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Oded Brosh, July 2015

- *As the June 30th deadline for the conclusion of a comprehensive agreement passed and the negotiating parties extended the deadline by a week, crucial issues surrounding the fate of the Iranian nuclear program remain unresolved.*
- *If an agreement is not reached prior to the new deadline (July 7), or in the following few days, another formal extension of the deadline may be considered, for example until November 30th or December 15th, but this will require a renewal of the interim JPOA (and its funding) for a parallel time period.*
- *Negotiations appear to revolve around the two main disputed issues: inspections and the pace of rescinding sanctions. The crucial factor that may well determine the fate of these negotiations will be the willingness of the Iranian regime to accept the red lines of the P5+1.*
- *The harsh statements from the Iranian regime's leadership and officials in the run-up towards the June 30 deadline appear to present an unyielding posture. However, another reading of these statements and other measures suggest that the Iranian leadership is in fact setting the ground for a deal.*
- *Notwithstanding, a nuclear deal with Iran could well increase regional instability.*

Negotiations Run Past the Deadline

As this edition of *Plug-In Middle East* went to press, the P5+1 and Iran negotiators had run past their deadline and remain convened in Vienna in an attempt to finalize the terms of the comprehensive agreement, or "Joint Comprehensive Plan of Action – JCPOA." The document and its annexes are expected to run almost a hundred pages long, detailing the terms, pace, and schedule of Iran's dismantlement of its nuclear infrastructure. However, it is not clear what progress, if any, the parties have made since Lausanne.

Two main disputed issues stand out. The first relates to the lifting of sanctions. The Lausanne Framework stipulated the P5+1 powers' position, namely that the rescinding of sanctions would follow IAEA confirmation of Iranian compliance. However, since Lausanne, Iran has backtracked from its tentative agreement with this stance and has reverted to its posture that sanctions must be rescinded immediately and completely upon the signing of the agreement. In other words, Iran is

now seeking to delink the rescinding of sanctions from IAEA confirmation or verification. This position is clearly untenable to the P5+1, particularly to the American and European negotiators.

Similarly, at Lausanne, Iran accepted the underlying principles of the IAEA Additional Protocol regarding inspections. This protocol stated that IAEA inspectors must be granted access wherever and whenever they choose ("anywhere, anytime"). Since Lausanne, however, Iranian officials have fiercely denied such an understanding. In testimony to the Majlis committee, Iranian chief negotiator Abbas Araghchi, spoke of *selective* access to only *some* sites, emphasizing the principle of "*managed access*" (which means that at a given facility, certain buildings may be declared prohibited). The Supreme Leader has also repeatedly asserted that Iran will never grant international inspectors access to "military sites". Furthermore, and as reported in the June edition of *Plug-In Middle East*, French sources close to the negotiations contended that the Iranians were asking for a 24-day notice of inspections. President Rouhani also now claims that no "state secrets" will be subject to IAEA inspections and Iran has continued to refuse access to Iranian scientists for IAEA interviews.

The US Administration Faces Domestic Challenges on the Merits of an Iran Deal

Over the past few months, a growing number of top US former officials and senior experts are challenging the merits of the emerging nuclear agreement with Iran. The latest substantial challenge is a detailed professional memorandum, a "Public Statement on U.S. Policy Toward the Iran Nuclear Negotiations Endorsed by a Bipartisan Group of American Diplomats, Legislators, Policymakers, and Experts", which 18 leading US policy experts authored, warning against further concessions to Iran (June 24). Convened by the Washington Institute for Near East Policy, the memorandum states that the Obama administration has already reached (and, in some cases, passed) its own "red lines" and cannot concede further without jeopardizing the efficacy of the agreement. The statement underscored several critical aspects of the emerging deal, including:

- a. "Monitoring and Verification": the experts reiterate the importance of the "anywhere, anytime and without delay" principle of inspections, as agreed to at Lausanne;
- b. "Possible Military Dimensions": the report emphasized the need to allow investigation of "past and any ongoing nuclear weaponization activities ('Possible Military Dimensions' or 'PMD') ... before any significant sanctions relief";

- c. "Advanced Centrifuges": the experts argued that the deployment of advanced centrifuges should be pushed back for as long as possible and, once deployment does occur, should proceed "at a measured, incremental pace consonant with a peaceful nuclear program";
- d. "Sanctions Relief": the experts contended that sanctions relief must be based on Iran's performance and on the execution of its obligations;
- e. "Consequences of Violations" – the experts recommended that the P5+1 powers should explicitly and concretely outline the consequences of possible Iranian violations.

Additionally, the report argued: "it is vital for the United States to affirm that it is U.S. policy to prevent Iran from producing sufficient fissile material for a nuclear weapon – or otherwise acquiring or building one – both during the agreement and after it expires."

This report thus highlights the growing concern within the United States regarding potential intransigence on the part of the Iranians. The experts thus stressed the need to secure a strong agreement that precludes potential Iranian backpedaling and obfuscation. The impressive list of experts that authored this bipartisan report (including former senior officials in the Obama administration), is a reminder that the maneuverability of US negotiators is not unlimited and that a final agreement will also be subject to serious professional bipartisan scrutiny.

Assessment

Arguably, the crucial factor that will determine the outcome of the ongoing intensive negotiations in Vienna is the real position of the Iranian regime – whether or not it is willing to concede the very minimalist redlines of the American and European negotiators. As this issue of *Plug-In Middle East* goes to print, one can detect several indicators suggesting that the negotiators are making headway in the intricate negotiations – both on the issue of inspections and on sanctions. However, reaching a final and comprehensive agreement will require Iranian forthcoming, even if it is tactical and short-termed.

The repeated harsh and uncompromising stance of Iranian leaders and senior officials, led by both Supreme Leader Khamene'i and President Rouhani, raises the question of whether their statements indeed reflect an unyielding red line. In essence, such a position would not only be considered a genuine retreat from the Lausanne Framework, but also a misjudgment of the Obama administration's resolve and limited maneuverability. According to this reading of the Iranian position and intent, the Iranian leadership does not comprehend that the Obama administration has

reached its own red lines and has no more leeway, other than some symbolic gestures. To some extent at least, the possible Iranian misperception stems from the apparent eagerness of the Obama administration to reach an agreement. If this is the case, the prospects for an agreement are low.

However, there is an alternative reading of the Iranian statements and intentions. The Supreme Leader's public address on June 24 in which he outlined his red lines (no long-term freeze on nuclear research; no inspections at military sites; and the immediate lifting of sanctions upon signing the deal) was read as a threat to the negotiations, creating the impression that the Supreme Leader agrees more with his conservative supporters and rejects the outline of a possible deal with the West. However, a close examination could also offer a more nuanced approach that does not necessarily rule out the deal.

Khamene'i's June 24 speech appears to be an attempt to maximize the possible gains from negotiations, while also attempting to avoid a breakdown. The Supreme Leader's statements are in fact not new; he has simply repeated similar past statements. Indeed, the general atmosphere in Iran remains supportive of the negotiations, not against it, as long as the Iranian red lines are respected.

Furthermore, before Khamene'i's recent statements, the Iranian Parliament adopted legislation that effectively withdrew the Parliament's authority to review and approve the nuclear agreement. Ratified by the Guardian Council (who approves all parliamentary legislation; absent their approval, the legislation is invalid), the legislation hands the oversight power on the nuclear agreement to the Supreme National Security Council (SNSC), chaired by President Rouhani. The legislation further stipulates that all sanctions will be lifted and that IAEA inspectors would not be permitted to access military or sensitive non-nuclear sites, or to interview scientists.

The goal of this legislation is twofold. First, the legislation will all but formally monopolize decision-making in the hands of Khamene'i. Prior to the adoption of the bill, the parliament had the authority to approve or reject the nuclear deal. Now, the subservient SNSC will be the body responsible for officially approving the deal. Second, the parliament endeavors to absolve itself from responsibility should a deal be perceived negatively by the Iranian population. Indeed, should the economic situation not improve following the removal of the international sanctions, public opinion may well turn against a deal. In that event, public discontent will be directed not towards members of Parliament, but towards Rouhani. Overall, it appears that the Iranian political system is getting ready for the looming deadline, and appears to believe that a deal could be struck, despite persisting disagreements.

Nonetheless, the apparent gaps in the negotiations clearly outlined by French Foreign Minister Laurent Fabius (June 28) remain considerable. Fabius, considered as holding the toughest negotiating posture vis-à-vis Iran, contended that a final agreement is possible only if Iran fulfills three requirements (limitations on Iran's nuclear research and production; unfettered IAEA inspection; and sanctions lifting only following compliance). The Iranian leadership has now repeatedly declared that Iran will never consent to these conditions. Notwithstanding, there is no concrete information regarding possible secret or implicit understandings between Iran and the US, be they be verbal or written. Such understandings could well affect the decision-making calculus of the parties, as assessed 18 months ago by this publication.

Finally the Iranian leadership realizes that they need to balance several contradicting interests. First, the Supreme Leader supports the negotiations and openly backs Rouhani despite the harsh criticism of the conservatives and the Revolutionary Guards (IRGC), in order to reach a deal that will lift economic sanctions and improve the Iranian economy. Should this happen, it will considerably strengthen President Rouhani at the expense of the IRGC, who benefit from the current economic system (and their control of smuggling routes). In light of this inherent competition between these two camps, Khamene'i must reassure the IRGC that no matter what happens, their interests will be guaranteed. Though Khamene'i is the ultimate decision maker, he still has to appease different fractions.

In sum, it appears that the likelihood for reaching an agreement by the new deadline of July 7, or in the following days, is not insignificant. In addition, and assuming the P5+1 powers and Iran reach an agreement by July 7 or shortly thereafter, the regional implications of this deal cannot be exaggerated. An emboldened Iran, flushed with an injection of USD 100 billion, will seek to demonstrate unequivocally that it has not capitulated to the Western powers and can be expected to deepen its involvement around the region, from Iraq in the East all the way to the shores of Lebanon and fragmented Syria in the West. While it remains unclear whether it will also aim to deepen its engagement in Yemen and across the Arabian Peninsula (Bahrain included), Saudi Arabia and the Sunni Arab states will still have to reckon with Iran's growing power, while simultaneously dealing with the growing threat of the Islamic State (IS). In other words, the most likely regional outcome of an Iranian nuclear deal is increased strategic instability across the Middle East.