

Iran Nuclear Deal: The Fine Print

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Summary

The November 24, 2013 Joint Plan of Action between Iran and its P5+1 interlocutors is the first agreement since November 2004 that contains Iran's acceptance of certain short-term limitations on its nuclear programme. Some of these steps build on measures Iran was already doing in the aftermath of Rouhani taking over as President. These include the 'slow pace' of construction at Arak and insignificant additions to its enrichment infrastructure. While the US/EU sanctions on sale and transport of Iranian oil and gas continue to remain in place, the extent of sanctions relief that could accrue to Iran as a result of its commitments is not apparent. The greater challenge is to agree on a 'long-term comprehensive solution', which both sides intend to negotiate within a year of the implementation of the current agreement.

Iran and the P5+1 (or the E3+3) reached an agreement on November 24, 2013 on a 'joint plan of action [JPOA] which sets out an approach towards reaching a long-term comprehensive solution', to be achieved within a year of the implementation of the current agreement. As part of the JPOA, both sides have committed to an agenda on the 'first step in initial reciprocal measures' to be undertaken over a period of six months. The 'first-step' agreement is 'renewable by mutual consent' indicating that there is scope for an extension of the time frame within which elements involved in this agreement could be accomplished.¹

The White House Fact Sheet on November 23 explaining the agreement however explicitly affirms that 'this first step expires in six months, and does not represent an acceptable end state to the United States or our P5+1 partners'.² The Iranian Foreign Ministry has charged that the Fact Sheet was a 'one-sided interpretation of the agreed text at Geneva'. The White House has subsequently uploaded the JPOA as the 'P5+1 Agreement' alongside the Fact Sheet. EU Foreign Policy Chief Catherine Ashton and Iranian Foreign Minister Javed Zarif in their joint statement note that 'the work on the implementation of this first step will begin shortly'.³ A Joint Commission of E3/EU+3 and Iran is to be established to monitor the implementation of the agreement, as well as 'work with the IAEA to facilitate resolution of past and present issues of concern'.

A. Elements of the Deal

Iran's Commitments

Iran has committed to implement over the course of the agreement the following: dilute half of its currently available stockpile of 20 per cent enriched UF₆ (196 kgs according to the November 14, 2013 IAEA report) to 'no more than 5 per cent' while the remaining half would be retained as stock for fabrication of fuel for the 5MW Tehran Research Reactor (TRR); not enrich uranium above 5 per cent for the duration of the six months; 'not make further advances of its activities at the Natanz Fuel Enrichment Plant (FEP), Fordow or the Arak reactor'; convert to UO₂ newly enriched UF₆ up to 5 per cent, 'beginning when the line for conversion of UF₆ enriched up to 5 per cent to UO₂ is ready'; no new locations for enrichment; no reprocessing or construction of facility capable of reprocessing; Iran to continue its safeguarded R&D activities; and enhanced monitoring of its nuclear activities.

¹ See 'Joint Plan of Action', November 24, 2013, at http://eeas.europa.eu/statements/docs/2013/131124_03_en.pdf (accessed November 25, 2013).

² The White House, 'Fact Sheet: First Step Understandings Regarding the Islamic Republic of Iran's Nuclear Program', November 23, 2013, at <http://www.whitehouse.gov/the-press-office/2013/11/23/fact-sheet-first-step-understandings-regarding-islamic-republic-iran-s-n> (accessed November 25, 2013).

³ The Joint Statement is available at http://eeas.europa.eu/statements/docs/2013/131124_02_en.pdf (accessed on November 25, 2013).

As part of the latter, it has committed to provide information on its nuclear plans to the IAEA 'within three months of the adoption of these measures', submit an updated Design Information Questionnaire (DIQ) for the Arak reactor, daily inspector access at Natanz and Fordow for the 'purpose of access to offline surveillance records, and 'managed access' to centrifuge assembly workshops and storage facilities.

P5+1 Commitments

In return for Iran's actions, the P5+1 have agreed to 'pause efforts to further reduce Iran's crude oil sales, enabling Iran's customers to purchase their current average amounts of crude oil'; enable the repatriation of an agreed amount of revenue held abroad; suspend EU and US sanctions on Iran's petro-chemical exports and on gold and precious metals; suspend US sanctions on Iran's auto industry; spare parts for civil aviation; no new nuclear related UNSC/EU/US sanctions; 'establish a financial channel to facilitate humanitarian trade for Iran's domestic needs using Iranian oil revenues held abroad'; and 'increase the EU authorisation thresholds for transactions for non-sanctioned trade to an agreed amount'.

Comprehensive Solution

Both sides envisage a 'comprehensive solution' to involve the lifting of all UNSC, multi-lateral, and national nuclear-related sanctions, 'involve a mutually-defined enrichment programme with mutually agreed parameters consistent with practical needs, with agreed limits on scope and level of enrichment activities'; implement transparency measures including ratify and implement the IAEA Additional Protocol; and keeps open the prospect of international civil nuclear cooperation, including providing modern light water reactors.

The JPOA affirms that following the successful implementation of this 'comprehensive solution for its full duration, the Iranian nuclear programme will be treated in the same manner as that of any non-nuclear weapon state party to the NPT'.

Key Negotiating Principle

The phrase 'nothing is agreed until everything is agreed to' is included in the JPOA and emphasized in Obama's statement in the aftermath of the deal as well as by Secretary of State John Kerry (in response to statements by President Rouhani and Minister Zarif that the agreement 'explicitly' affirms Iran's enrichment rights) to drive home the point that no single element can be viewed in isolation and that further progress on the more essential 'comprehensive solution' is contingent on the implementation of commitments on the varied elements agreed upon in this agreement to mutual satisfaction.

B. On Balance

Enrichment Activities

How much of the commitments that either side have undertaken are an improvement over their respective positions prior to the agreement. Prior to the second round of talks at Geneva

that began on November 7, Iranian leaders were insisting that the two 'red lines' for them included no stopping of uranium enrichment and no transfer of enriched uranium outside the country. UNSC resolutions also require Iran to stop its enrichment activities. Iran agreeing to halt enrichment above 5 per cent and dilute its current stock of 20 per cent enriched UF₆ is therefore a significant half way compromise.

Both sides therefore have claimed success with their negotiating positions given that the preamble to the JPOA states that a final 'comprehensive solution' would 'involve a mutually defined enrichment programme with practical limits and transparency measures ...' In effect, the promise of an enrichment programme is kept open for Iran, with the caveats implied. Iranian Foreign Minister Zarif for instance asserted that Iran's enrichment programme has been recognised 'in the first step ... and in the final step as well'.⁴ President Rouhani affirmed that Iran's enrichment right has been recognised 'explicitly'.⁵ In the aftermath of these statements, Secretary Kerry however asserted that 'there is no inherent right to enrich' and that the Iranians 'could only do that by mutual agreement, and nothing is agreed on until everything is agreed on'.⁶

Iran's commitments on not adding to its enrichment infrastructure during the course of the next six months to some extent gel into what it has already been doing in recent past. The November 14 IAEA report for instance indicated that only four additional IR-1 centrifuges (for a total of 15,420) have been installed at Natanz FEP since August (as against 1800 new such centrifuges installed during the previous three month period), while no additional IR-2M centrifuges (existing number total 1008) have been installed at the FEP. No additional centrifuges have also been installed at the Fordow Fuel Enrichment Plant (FFEP), where 2710 IR-1 machines exist.⁷

While the White House Fact Sheet affirms that 'roughly half of centrifuges at Natanz and three-quarters of the installed centrifuges at Fordow' will be 'inoperable' during the six months, the JPOA states that 'Iran will not feed UF₆ into the centrifuges installed but not enriching uranium, not install additional centrifuges' at Natanz FEP, not increase enrichment capacity at Fordow and not feed UF₆ into the non-operative 12 cascades at Fordow. These steps are meant to ease concerns over the growth of Iran's stockpile of

⁴ 'FM: Iran to Continue Nuclear Activities', November 24, 2013, at <http://english.farsnews.com/newstext.aspx?nn=13920903000343> (accessed November 25, 2013).

⁵ 'President in a press conference: Iranian Nation displays threat will not work', November 24, 2013, at <http://www.president.ir/en/72913> (accessed November 25, 2013).

⁶ Aaron Blake, 'Kerry on Iran: We do not recognize a right to enrich', November 24, 2013, http://www.washingtonpost.com/blogs/post-politics/wp/2013/11/24/kerry-on-iran-we-do-not-recognize-a-right-to-enrich/?wpisrc=nl_cuzheads

⁷ The report is available at http://isis-online.org/uploads/isis-reports/documents/IAEA_Iran_Safeguards_Report_14Nov2013.pdf (accessed November 18, 2013).

enriched uranium, given that nearly 16800 centrifuges have been installed at FEP and at the Pilot FEP (PFEP) at Natanz and 2710 centrifuges have been installed at FFEP, for a total of over 19500 centrifuges. The JPOA does not mention the PFEP, where out of six cascades, two were involved in enriching uranium to 20 per cent (1 and 6) while the other four were being used for R&D purposes.⁸

The November 2013 IAEA report indicated that as of November 9, 2013, there were 90 fully installed IR-1 cascades and 36 IR-1 cascades on which preparatory installation work had been completed at Natanz FEP. However, only 52 of the fully installed IR-1 cascades were being fed with UF₆. Further, six cascades of IR-2M centrifuges were fully installed while preparatory installation work for 12 other IR-2M cascades had been completed. At PFEP, two cascades of IR-1 centrifuges (328 machines) were being fed with UF₆. In effect, out of 146 IR-1 and IR-2M cascades installed at Natanz, only 54 cascades were being fed with UF₆. At Fordow as on November 2, only 4 cascades were being fed with UF₆ while the remaining 12 were not operating.

	Enrichment Capabilities			Enrichment Activities	
	No. of Cascades Installed		No. of Centrifuges Installed	5 per cent UF ₆	20 per cent UF ₆
	Operating	Not Operating			
November 14 IAEA report	58 (FEP: 52; PFEP: 2; FFEP: 4)	104 (FEP: 92; FFEP:12)	19837 (FEP: 15420 IR-1; 1008 IR-2M); (PFEP: 699 IR-1, -2M, -4, -5, -6); (FFEP: 2710 IR-1)	10,357 kgs, of which 7154.3 kgs remain, rest processed	410.4 kgs, of which 196 kgs remain, rest processed
In Next Six Months	58 cascades can enrich uranium to 5 per cent; to be converted to UO ₂	Continue to be non-operative	No addition	No enrichment above 5 per cent; Convert newly enriched UF ₆ to UO ₂	Dilute half to no more than 5 per cent; other half to be retained as 'working stock of 20 per cent oxide for fabrication of fuel for TRR' No more enrichment to 20 per cent

⁸ At the Natanz PFEP, there are 371 centrifuges of IR-1, -2m, -4, -5, -6 in the R&D area. The interim agreement has no restriction on 'safeguarded R&D practices, including its current enrichment R&D practices, which are not designed for accumulation of enriched uranium'.

Iran therefore has agreed not to feed UF_6 into the non-operative 92 cascades at Natanz and the 12 at Fordow during the six months that the agreement is in force while it will only enrich up to 5 per cent at the already operative 54 cascades at Natanz and 4 at Fordow. The amount of newly enriched uranium will be converted into uranium oxide at the Enriched Uranium Oxide Powder Plant (EUPP) at Esfahan. This is of course contingent upon the plant's commissioning. Iran informed the IAEA on November 4 that the facility would commence operation on December 7. Earlier in August, it had informed the IAEA that the plant would be commissioned at the end of September.⁹ It is not clear however whether the half of Iran's current stockpile of 20 per cent enriched UF_6 that would be diluted to 'no more than 5 per cent' would also be converted into uranium oxide.

The November 2013 IAEA report also showed that Iran has neither substantially increased its current enrichment rates nor taken steps to decrease it, given that its inventory of enriched uranium has grown at a comparable pace to previous reporting periods. Iran's stockpile of available 5 per cent enriched UF_6 for instance saw an increase of 380 kgs to reach 7154 kgs in November 2013, while the comparative figure in August 2013 stood at 6774 kgs (an addition of 417 kgs since May 2013).

Iran's total stockpile of 20 per cent enriched uranium as indicated in the November 2013 report stood at 410 kgs, an increase of about 38 kgs since the August 2013 report, wherein Iran's stockpile stood at 372 kgs. This in itself was an addition of 48 kgs since May 2013, when the figure was 324 kgs (which in turn was an increase of 44 kgs since February 2013). The November 2013 report further indicates that Iran had converted 213 kgs out of the total quantity of 410 kgs to uranium metal (yellowcake), thus effectively having in its possession 196 kgs (an addition of 10 kgs from the previous report).

Since November 2012, Iran seems to have apparently taken care not to go beyond 200 kgs in the amount of unprocessed 20 per cent enriched UF_6 in its inventory. Most reports speculate that this was being done deliberately to address Israeli concerns as expressed by Prime Minister Netanyahu at the UNGA in September 2012 on the growing quantities of 20 per cent enriched uranium in the Iranian stockpile.

By placing curbs on Iran enriching beyond 5 per cent and diluting the quantity and quality of its current stockpile of UF_6 enriched to 20 per cent, the Geneva agreement therefore further substantially addresses concerns about Iran's extant stockpiles. The contention of

⁹ See GOV/2013/40, August 28, 2013, at <http://www.iaea.org/Publications/Documents/Board/2013/gov2013-40.pdf>, p. 10 (accessed November 27, 2013).

¹⁰ David Simpson and Josh Levs, 'Israeli PM Netanyahu: Iran nuclear deal "historic mistake"', CNN, November 24, 2013, at http://edition.cnn.com/2013/11/24/world/meast/iran-israel/index.html?iid=article_sidebar (accessed November 25, 2013).

the Netanyahu government however is that in the 'historic mistake' of Geneva, the P5+1 has 'formally consented that Iran continue its enrichment of uranium'.¹⁰

Transparency Measures

Iran's commitments regarding transparency measures build on the November 11 Iran-IAEA 'Framework of Cooperation' agreement's six agenda items.¹¹ The Joint Commission of P5+1 and the IAEA that would facilitate to resolve 'past and present issues of concern' is an important step ahead. While the White House Fact Sheet affirms that this would include Parchin, dispute over access to which had vitiated the Iran-IAEA interactions over the previous two years, the JPOA does not explicitly say so. Iran agreeing to provide daily access to IAEA inspectors to Natanz and Fordow 'for the purpose of access to offline surveillance records' is another positive designed to minimise the possibility of a breakout situation. Reports in July 2013 for instance had noted that IAEA inspectors had access to Natanz and Fordow 'at least once a week'.¹²

Iran agreeing to submit an updated Design Information Questionnaire (DIQ) for the Arak IR-40 under-construction reactor is another positive, given that the last time Iran had done so was in January 2007. Iran though has agreed to not commission/fuel the Arak reactor, halt the production of fuel and not install remaining reactor components as part of the 'first-step' agreement. Foreign Minister Zarif's statement on November 27 that 'construction will continue' at IR-40 though 'no new nuclear fuel will be produced and no new installations will be installed' could therefore possibly refer to civil construction activities.¹³ The agreement also does not indicate if off-site construction activities of reactor components are prohibited.

In May 2013, Iran confirmed to the IAEA that the IR-40 reactor at Arak would be commissioned 'in the first quarter of 2014' and that it was expected to become operational in the third quarter of 2014. However on August 25, Iran told the Agency that 'based on the practical progress of the construction work', the plant could not be commissioned (defined as 'start-up using nuclear material') in the first quarter of 2014. In his latest report in November, DG Amano informed the BOG that when the IAEA inspected the IR-40 plant at Arak in end-October, 'while the reactor vessel had been connected to the cooling and moderator piping, no other major component, such as the control room equipment, the refuelling machine and reactor cooling pumps, had been installed'.

¹¹ See 'IAEA, Iran Sign Joint Statement on Framework for Cooperation', November 11, 2013, at <http://www.iaea.org/newscenter/pressreleases/2013/prn201321.html> (accessed November 18, 2013).

¹² Barbara Slavin, 'Tight IAEA Inspection Regime Hampers Iran's Nuclear Breakout', July 22, 2013, at <http://www.al-monitor.com/pulse/originals/2013/07/iran-nuclear-capacity-iaea-inspections-centrifuges-enriched.html> (accessed July 24, 2013).

¹³ 'Iran will continue construction at Arak nuclear site: Zarif', November 27, 2013, at <http://in.reuters.com/article/2013/11/27/iran-nuclear-arak-idINDEE9AQ06F20131127> (accessed November 28, 2013).

While it is open to speculation whether the 'slow pace' of construction was a 'political' decision designed to inspire confidence in the Rouhani administration's intentions ahead of crucial negotiations with the P5+1 or subject to 'practical progress of the construction work' as Iran itself indicated in end-August, Iran agreeing to not commission the Arak reactor builds on the narrative that Iran did make efforts to slow aspects of its nuclear drive after Rouhani took over. Arak and negligible addition to its enrichment infrastructure over the past three months support this contention.

Iran further agreeing to provide 'managed access' to uranium mines and mills builds on the November 11 Iran-IAEA agreement wherein Iran had agreed to provide the same to the Gchine uranium mine near Bandar Abbas, with an annual estimated production of 21 tonnes. The mine was the subject of contention due to the involvement of companies other than the Atomic Energy Organisation of Iran (AEIO) in its development as well as its limited production capacity and concurrent inability to supply adequately to large power reactors, thus fuelling concern that its real purpose was military-related.¹⁴ The IAEA however in February 2008 was satisfied with Iran's explanation regarding the involvement of organisations other than the AEIO and subsequently treated that particular aspect as 'no longer outstanding'. Apart from Gchine, Iran has a Yellowcake production plant at Ardakhan and the Saghand mine (annual estimated production of 50 tonnes) in central Iran.

Sanctions

Foreign Minister Zarif at a press conference in Geneva after the agreement was reached asserted that 'the current sanctions will move towards decrease, no sanctions will be imposed and Iran's financial resources will return'.¹⁵ At a press conference in Tehran, President Rouhani affirmed that 'all sanctions will be lifted on a step by step basis as negotiations continue'.¹⁶ The head of the AEOI Ali Akbar Salehi asserted that 'the organization and structure of our nuclear program has remained unaffected and the structure of the sanctions cracked ...'.¹⁷

While the White House Fact Sheet explicitly affirms that the EU oil embargo (that was effective from July 2012) would be continued, the JPOA does so implicitly. It states that the E3/EU+3 would 'pause efforts to further reduce Iran's crude oil sales ...' Apart from the

¹⁴ See 'Nuclear sites', at <http://www.isisnucleariran.org/sites/detail/uranium-mining/> (accessed November 25, 2013).

¹⁵ 'FM: Iran to Continue Nuclear Activities', n. 4.

¹⁶ 'President in a press conference: Iranian Nation displays threat will not work', n. 5.

¹⁷ 'AEOI Chief: Structure of Iran's N. Program Unaffected by Geneva Deal', November 25, 2013, at <http://english.farsnews.com/newstext.aspx?nn=13920904001574> (accessed November 26, 2013).

crude oil ban, the EU has also imposed the ban on the 'import, purchase and transport of Iranian natural gas' in effect since December 2012.

The International Energy Agency (IEA) in its Oil Market Report (OMR) of November 14, 2013 stated that Iran was able to export 715,000 barrels per day (b/d) in October compared with 1.26 million barrels per day (mb/d) in September, while its October production stood at 2.6 mb/d. Iran's oil exports the report noted compared 'to an average of 1.1 mb/d for the first nine months of the year'.¹⁸ The Report further stated that China, India, Japan and South Korea all reduced their October imports from Iran, compared with the previous month.

While India reduced it to 165,000 b/d from around 300,000 b/d (in October 2012, India imported 366,380 b/d; while in 2011, it was 314,140 b/d)¹⁹, China's fell from 475,000 to 300,000, Japan's from 250,000 to 100,000 and South Korea's from 135,000 to 65,000 b/d. Analysts noted that these reductions were in anticipation of the US State and Treasury Departments upcoming sanctions compliance reviews in December.²⁰ Section 1245 of the National Defence Authorization Act 2012 required countries to have 'significant reductions' in oil imports from Iran. If not, it mandated that foreign financial institutions that facilitate significant financial transactions of Iranian crude with the Central Bank of Iran (CBI) could be the target of US sanctions (including preventing their access to US financial market and US EXIM bank loans, ban on procurement contracts with the US government, visa ban on officers belong to sanctioned entities, among other measures). India, China among others which had got a six-month exemption in July got similar exemptions on November 29.

The White House Fact Sheet asserts that 'Iran will be held to approximately 1 mb/d in sales' over the course of the six months, while no comparative figure is mentioned in the JPOA. However, given that extant US/EU sanctions on Iranian crude would continue to operate - other than allowing those defined as 'purchase of current average amounts of crude oil' - it may not be feasible for India to take advantage of these offers or dramatically expand oil imports from Iran.²¹ The agreement could however relatively expand the volume

¹⁸ The report is available at <http://omrpublic.iea.org/omrarchive/14nov2013fullpub.pdf> (accessed November 28, 2013).

¹⁹ See 'Asia's Crude imports from Iran', November 27, 2013, at http://graphics.thomsonreuters.com/Iran/AS_IRNCRDIMP.html (accessed November 28, 2013).

²⁰ Steven Mufson, 'Under deal, Iran's oil exports likely to rise from recent depressed level', November 25, 2013, at http://www.washingtonpost.com/business/economy/under-deal-irans-oil-exports-likely-to-rise-from-recent-depressed-level/2013/11/24/cd7d186e-5558-11e3-835d-e7173847c7cc_story.html (accessed November 28, 2013).

²¹ Ajay Makan, 'Impact of Iran deal on oil supplies to be limited', November 25, 2013, at <http://www.ft.com/cms/s/0/ea1cdc7e-554f-11e3-86bc-00144feabdc0.html#axzz2lwBgsNS5> (accessed November 28, 2013).

of imports from Iran compared to previous months, given that the JPOA contains the provision to suspend sanctions on 'associated insurance and transportation services' on 'such oil sales' [the undefined current average imports].

Reports noted that HPCL could for instance import an additional 50,000 barrels per day (b/d) from December-March, which is 'a quarter more than the daily average for the first nine months of 2013', given that 'insurance hurdles' (according to a senior HPCL official) were primarily responsible for reduced imports of Iranian crude.²² Ashton's chief spokesperson Michael Mann however told reporters that for these measures to be effective, amendments to EU Council regulations pertaining to Iran sanctions would have to be approved by EU Foreign Ministers and the legislative process could be completed by 'December or January'.²³

The extent of sanctions relief is also not readily apparent from a reading of the JPOA. While the White House Fact Sheet affirms that it amounts to 'approximately \$7 billion', the corresponding figures that it provides do not quite add up. These include \$4.2 billion in oil sales, \$1.5 billion from sale of petrochemical exports, and '\$400 million in governmental tuition assistance to be transferred from restricted Iranian funds ...'

The JPOA further states that the E3/EU-3 would 'enable the repatriation of an agreed amount of revenue held abroad'. It is not clear how much of these amounts are held abroad or the quantum of money that could be allowed to be repatriated. Further, the mechanisms to enable such transfers are not mentioned in the JPOA given the extant sanctions preventing such transfers continue to operate. Pertinent among these is the March 2012 EU ban on providing financial messaging services like SWIFT to Iranian entities and persons as well as US sanctions provisions targeting foreign financial entities that do transactions with the CBI or any other US-designated Iranian financial institution.

The agreement states that the E3/EU-3 would 'establish a financial channel to facilitate humanitarian trade for Iran's domestic needs using Iranian oil revenues held abroad'. Some Israeli analysts have speculated that this clause could 'potentially free untold billions'.²⁴ Further, while the White House Fact Sheet mentions the figure of \$400 million of

²² Nidhi Verma, 'India ready to start Iran oil cash transfer after deal', November 25, 2013, at <http://in.reuters.com/article/2013/11/25/iran-oil-asia-india-idINDEE9AO08520131125> (accessed November 28, 2013).

²³ 'EU: Iran sanction relief could be in Dec. or Jan.', November 27, 2013, at <http://www.presstv.ir/detail/2013/11/27/336909/eu-may-lift-iran-sanctions-next-month/> (accessed November 29, 2013).

²⁴ Aaron Klein, 'Deal opens Iran economy to untold billions', November 27, 2013, at <http://www.wnd.com/2013/11/deal-opens-iran-economy-to-untold-billions/> (accessed November 27, 2013).

'governmental tuition assistance that would be transferred from restricted Iranian funds', the JPOA does not indicate any figure other than stating that tuition payments could also be enabled through the 'financial channel to facilitate humanitarian trade'.

In this context, it is pertinent to note President Rouhani's TV interview to an Iranian channel (IRIN1) on the completion of 100 days in office. When asked whether there were any 'confidential annexes' to the JPOA, Rouhani stated: 'There is nothing hidden; there could be annexes on execution of these stages ... We might have an annexed document for the execution of the agreement but the [original] document is what has been released'.²⁵ If so, it could be possible that these annexes contain the mechanisms to see through some of the elements like facilitating repatriation of money held abroad, indicate the average amounts of oil that Iran's current customers can be allowed to continue to import, the quantum of money that could be permitted to be repatriated through the financial channel that is intended to be established for humanitarian purposes, among other issues. These however are not in the public domain. If this is not the case however, these could be the subject of further negotiations and could possibly be the subject of contentions going forward.

Suspending US and EU sanctions on gold and precious metals could bring a boost to Iran's foreign exchange (FX) reserves and improve its financial stability. The amount of Iran's FX holdings is a subject of contention, given that these are critical to withstand sanctions pressure. The White House Fact Sheet asserts that the 'vast majority of Iran's approximately \$100 billion in foreign exchange holdings are inaccessible or restricted by sanctions'. While the CBI in July 2013 indicated that it had more than \$100 billion in FX reserves, the CIA Fact Book estimated that the figure was close to \$70 billion as of December 2012. Analysts however note that this was around \$80 billion in mid-2013, but that Iran had 'unencumbered access to only \$20 billion of these funds'.²⁶

The agreement further states that the 'EU authorisation thresholds for transactions for non-sanctioned trade' would be increased. The JPOA does not however indicate the quantum of increase. These refer to the requirement to either notify or seek authorization of the concerned EU treasury authorities regarding transfer of funds between an Iranian

²⁵ 'Iran president defends first 100 days performance in live interview', Vision of the Islamic Republic of Iran Network 1, Tehran, November 26, 2013; Transcript available at *BBC Monitoring* (Political).

²⁶ Mark Dubowitz and Rachel Ziemba, 'When Will Iran Run Out of Money? The Impact of Sanctions on Iran's Foreign Exchange Reserves and Balance of Payments', October 2, 2013, at http://www.defenddemocracy.org/stuff/uploads/documents/Iran_Report_Final_2.pdf (accessed November 28, 2013). Dubowitz and Ziemba categorise Iran's FX reserves into three categories: fully inaccessible (less than \$10 billion); semi-accessible accounts in countries like India, China, Japan that are currently buying Iran's oil (over \$50 billion and rising as unspent oil revenues accumulate); and fully accessible accounts (less than \$20 billion and likely falling).

financial or credit institution to an EU counterpart or transfer of funds to and from Iranian persons or entities. There are various authorization 'triggers' coming into play ranging from 10,000 Euros to 100,000 Euros and beyond depending on the nature of the 'humanitarian' transaction or personal remittances.²⁷

For instance, if the purpose of the transfer is 'humanitarian' and between 10,000 to 100,000 Euros, it would require prior notification and if the authorities do not object within 30 days in writing, the transfer can proceed. If on the other hand, the transfer involves personal remittances above 40,000 Euros, or diplomatic remittances above 10,000 Euros, or humanitarian transfers above 100,000 Euros, these would require authorization. These measures flow from the Iran EU Regulation (267/2012) of March 23, 2012 which imposed a series of restrictive measures on Iran in the financial arena, including cutting off access to financial messaging services like SWIFT, headquartered in Brussels. Analysts however note that 'given that the difficulties in making payments to and from Iran tend to be more influenced by the US secondary sanctions than the EU authorisation limits, it is unclear whether this will make much practical difference in any event'.²⁸

C. In Closing

The 'first-step' agreement is the first document in many years that Iran has agreed to with its interlocutors (the previous instance was the Tehran Agreed Statement of October 2003 under which Iran had agreed to voluntarily suspend its enrichment activities and sign the IAEA AP and the Paris Agreement of November 2004 in which it reaffirmed these commitments) that contains Iran's commitments to accept constraints on its nuclear activities and puts some short-term limitations on its nuclear activities.

If the White House asserts that the 'first step' measures do not 'represent an acceptable end state to the United States or its P5+1 partners', it is even more so for Iran, given that most of the significant sanctions continue to be in place. The majority of Iran's installed centrifuges will continue to be non-operative during the course of the agreement (amounting to 104 cascades out of 162), coupled with significant curbs on the 40 MW Arak IR-40 reactor, which was initially expected to become operational 'in the first quarter of 2014'.

²⁷ See HM Treasury, 'Guidance on whether a transfer of funds requires a Prior Notification or Prior Authorisation', February 8, 2013, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225128/00_Guidance_Note.pdf (accessed November 30, 2013). We are grateful to Sussanah Cogman, a partner at Herbert Smith Freehills, London, for providing and clarifying details regarding these thresholds.

²⁸ See Susannah Cogman and Rod Fletcher 'Geneva agreement: Towards relaxation of US & EU sanctions on Iran', November 26, 2013, at <http://www.moneylaunderingbulletin.com/sanctions/geneva-agreement-towards-relaxation-of-us-eu-sanctions-on-iran-94557.htm> (accessed November 29, 2013).

It could be argued that Iran's commitments as regards transparency measures fall short of the requirements of the AP but amount to an expanded engagement with the IAEA than that required under its extant safeguards agreements. The provision of an updated DIQ for Arak as indeed the daily inspector access to Natanz and Fordow and 'managed access' to centrifuge assembly workshops and uranium mines and mills are indicative of such an approach. Iran's commitments as regards its enrichment activities in essence amount to not adding any more to its capacities and inventories to that indicated in the November 14 IAEA report.

Further, as indicated above, some of the key details are left undefined in the JPOA (or they are not in the public domain if already agreed upon in the 'Annexes'), including on such issues as the repatriation of Iranian revenue held abroad and mechanisms to facilitate such transfers given extant EU/US sanctions, volume of crude oil sales that would be allowed to continue and the quantum of increase in EU authorization thresholds. As for Iran's commitments, the status of the 20 per cent enriched UF₆ that will be down blended to 5 per cent is not indicated. Iran's ability to convert newly enriched UF₆ to UO₂ is also contingent on the commissioning of the EUPP.

If as the P5+1 affirm sanctions are reversible, so indeed are Iran's commitments. It is in the interest of both sides however to stick to the terms of their respective commitments. This is especially because the alternatives to not doing so are stark and present sub-optimal policy outcomes to all the players involved, with attendant negative consequences for regional security. In the absence of the Geneva agreement, Iran would have been under no compulsion to stop adding to its enrichment infrastructure or be constrained in ramping up its enrichment activities. For Iran, the consequences of not obtaining even limited sanctions relief would have continued to negatively affect its economic situation while the danger of new sanctions being imposed could have correspondingly risen. It is pertinent to note that Iran's 'oil' GDP had a negative growth of 5.8 per cent during 2012, according to the CBI.

More importantly, lack of a deal could have dented Rouhani's currently strong political position three months into his presidency, thus making it harder for him to budge from rigid positions later on. The success of this interim agreement is also dependent on the ability of Rouhani (as well as Obama) to 'sell' the deal to their respective domestic constituencies. If there is no perceptible improvement in Iran's economic situation with the infusion of the much needed cash, pressure could build up on Rouhani as to the efficacy of the agreement.

²⁹ 'Iran nuclear deal consistent with our stand, says India', November 24, 2013, at <http://www.thehindu.com/news/national/iran-nuclear-deal-consistent-with-our-stand-says-india/article5386560.ece?ref=relatedNews> (accessed November 25, 2013).

For important regional players like Saudi Arabia and Israel, the deal equally provides an important window of opportunity to test Iranian sincerity. Tel Aviv and Riyadh have long been insisting that the time to roll back Iran's nuclear capabilities was fast receding. Despite criticism from Netanyahu and his cabinet members, it is pertinent to note that senior analysts like former Mossad chief Efraim Halevy and leader of opposition Isaac Herzog criticised Netanyahu for creating 'unnecessary panic'.

India on its part has welcomed the agreement stating that it was consistent that the issue should be resolved diplomatically.²⁹ India has a direct stake in the resolution of the crisis, given that it has suffered real economic and security consequences as a result of the unresolved concerns. The initial agreement with the P5+1 could potentially pave the way for Iran to play a constructive role in managing the situation in Afghanistan in the aftermath of the American withdrawal, which is an issue of prime strategic concern affecting India's interests. Given that it has important ties with Israel, Saudi Arabia and indeed Iran – and its position as a founder-member of the IAEA - India is uniquely placed to lend its support to the success of the interim agreement that could at least begin to alleviate some of the concerns of the till now-festering imbroglio.