



COMMENTARY

US-EU-Iran: EU reaches its level of mission in compliance with the EU funding treaties. Next step?

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An increasingly complex diplomatic equation

On May 8, 2019, a year to the day after the US unilateral withdrawal from the Agreement, Iran took a new step by suspending two of its major commitments to the Joint Comprehensive Plan of Action (JCPOA). The Director of the Iranian National Atomic Energy Organization, M. Ali Akbar Salehi, declared:

“We will no longer be obliged to comply with the 300-kilogram limit for the production of uranium enriched up to a level of 3.67-percent purity as well as the 130-tonne limit for the production of heavy water. We will no longer have any obligation to comply with those production ceilings. That was the president’s message today. He meant we will not be obliged to abide by these production ceilings for a period of 60 days.”¹

Iran issued a 60-day ultimatum to the Europeans, China, and Russia. Teheran called them to compensate for the Iranian economic loss incurred in the oil and banking sectors under US sanctions. After this time limit, Iran will reserve the right to suspend further commitments under the Agreement, such as the reconstruction of the Arak nuclear power plant. “After 60 days, we will make a decision on whether we press ahead with our own plans for Arak that we had already put in place before the JCPOA agreement was reached to complete the reconstruction of Arak,” President Hassan Rohani declared².

The maneuver was delicate and increasingly complexified the diplomatic equation of the Iranian nuclear issue. The choice of the anniversary date and the ultimatum recalled and mirrored Washington’s actions in May 2018. Nevertheless, Iran did not withdraw but exerted a more nuanced and progressive pressure on the international community to protect its domestic economic interests and its security priority.

The Iranian decision came after twelve months of increased economic pressure from Washington. As of May 2018, the US withdrawal caused economic instability for global investors. The 2015 Agreement proposed lifting of international sanctions and a resumption of trade with Iran, in exchange for the control and regulation of the Iranian nuclear program. The United States reversed the trend. This decision was made under the conviction of the US Administration to see Iran again becoming a major player in setting oil and gas prices, rebuilding economic strength through the JCPOA.

In August and November 2018, Washington adopted two waves of extraterritorial and secondary economic sanctions. These measures aimed at suffocating Iran’s civil aviation, automotive, purchase of US dollar, trade in precious metals, banking, and oil sectors. The American restrictive measures are still technically and legally preventing large groups as well as small and medium-sized global and European enterprises from resettling in Iran.

¹ <https://ifpnews.com/exclusive/iran-can-snap-back-to-20-uranium-enrichment-in-4-days/>

² https://youtu.be/J_V167K8RAA

The two anniversaries dates of May 8, 2018, and 2019, each brought more escalations of tensions around the Iranian nuclear issue. Henceforth, the European Union faces a diplomatic equation ever more complex, delicate, and challenging to manage. Since May 2018, Washington confronted the EU with the extraterritoriality of American sanctions, a problem of a purely economic and legal. US economic pressure on Iran and the Iranian suspension of its commitments under the Agreement led to an extension of the challenge including now a military escalation of Iranian-American tensions.

Washington deployed the USS Abraham Lincoln aircraft carrier on May 5, 2019³, and B-52 Stratofortress long-range strategic subsonic bomber aircraft on May 7⁴. On May 11, Washington reinforced its action with the dispatch of a warship armed with a Patriot missile battery, USS Arlington, in the Arabian Gulf⁵. President Donald Trump also deployed two thousand American soldiers in the Gulf on May 25⁶ and June 18, 2019⁷.

On May 13, the High Representative of the European Union, Federica Mogherini, declared: “We are living in a crucial, delicate moment where the most relevant and responsible attitude to take is that of maximum restraint and avoiding any escalation on a military side.”⁸ The European Union faces a skein with security, geopolitical, economic, and diplomatic implications.

From a security point of view, the European Union firmly intends to preserve the Agreement. The JCPOA is an essential wheelwork in the maintenance of the international nuclear non-proliferation regime established in 1968. The economic and geopolitical standoff between the United States and Iran put at risk the safeguarding of the Agreement. It contributes to the establishment of a regional and geopolitical situation with unpredictable changes, oscillating between military threat, suspicion, accusations, and provocations.

However, the Gulf States do not want any shift towards an armed conflict with Iran. Secretary of State for Foreign Affairs in the United Arab Emirates, Anwar Gargash, declared: “The UAE is working hard to de-escalate the situation. The region cannot afford a war.”⁹ Saudi Arabia offers a more hesitant position. “On the one hand, the Council of Ministers chaired by King Salman [...] called for a ‘decisive response’ to threats to oil supplies. On the other hand, Crown Prince Mohammed Ben Salman, who is very close to the White House, says he ‘does not want war,’ while explicitly accusing Iran of being behind the attacks.”¹⁰

The two tanker attacks in the Strait of Hormuz, blamed on Iran by the United States despite the lack of proven findings continue to escalate the pressure. On June 21, an American drone RQ-4 was

³ <https://navaltoday.com/2019/05/10/uss-abraham-lincoln-arrives-in-middle-east-after-suez-canal-transit/>

⁴ <https://fr.sputniknews.com/defense/201905091041043889-les-usa-deploient-des-bombardiers-nucleaires-dans-le-golfe-face-a-iran-images/>

⁵ <http://www.leparisien.fr/international/les-etats-unis-envoient-un-autre-navire-de-guerre-au-large-de-l-iran-11-05-2019-8069841.php>

⁶ <https://time.com/5595850/trump-iran-troops/>

⁷ <https://www.ft.com/content/7a100e72-9150-11e9-b7ea-60e35ef678d2>

⁸ https://eeas.europa.eu/headquarters/headquarters-homepage/62266/iran-maximum-restraint-and-avoiding-any-escalation-military-side-mogherini-says_en

⁹ <http://www.lefigaro.fr/international/moyen-orient-le-front-anti-iran-se-lezarde-20190618>

¹⁰ *Ibid.*

destroyed by “a SAM HQ-2 solitary missile from Bandar Abbas in southern Iran.”¹¹ This recent escalation was on edge to switch to an early conflict between the United States and Iran. Trump called off at the last minute a military strike against Iran on June 27 to reply. Against a backdrop of regional instability, Iran moves away from the promise of restoring its economy.

From an economic point of view, the European Union intends to protect its interests and opportunities in both the United States and Iran. “Only 16 months after the historic nuclear deal was signed in January 2016, trade between the EU and Iran has risen by 79%, exports from Iran to the EU have increased by 450%”¹². The EU has been obliged, on the one hand, to play the neutral role of coordinator of the commission in charge of the implementation of the Agreement. On the other hand, in its quality of High Representative, the EU protects the general interest of the EU in its economic relations with Iran.

From a diplomatic point of view, Brussels faces a dilemma vis-à-vis the United States. The volume of significant bilateral Euro-American economic exchanges calls on the EU to maintain relations with Washington. Indeed, the European Commission reveals that European imports from the United States reach a total of €267,626 million. It makes the United States the second largest economic partner of the European Union for the year 2018¹³.

European exports to the United States amount to €406,510 million, placing the United States in the rank of the leading economic partner, also for the year 2018¹⁴.

On the other hand, the American maneuvers against the Agreement lead the EU to stand out from the White House. The EU wishes to resist the American legal operation establishing a commercial handhold on the economic opportunities of the European companies in Iran. How can one interpret the EU’s response to both the United States and Iran and the position it adopts?

The central role of the European Union since 2003

It is useful to establish a historical reminder of the process to understand the central role of Europeans in negotiating and then implementing sanctions in New York. In August 2002, Alireza Jafarzadeh, spokesman for the Iranian National Council of Resistance in Washington revealed the existence of two Iranian nuclear sites undeclared to International Atomic Energy Agency. In December 2002, satellite photos of the Natanz and Arak nuclear facilities confirmed these statements. In parallel with the development of the Iranian question, the Americans invaded Iraq, in March 2003. The US carried out their military operation without the UNSC’s approval, causing a deep division of the international community as well as within the European Union.

In the aftermath of the divergent views of the EU states on the Iraq issue and the opening of the Iranian question, the Europeans saw the opportunity to demonstrate their ability to speak with one voice. They seized an international crisis to participate in the resolution process. After the G8 in June

¹¹ <http://www.lefigaro.fr/international/golfe-l-iran-a-abattu-un-drone-militaire-americain-20190620>

¹² <https://ec.europa.eu/energy/en/news/commissioner-arias-cañete-iran-first-ever-iran-eu-business-forum-sustainable-energy>

¹³ https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_usa_en.pdf

¹⁴ *Ibid.*

2003, Paris welcomed the preparation of a proposal to dismantle the most problematic aspects of the Iranian nuclear program. The initial idea is that it is the main states of the “Refusal Front” to the US invasion of Iraq that make this approach to Iran, namely France and Germany joined, against all expectations, by the British.

Starting from an *ad hoc* intergovernmental initiative developed outside the Council of the European Union, Germany, France, and the United Kingdom (E3) strengthened the Union on the international stage. These three Member States, aware of the difficulties of consensus in the Council, preceded the negotiation process by having it surrendered by the High Representative of the Union. The latter subsequently informed the Union’s institutions and contributed to the consensus. Also, the European Union offered a platform for cooperation, increasing the political power of each State by taking advantage of the Union’s economic weight on the international scene.

In August 2003, the E3 entered into negotiations with their Iranian counterpart Kamal Kharrazi. The pressure exerted by the E3 both directly and relayed by the international community in Vienna convinced the Iranians to agree to enter quickly into the discussion. They did so with even greater interest since two of their interlocutors were nuclear powers and permanent members of the Security Council (UNSC). These discussions led to Tehran’s declaration of October 21, 2003. The E3 gradually softened the negotiations by the High Representative of the Union. The E3 thus made it a habit to inform the Member States of the state of their discussions regularly, at *ad hoc* meetings in Vienna, Brussels and in European capitals at the level of political directors, and during Foreign Affairs Councils monthly at ministerial level.

The beginning of 2005, corresponding to President Bush’s second term, saw an inflection of US policy on the issue. Paradoxically, at a time when Europeans showed unity, the High Representative gradually took the lead in the negotiations, and the US joined the European positions, the Iranians lacked. In the spring of 2005, Iran’s chief negotiator, Hassan Rouhani, faced a fierce protest from conservative circles in Tehran accusing him of selling off Iranian interests in the Paris Agreement. From August 2005, Iran rejected all European offers.

After trying to spare Iranian interests with an exclusively European-led incentive policy, from 2003 to 2006, the policy became coercive between 2006 and 2015 when the Europeans join the other three permanent members of the Council of Europe. Security and the Nuclear States for sufficient political and economic pressure on Iran so that leaders agreed to negotiate again. To halt the recovery of uranium enrichment and reprocessing activities in Iran, France, the United Kingdom, United States, China, Russia, and Germany (P5+1) adopted international sanctions.

P5+1 aimed at thwarting Iran’s access to “the articles, materials, equipment, goods, and technologies” required by its nuclear activities. Between 2006 and 2010, the Council adopted more than ten measures without any of the five permanent states vetoing it. Between July 2010 and October 2012, the Council of the European Union adopts six decisions that reinforce the UNSC resolutions and target the Iranian hydrocarbon sectors, whose revenues finance Iran’s nuclear activities. The United States and the European Union are working together to drain Iran’s financial resources from the

energy sector. The UNSC could not adopt these harder sanctions to avoid potential vetoes opposed by China and Russia.

From 2006 to 2009, from 2010 to 2012 and from 2013 to 2015, the European Union's role as a political referent strengthened and then diminished. Nevertheless, the EU never lost the hand for the benefit of its diplomatic P5+1 partners or of Brazil and Turkey. Sao Paulo and Istanbul competed with the diplomatic action of the P5+1. From 2009 to 2012, the P5+1 remained united in its global action vis-à-vis Iran even when the US and Russia proposed as a single rider an offer of an agreement to Iran. Washington and Moscow wanted to benefit from a diplomatic success with Iran and thus tried to exploit for their benefit the Iranian nuclear issue. Hence, it weakened the European Union's role as referent before to regain it when talks resumed in Almaty in 2013.

The EU offers a symbolic turning point in the history of its diplomatic behaviour

From 2003 to 2019, the European diplomatic perseverance demonstrated Brussels' ability to adapt to the Iranian issue as well as its willingness to compromise and reconcile. On the other hand, the current European soft power offers a change of behaviour vis-a-vis the opposition between the United States, determined to break the Agreement, and Iran, which intends to put pressure on the Agreement for its economic interests. Currently caught between the two states, Brussels now offers a symbolic turning point in the history of its behaviour, both vis-à-vis Washington and Tehran.

The withdrawal of Donald Trump from the Agreement is not without writing the first lines of a new chapter in the history of Euro-American relations. The updating of the blocking law to support the Iranian nuclear deal by the European Commission, on August 6, 2018, the adoption of a Common Investment Fund or Special Purpose Vehicle (SPV) by a council of EU ministers on September 24, 2018, and the creation of Instrument in Support of Trade Exchanges (INSTEX) in January 2019, mark a turning point in transatlantic cooperation. It is an unprecedented European diplomatic refusal to submit to Washington's decisions directed against an agreement that the EU considers crucial to protect to preserve the 1968 Nuclear Non-Proliferation Treaty.

A turning point in bilateral relations is the close collaboration that has so far been with the United States and the EU, in the context of a coordinated adoption of sanctions against Iran. The EU is now taking the legal steps to stand out from Washington. INSTEX is the most sophisticated instrument the EU has developed to circumvent the use of the dollar but not the US sanctions.

The EU stands out from Washington to preserve the Nuclear Agreement, revealing the existence of a fundamental movement in European political thought. The willingness to finance the premises of a potential European defense designed to stand out from NATO, confirms this fundamental movement. The European Union tries to put in place sophisticated non-coercive defense instruments. Nevertheless, the European legal productions did not demonstrate a short-term implementation capacity yet with any guarantee of effectiveness. The European bureaucratic apparatus is racing against the clock facing Washington's rapid political and military decisions.

While the European Union accustomed the international community to conciliation without opposing a clear refusal to any of the other actors, Brussels also sent a strong message to Iran. The European Union rejected the ultimatum issued by Tehran on May 8, 2019. On May 9, Federica Mogherini declared:

We strongly urge Iran to continue to implement its commitments under the JCPoA in full as it has done until now and to refrain from any escalatory steps. We reject any ultimatums and we will assess Iran's compliance on the basis of Iran's performance regarding its nuclear-related commitments under the JCPoA and the NPT (Treaty on the Non-Proliferation of Nuclear Weapons)¹⁵.

The European Union is trying to find a diplomatic channel to strengthen the respect of the Agreement. The JCPOA is as much the diplomatic flagship of the EU's foreign policy as the salvation of the European economic opening in Iran. Like Washington, Brussels wants the issue of Iranian ballistic missiles to be regulated to avoid any security flaw allowing Iran to develop a nuclear weapon. The EU is trying to strengthen Western positions vis-à-vis Iran. However, Brussels does not have the means and the coercive levers since the founding treaties of the EU do not give it. Given the evolution of the Iranian economy, of which the EU has been the guarantor until now, the EU is reaching the limits that the treaties are deferring. On the other hand, each Member State of the European Union goes there of its coercive means like France, which offers its nuclear umbrella to the UAE.

The European Union has only limited room for manoeuvre and limited means of action, showing a shift in the role it has played since 2003 vis-à-vis Iran. In the case of Iran, the EU is no longer acting as a single player but as a receptacle for the expertise of two nuclear nations and Germany. The P5+1 (without the United States) reappears, and the EU is fading as from 2009 to 2012. After a rise that could continue and expand to other issues, European Union reaches the limits of the possibilities offered by the Treaties: a state of play that can only change with the amendment of the European Union treaties.

¹⁵ https://ec.europa.eu/headquarters/headquarters-homepage/62093/joint-statement-high-representative-european-union-and-foreign-ministers-france-germany-and_en

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