agreement between member states on imposing or relaxing sanctions, are not legally binding in contradistinction with Council Decisions, which are adopted unanimously. Council Regulations – which are adopted by a qualified majority, though in practice they tend to be unanimous – define the implementation details directly applicable in the EU and are binding for all natural and legal persons in the Union.

<sup>26</sup> Crisis Group Report, *Spider Web*, op. cit.

<sup>27</sup> Crisis Group interviews, U.S. and European officials, London, New York, Vienna, April-November 2014. A U.S. official said, “the reality is that two of the three sanctions (UN and EU) are extremely difficult – if not near impossible – to put back on and the third (U.S.) cannot be terminated in the near future. The irony is that U.S. sanctions that are hardest to terminate are also the easiest to put back on”. Crisis Group interview, Vienna, 24 November 2014.

<sup>28</sup> Forty-three Republican senators wrote a letter to President Obama, saying “we have watched with concern as your administration has hinted at ‘creative solutions’ that abandon the clear requirements of U.N. Security Council Resolutions, and shifted course away from essential requirements Congress has stressed in order to meet Iran’s unreasonable demands”. “Republicans warn Obama not to ‘circumvent’ congress as Iran talks deadline nears”, Buzz Feed (online), 20 November 2014. A senator promised to “kill” a deal he found problematic. “Will Congress kill an Iran nuclear deal?”, CNN, 12 November 2014.

<sup>29</sup> As an Iranian official protested, “the West expects Iran to put all of its cards on the table up-front, while they get to preserve their cards until the end. Accepting such an arrangement, given the level of mistrust, defies logic”. Crisis Group interview, Vienna, 24 November 2014. A conservative com-

given Tehran's indigenous knowledge, the group argues it will not lose its leverage and could reconstitute its program as rapidly as it did after the failure of the talks in 2005. The same, the group says, does not apply to sanctions: remove one brick, they fear, and the entire structure will collapse.<sup>30</sup>

Both sides, armed with improved understanding of the other's positions, should be better positioned to look for solutions. But as their respective bottom lines have come into view, a deeper fault line has appeared: the conceptual one.

### III. The Conceptual Divide

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At the core of the standoff is a conceptual difference over the interpretation of the JPOA's vision of the final agreement. The text reads:

This comprehensive solution would involve a mutually defined enrichment programme with practical limits and transparency measures to ensure the peaceful nature of the programme. This comprehensive solution would involve a reciprocal, step-by-step process, and would produce the comprehensive lifting of all UN Security Council sanctions, as well as multilateral and national sanctions related to Iran's nuclear programme.<sup>31</sup>

Iran understands this passage to imply a steady gradualism, marked by parallel and proportional *quid pro quos*, and expects that, as it undertakes and completes its commitments, the P5+1 will reciprocate by progressively terminating – not simply suspending – sanctions. In the P5+1's view, however, Iran will not terminate any of its activities under any foreseeable nuclear agreement but will slow down, restrain or modify some activities and will eventually expand others, and will therefore not earn a termination of sanctions. A U.S. official said, "if Iran wants termination for termination, we are all for it. But they are not dismantling their nuclear program and so cannot expect immediate dismantling of the sanctions regime".<sup>32</sup> The P5+1 therefore understands the JPOA to imply that sanctions will only be suspended during the period when Iran's program remains constrained and will be terminated only later, once the constraints are loosened.<sup>33</sup> It cannot be any other way, as the group sees it, since sanctions are its most effective leverage.<sup>34</sup>

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mentator wrote, "the Americans have realized that rapid dismantling of Iran's nuclear program is not on the cards. So they have opted for a strategy that would gradually close Iran's facilities and deplete its enriched material stockpile, while keeping the sanctions architecture in place". Mehdi Mohammadi, "چرا تمدید دوباره توافق ژنو به نفع ایران نیست؟" ["Why extending JPOA is not in Iran's interest"], *Vatan-e Emrooz*, 25 October 2014.

<sup>30</sup> Crisis Group interview, U.S. and European officials, Vienna, 19-25 November 2014. For background on the 2003-2005 process, see Crisis Group Middle East Report N°51, *Iran: Is There a Way Out of the Nuclear Impasse?*, 23 February 2006.

<sup>31</sup> "Joint Plan of Action", IAEA, 24 November 2013. [www.iaea.org/Publications/Documents/Infecrs/2013/infecrs856.pdf](http://www.iaea.org/Publications/Documents/Infecrs/2013/infecrs856.pdf).

<sup>32</sup> Crisis Group interview, Vienna, 19 November 2014.

<sup>33</sup> For the P5+1, the fact that the back-end of the agreement – when sanctions and restrictions on enrichment will both be lifted – is tilted in Iran's favour justifies retaining their sanctions leverage at the outset. Crisis Group interviews, U.S. and British officials, Vienna, 19 November 2014.

<sup>34</sup> In the words of a European official: "They take one piece on Arak or Fordow and want to terminate sanctions, but enrichment is still ongoing and Iran is still capable of breaking out". Crisis Group interview, Vienna, 19 November 2014.

Behind these respective interpretations stands a deep mutual mistrust. President Hassan Rouhani is haunted by his experience as a nuclear negotiator (2003-2005). The agreement he signed came to be seen as deeply flawed, since Iran's suspension of enrichment brought neither recognition of its so-called right to enrichment nor promised nuclear, technological, economic and security inducements.<sup>35</sup> Having endured bitter criticism at home as a result, Rouhani will be reluctant to sign an agreement that significantly rolls back Iran's enrichment program but fails to lift the sanctions.<sup>36</sup> His description of the West's tactics at the time has a familiar ring to Iranians today:

[The West's offer] is illogical and crudely self-serving: I do not trust you, even though what you are doing is legal and can be verified to remain legal, but you must trust me when I promise to do that which I have no obligation to do and cannot be enforced. It is this simple and this unfair.<sup>37</sup>

Rouhani's insistence on lifting the UN sanctions is motivated too by the need for a political win that would justify nuclear concessions.<sup>38</sup> The Supreme Leader, Ayatollah Ali Khamenei, with his deep mistrust of the West, appears to agree.<sup>39</sup> U.S. reas-

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<sup>35</sup> Britain, France and Germany (EU-3) had committed to resume talks on a trade and cooperation agreement; actively support negotiations regarding Iran's accession to the World Trade Organisation; invite Iran to join the Expert Group on Multilateral Approaches to the Nuclear Fuel Cycle (an expert group set up at the IAEA to assess options for multilateral approaches to the nuclear fuel cycle); cooperate on security issues; and support Iran's acquisition of a light water research reactor. At the time, the U.S. obstructed these incentives as it sought zero-enrichment. See "Communication concerning the agreement signed in Paris on 15 November 2004", IAEA, INFCIRC/637, 26 November 2004.

<sup>36</sup> Crisis Group interviews, Iranian analysts, Tehran, August 2014. An adviser to the Iranian president said, "as someone who has been left empty handed once, Rouhani cannot afford to accept promises that could turn out to be empty". Crisis Group telephone interview, Tehran, October 2014. Crisis Group had predicted that Rouhani's past experience would lead him to be cautious and more inclined to "offer concessions regarding that program's transparency than its scope". See Crisis Group Middle East Briefing N°36, *Great Expectations: Iran's New President and the Nuclear Talks*, 13 August 2013.

<sup>37</sup> Hassan Rouhani, "Iran's nuclear program: The way out", *Time*, 9 May 2006. One of Rouhani's advisers said, "a deal that chains Iran's enrichment program for a long time, without unchaining the sanctions, will be more of a liability than a victory for Rouhani. A bad deal is what his [domestic] opponents want". Crisis Group interview, Istanbul, September 2014.

<sup>38</sup> A former Iranian official explained: "If Rouhani managed to end Iran's status as a pariah state punished under the UN Chapter Seven sanctions, he would hit two birds with one stone: hamstringing the opposition with an important political victory and undermine the legitimacy of unilateral sanctions". Crisis Group interview, Istanbul, September 2014. An EU official said, "it is impossible to imagine the arms embargo and restrictions on dual-use technology being lifted before the IAEA gives Iran a clean bill of health. That reality in itself defeats Rouhani's purpose of shedding the Chapter Seven label". Crisis Group interview, Brussels, 27 October 2014.

<sup>39</sup> A senior Iranian official noted, "there is no daylight between Foreign Minister Zarif, President Rouhani, and the Supreme Leader. Those who think otherwise fail to understand Iran's decision making process". Crisis Group interview, Vienna, 25 November 2014. Ayatollah Khamenei has not opposed the talks, but has consistently expressed his pessimism about their odds of success. "Iran's Supreme Leader backs further nuclear talks", *The New York Times*, 27 November 2014. In August, he said "these [high-level] contacts [with U.S. officials] not only did not accrue any benefits, rather the American tone became harsher and more insulting, and they expressed more demands in the negotiations ... on the whole it became clear that contrary to the assumptions of some, [talks] do not help with anything". Khamenei.ir, 13 August 2014.



surances about the benefits of suspension so far have not persuaded senior Iranian leaders.<sup>40</sup> President Barack Obama's electoral setback in the November 2014 mid-term elections made sanctions relief seem all the more vulnerable to congressional activism. The unpredictability of the U.S. presidential election reinforces this notion.

Just as Iran has doubts about President Obama's muscle or his successors' will to lift the sanctions decisively, the U.S. fears that the next Supreme Leader would revoke his predecessor's *fatwa* (religious edict) against nuclear weapons; that Rouhani's successor would not honour his commitments; and that the domestic balance of power would shift such that sceptics would gain the upper hand.<sup>41</sup>

These political calculations are at least as important as proliferation or economic issues. Both sides are excessively concerned with the number of centrifuges permitted by a putative agreement. Iran will have no need for its currently operational enrichment capacity in the near future; the West has no reason to fear an Iranian breakout in declared and highly monitored facilities with a limited number of inefficient centrifuges.

The matter of reversibility is only slightly less exaggerated: virtually everything under discussion could be reversed, though doing so would take time. The U.S. Congress can reimpose repealed sanctions or levy new ones; and given the inspections' rigour, sneaking out in a covert facility will carry grave risks, and thus any serious Iranian violation would have to be brazen, the kind of infringement likely to generate the consensus that led to sanctions in the first place. Moreover, a purposeful dash toward nuclear weapons is unlikely to be deterred by sanctions in any case. Too, Iran's nuclear know-how gives it the possibility of resuscitating its program at will. What is really at stake is the degree and speed of reversibility and the perception of it among sceptics in Washington and Tehran.

Crisis Group proposed resolving this issue by phasing the agreement to safeguard both sides' interests, in a way that will enable each to sell the deal at home.<sup>42</sup> Ideally, the phases would be pinned to meeting objective milestones. Obvious candidates are those used by the IAEA – specifically the resolution of outstanding possible military dimension (PMD) questions and the drawing of “broader conclusions” that all nuclear material and activities in Iran are purely civilian.<sup>43</sup> Iran, however, mistrusts the IAEA, which it views as strongly influenced by its adversaries; without the agency offering any clear criteria for determining when its milestones have been met, Tehran believes that it could end up acting as a Western proxy.<sup>44</sup>

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<sup>40</sup> A U.S. official said: “Suspension of sanctions will give Iran real value. It is true that the psychological impact will not be on par with termination, but in the real world, as the suspension takes hold and contracts get signed, the floodgates will open”. Crisis Group telephone interview, Washington, 22 November 2014. It is assumed that President Obama's letter to Ayatollah Khamenei in October sought to reassure the Supreme Leader on this issue. “Obama wrote secret letter to Iran's Khamenei about fighting Islamic State”, *The Wall Street Journal*, 6 November 2014.

<sup>41</sup> Crisis Group interviews, U.S., Iranian officials, Vienna, February-November 2014.

<sup>42</sup> See Crisis Group Report, *Solving the Nuclear Rubik's Cube*, op. cit. and Crisis Group Briefing N°40, *Iran and the P5+1: Getting to “Yes”*, 27 August 2014.

<sup>43</sup> “Broader conclusions” in the agency's jargon means the correctness (ie, non-diversion of nuclear material from declared activities) and completeness (ie, absence of undeclared nuclear activities) of Iran's declarations to the agency. See paragraph 2 of INFCIRC/153 (Corr.) and Article 2 of Iran's Safeguards Agreement.

<sup>44</sup> A senior Iranian official said, “if you ask the IAEA's director general how long it will take to reach the ‘broader conclusions’, he will respond: it depends on the country's cooperation and our findings. In some cases it has taken less than five years and in others more than ten. We cannot accept

Another option is a snapback mechanism that would provide for the rapid reinstatement of sanctions in case of an Iranian violation.<sup>45</sup> But this in turn would create another dilemma: how to determine what constitutes a violation.

#### IV. The Coming Storm

It might seem that with the extension, the status quo will last for at least another seven months, giving the two sides time to put the lessons learned to good use. From the perspective of all the major actors in the talks, the current situation is not perfect, but preferable to its alternative: a breakdown. For the P5+1, key parts of Tehran's nuclear program are frozen and regional tensions with Iran have been contained.<sup>46</sup> For Iran, while the economic benefits of the JPOA have been limited, a modest reprieve is preferable to escalating sanctions. Even the most vociferous sceptic of the talks, Israel, expressed a preference for an extension over a rush for a deficient deal.<sup>47</sup> But the current situation may not be sustainable, as pressures build in Washington and Tehran and the region endures horrific instability and violence.

The most important wildcard is the U.S. Congress.<sup>48</sup> While the White House might be able to prevent the current lame-duck Congress from imposing new sanctions, it will have more difficulty in doing so once the incoming Republican-controlled Senate, which by and large believes Iran will only compromise under pressure, is seated.<sup>49</sup> At a minimum, Congress likely will seek to pass – a probable presidential veto notwithstanding – delayed-trigger sanctions that kick in if no deal is reached by the deadline or Iran fails to honour its commitments.<sup>50</sup> While technically not a violation

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that lifting of some sanctions be contingent on such ambiguous milestones". Crisis Group interview, Vienna, 25 November 2014. Iran believes its recent experience with the IAEA justifies its concerns. While it cooperated with the agency on resolving sixteen out of the eighteen measures agreed under the 2013 Framework for Cooperation Agreement, including experiments related to dual-use exploding-bridge wire detonators, the IAEA did not declare any of the issues closed. Thus Iran refused to respond to the remaining two questions on high explosives experiments and studies on neutron transport before the 25 August deadline; and has not proposed any new measures since. See "Iran still stalling as nuclear deadline looms: U.N. agency", Reuters, 21 November 2014.

<sup>45</sup> In such a scenario, the UN would lift its sanctions one year at time by passing an annual resolution. This approach would eliminate the need for a vote to reimpose them.

<sup>46</sup> Crisis Group interviews, European and U.S. officials, Brussels, Vienna, October-November 2014.

<sup>47</sup> Crisis Group interview, Israeli official, Jerusalem, 22 October 2014. Prime Minister Benjamin Netanyahu said, "The right deal that is needed is to dismantle Iran's capacity to make atomic bombs and only then dismantle the sanctions. Since that's not in the offing, this result is better, a lot better". "Israel greets extension of Iran nuclear talks with relief", *The Washington Post*, 24 November 2014.

<sup>48</sup> Of eighteen statements by U.S. senators since 24 November, ten were against the extension (eight Republicans and two Democrats) and eight (all Democrats) supported it. Senator Mark Kirk, a Republican and advocate of sanctions, said, "the one thing the Iranians didn't have was time, and now they have 219 days". "Race to sign Iran nuclear deal before Republican takeover of Congress", *The Guardian*, 25 November 2014.

<sup>49</sup> As of January, the Democratic leadership will no longer be able to stop a sanctions bill from coming to the floor, while the Republicans would need to win over only twelve Democrats to gain a veto-proof majority in the Senate. "New Iran sanctions supporters seek veto-proof bloc", Associated Press, 4 December 2014.

<sup>50</sup> Crisis Group telephone interviews, former U.S. officials, Washington, 22-27 November 2014. A U.S. expert said, "the chances of Congress passing a delayed-trigger bill is better than 50-50, but the president is likely to veto it. Republicans don't have the votes [67 in the Senate] to override his veto

of the JPOA, such measures probably will prompt a backlash in Tehran, with negative consequences for the diplomatic momentum.<sup>51</sup> Unilateral sanctions by the U.S., especially if seen as unwarranted by its allies and others, could weaken the P5+1's unity and erode enforcement.

Absent such developments, politics in Tehran appear to be less of a problem.<sup>52</sup> A few vocal hardliners notwithstanding,<sup>53</sup> Iran's political elites are more disciplined. While they have had their differences about the desirability or the terms of a deal, and while many of Rouhani's opponents would relish his stumbling, there is a broad consensus in Tehran that should talks fail, Iran's best option would be to ensure that it "deflects the blame",<sup>54</sup> painting the West as the inflexible party.<sup>55</sup> Political leaders of all colours hope that this plan, which as they see it has been facilitated by congressional elections, would help erode the sanctions.<sup>56</sup>

This is not to say that failure will be easy for Tehran. The fall in global oil prices is exerting severe pressure on the government's budget and reversing Rouhani's economic achievements thus far.<sup>57</sup> The government should be able to weather the next seven months, but the cost of maintaining the status quo is likely to increase with time.<sup>58</sup>

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and Democrats are unlikely to take such action against their own party's president during a presidential campaign. But this could change if there is no political agreement by 1 March. The problem with this is that U.S. attention will be diverted to the negotiation with Congress, not with Iran". Crisis Group email correspondence, 30 November 2014.

<sup>51</sup> A former Iranian official said, "delayed-trigger sanctions are the definition of negotiating with a gun to your head". Crisis Group telephone interview, Tehran, 26 November 2014.

<sup>52</sup> Detractors in Iran were hamstrung by the Supreme Leader's support for the extension. "Iran's Supreme Leader backs further nuclear talks", op. cit.

<sup>53</sup> Hardline newspapers such as *Vatan-e Emrooz* and *Keyhan* characterised the extension as "extension of sanctions" and reaffirmation of the talks' futility. "Tehran reacts to Iran nuclear deal", *The Guardian*, 25 November 2014.

<sup>54</sup> A senior Iranian official said, "we might not win the blame-game as it is not a fair world, but things will be very different when the world sees that we genuinely tried but failed because of the other side's intransigence". Crisis Group interview, New York, September 2014. According to a UN official, Zarif informed the UN Secretary-General of his intention to reveal Iran's "reasonable and forward-leaning" proposal to the P5+1 the day after the talks break down. Crisis Group interview, New York, 22 September 2014.

<sup>55</sup> "Khamenei adviser calls for end to criticism of nuclear talks", Radio Free Europe/Radio Liberty, 1 December 2014. Rouhani said, "the nuclear talks are irreversible and we will never go back to status quo ante". Interview with state television, president.ir, 13 October 2014. For a different reason, Ayatollah Khamenei has a similar view: "this experience will enhance our nation's cognitive capabilities. In 2003 to 2004, the Islamic Republic accepted in negotiations with the Europeans to suspend enrichment. Consequently, we lost two years; but it turned out to be beneficial to us. Why? Because even with suspension, there is no hope for cooperation with Western firms ... it became clear that retreat, suspension of enrichment, delaying and shutting down will not resolve the issue, because the other side has ulterior motives". Khamenei.ir, 4 November 2013.

<sup>56</sup> Iran's chief nuclear negotiator said, "I have complete confidence that even if we do not reach an agreement by 24 November and even if the two sides return to their position prior to the Geneva agreement – meaning the restarting of 20 per cent enrichment in Iran, the renewal of sanctions that had been suspended, and their intensification – Iran's situation will not be the same as before. In these years a sanctions regime and a psychological framework were created against us. These two moved in parallel and reinforced each other .... In the past six months the world has seen that Tehran is seriously sitting at the negotiating table and both the IAEA and the U.S. acknowledge that Iran has fulfilled its obligations. Hence, the atmosphere against Iran has changed and the sanctions have seriously cracked". Interview with Abbas Araghchi, *Etemaad*, 9 August 2014.

<sup>57</sup> "Iran says lower oil prices a new tactic to undermine its economy", Reuters, 21 October 2014. Data from the Central Bank of Iran showed that after two years of negative growth, economy expanded

## V. The Way Forward

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The November 2013 Joint Plan of Action was a landmark diplomatic achievement. Its full and successful implementation arrested the escalatory dynamic that had pushed Iran and the West to the verge of confrontation, reduced tensions amid regional tumult and demonstrated the benefits of a negotiated agreement, even a narrow one.<sup>59</sup> An extension of the JPOA was the least bad option, but it was a short-term fix. Without tangible progress, even if the talks survive outside pressure until 1 July, another extension will damage the parties' credibility and drastically diminish their chances of success. Returning to the race of sanctions against centrifuges could kick off an uncontrollable escalation and, ultimately, a military confrontation. Continuing talks while escalating – which some support as a way to increase leverage – will be scarcely less dangerous, since calibrating pressure is an inexact science.<sup>60</sup> Diplomacy is no more exact or predictable, but there is no other path to a lasting resolution.

The parties ought to make an effort to agree on at least the parameters of an accord as soon as possible. The process should be based on several considerations.

Iran and the U.S. should immediately reactivate a quiet diplomatic channel to find a solution that takes into account their respective domestic constraints and core interests. In parallel, the European members of the P5+1 should work to alleviate the concerns of the U.S. Congress, Israel and Arab states by clearly explaining the merits of the agreement and bolstering their security and strategic cooperation.<sup>61</sup>

The initial focus should be on agreeing to the main principles on the basis of which a Comprehensive Joint Plan of Action could be drafted. The political agreement should be completed before negotiators turn their attention to the detailed annexes and implementation plan. This approach is not without risk: a quick political breakthrough could undermine sceptics, but it also could provoke them to try to alter the deal before it gains solid footing. Therefore, the parties should carefully fine-tune their public messaging: positive enough to preserve the momentum but restrained enough to avoid a backlash.

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4.6 per cent in the first quarter of the current Iranian calendar year 1393 (21 March 2014 to 20 March 2015). "Iran economy attains positive growth after two years", Press TV, 25 September 2014. The International Monetary Fund forecasted that Iran's \$400 billion economy will expand 1.5 per cent this year. "Islamic Republic of Iran, Selected Issues Paper," International Monetary Fund – Country Report No. 14/94, April 2014.

<sup>58</sup> A prominent Iranian economist said: "The extension postpones a robust recovery, but 2 per cent growth is achievable with the current sanctions. The Iranian currency might get further devaluated as inflation in Iran outpaces the rest of the world by some 15 per cent and the fall in oil prices will put more pressure on it. But none of these is likely to reach a crisis point". Crisis Group email correspondence, Djavad Salehi Isfahani, Virginia Tech economics professor, 30 November 2014.

<sup>59</sup> Kelsey Davenport, "Implementation of the Joint Plan of Action at a glance", Arms Control Association, December 2014.

<sup>60</sup> A senior Iranian official said, "the previous Iranian government had made pressuring Iran almost cost-free for the West. Is it strategically sound for us to go back to that and allow the U.S. to reduce our oil exports to zero? Or should we go for an even riskier choice and up the ante? Despite its perils, the latter seems our only rational option". Crisis Group interview, Vienna, 19 November 2014. "Netanyahu calls for increased pressure on Iran to abandon nuclear ambitions", Associated Press, 7 December 2014.

<sup>61</sup> Crisis Group interviews, former senior European officials, Brussels, 23 October 2014. "Europeans work Congress on Iran", *Al-Monitor*, 14 November 2014.

The U.S. Congress should refrain from passing new sanctions that could undermine the diplomatic process and erode the P5+1's unity. Instead the Obama administration and Congress could jointly, and privately, work on legislation that could be introduced in case of failure to reach any agreement by the 1 July deadline, not before. Prudence in this regard is imperative. The rigidity of the sanctions regime has encumbered negotiators by denying the ability to readily offer sanctions relief; any future legislation should ensure that such an incentive remain a part of the diplomatic toolbox.

The parties should show greater flexibility in talks while hewing to their core interests and principles. Given domestic constraints, the U.S. will not accept a deal that leaves Iran with a relatively large enrichment capacity and a short nominal breakout time. Iran will not accept a deal that constrains its enrichment program with static, stifling caps. A balanced compromise would have Iran postpone its plans for industrial-scale enrichment by a decade or more in return for fuel guarantees and the P5+1's flexibility on the program's meaningful qualitative and/or quantitative growth in the agreement's later stages.<sup>62</sup> This arrangement ought to be acceptable for Iran, as a few years' delay should be tolerable given the time its nuclear program has taken to reach its current level.<sup>63</sup> Shorter breakout times in the later phases of the agreement should be acceptable to the U.S. and its allies, as Iran's program would grow only in a controlled fashion under rigorous monitoring and after years of confidence building and cooperation with the IAEA.<sup>64</sup>

Iran and the P5+1 should agree on a roadmap, consisting of three phases for lifting sanctions, each of specific duration. The length of each phase should be determined by the average amount of time, globally, that the IAEA needs to resolve two key issues: PMD issues (which could require two-three years) and drawing broader conclusions (five-seven years).<sup>65</sup> Regular benchmarks would incentivise all sides to make good progress toward meeting their obligations or see the agreement collapse and the crisis reignited. Most importantly, Iran could bank on regular and predictable sanctions relief, assuming it meets its commitments. Clearly defined milestones would discourage open-ended IAEA investigations, which Iran fears; they would also assure the P5+1 of regular and verifiable progress. Criticism that such a schedule would unduly constrain the IAEA's independence could be mitigated, though not alleviated, if the target durations are determined in consultation with the agency.

As previously suggested by Crisis Group, in the first phase of the agreement – as Iran rolls back and restricts some of its nuclear activities and makes others more resistant to proliferation – most nuclear-related sanctions would be suspended, not lifted. The target duration of the suspension would help companies schedule their investments. The second phase should include lifting some sanctions; the remainder

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<sup>62</sup> For concrete proposals on how to reach this goal, see Crisis Group Report, *Solving the Nuclear Rubik's Cube*, and Briefing, *Getting to "Yes"*, both op. cit.

<sup>63</sup> Nasser Hadian, a political science professor at Tehran University, said, "if the price is right in terms of sanctions relief and other elements, an extra five or ten years should not matter for a country that has several millennia of history". Crisis Group telephone interview, Tehran, 3 December 2014.

<sup>64</sup> Iran has had a theoretical breakout capacity of less than six months during the entire duration of the Obama administration, with less rigorous monitoring than would be the case under a putative agreement. Crisis Group had proposed that all the key nodes in centrifuge production be monitored in order to guard against a rapid breakout and/or sneakout. See Crisis Group Report, *Getting to "Yes"*, op. cit.

<sup>65</sup> The estimates are from IAEA officials. Crisis Group interviews, Vienna, April 2014.

should be terminated by the end of the final phase (five-ten years after the completion of the second phase), the duration of which would correspond to the time needed to construct a new light water power plant and develop cutting-edge fuel manufacturing technology through civilian nuclear cooperation between the parties.<sup>66</sup> Given the stringent monitoring mechanisms, any violation would be promptly detected and warrant an immediate and resolute response.

Upon the signing of the Comprehensive Joint Plan of Action, the Security Council should pass a binding resolution endorsing it. The resolution, beyond helping to rehabilitate Iran's international status, would provide for some UN sanctions to be relaxed in the agreement's first phase and for others to be suspended or terminated in the later stages.<sup>67</sup> If the sanctions are to be suspended or lifted on a rolling basis, either the IAEA or an independent committee, as previously suggested by Crisis Group, should determine if Iran has fulfilled its commitments.<sup>68</sup>

To secure and sustain a potential agreement, both sides should clearly explain to their publics and allies the agreement's merits, especially in comparison with the alternatives. All parties will need to beware, in selling the agreement at home, not to encourage the other side's hardliners by proclaiming absolute victory and disparaging their rivals. Public relations experts on both sides could coordinate messaging or at least should calibrate their own messages to the other's sensitivities.

The two sides have done well to get this far, but both must summon more flexibility to reach a final accord. There is no reason to be pollyannaish, but neither is there any reason to write off the talks when the parties have just had their most fruitful exchanges. With patience, persistence, creativity and sufficient will, an agreement is within reach.

**Istanbul/Vienna/Brussels, 10 December 2014**

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<sup>66</sup> The director of Iran's Atomic Energy Organisation said constructing the 360 megawatt power reactor Iran plans at Darkhovin could "take ten to fifteen years, if all goes well". See "صالحی خبر داد" [Salehi announced: Installation of 1,000 second generation centrifuges"], Iranian Students News Agency, 29 December 2013.

<sup>67</sup> As Crisis Group previously recommended, "The Security Council should concurrently delist Iranian official organisations involved in the nuclear program (eg, the Atomic Energy Organisation of Iran) as well as the blacklisted Iranian banks. The IAEA's determination that Iran has no undeclared nuclear material and activities and those that it has declared are geared exclusively toward civilian use ought to satisfy the Council's requirement of establishing 'international confidence in the exclusively peaceful nature of Iran's nuclear program' – even as Iran continues to enrich".

<sup>68</sup> See Crisis Group Report, *Solving the Nuclear Rubik's Cube*, op. cit., p. 32. Iran's implementation of the JPOA was monitored and reported on by the IAEA. For the latest report, see "Status of Iran's Nuclear Program in relation to the Joint Plan of Action", report by director general, GOV/INF/2014/26, 24 November 2014.