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Europe's Foreign Policy Identity: The Case of Iran

An analysis on the European Union's identity and its
role in relation to the JCPOA

Author: Arturo Dueñas Díaz

Tutor: Dr. Ariel James Trapero

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List of Acronyms

- CFSP: Common Foreign and Security Policy
- DRM: Dispute Resolution Mechanism
- EC: European Community
- EEAS: European External Action Service
- EIB: European Investment Bank
- EU: European Union
- E3/EU: The three European states and the EU
- E3/EU+3: The three European states and the EU plus the US, Russia and China
- E3/EU+2: The three European states and the EU plus Russia and China
- EPC: European Political Cooperation
- GCC: Gulf Cooperation Council
- HOPE: Hormuz Peace Endeavour
- HR/VP: High Representative of the Union for Foreign Affairs and Security Policy
- IAEA: International Atomic Energy Agency
- INSTEX: Instrument in Support of Trade Exchanges
- JC: Joint Commission
- JCPOA: Joint Comprehensive Plan of Action
- JPA: Joint Plan of Action
- NPT: Nuclear Nonproliferation Treaty
- SPV: Special Purpose Vehicle
- STFI: Special Trade and Finance Instrument
- UNCLOS: United Nations Convention on the Law of the Sea
- UNGA: United Nations General Assembly
- UNSC: United Nations Security Council
- UK: United Kingdom
- US: United States

1. Introduction

1.1. Motives and purpose

On 14 July 2015, an agreement was reached in Vienna on the future of the Iranian nuclear program after twelve years of tension and grueling negotiations. Throughout the negotiation process, the European Union led diplomatic efforts while simultaneously promoting effective multilateralism during talks. The Joint Comprehensive Plan of Action (JCPOA) rewarded the mediating role that the European Union had played between Iran and the E3/EU+3 (the three European states and the EU plus the US, Russia and China) by appointing the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP) as the Coordinator of the Joint Commission and making the Union responsible for the implementation and smooth functioning of the agreement. The Joint Commission (JC) is the executive body created under the JCPOA to monitor the implementation of the agreement by all its parties. The JC, until the US pulled out of the agreement in 2018, was therefore composed of the five permanent members of the United Nations Security Council (UNSC), namely the US, Russia, China, France and the UK, in addition to Germany, Iran and the EU.

To highlight the status of the EU as a *primus inter pares* in the Joint Commission, the JCPOA introduced in its text the concept of E3/EU+3, which portrayed the EU as an equal partner. In this way, the European Union took the opportunity to demonstrate to the world its capacity to establish itself as an influential international actor that had successfully contributed to a case of diplomacy at the highest international level. The importance of the Union in the Joint Commission as well as its responsibility in preserving the nuclear agreement have increased since the US pulled out of the JCPOA in May 2018 and re-imposed its secondary sanctions on Iran.

Analyzing this subject is attractive for several reasons. Firstly, it is unusual for the EU to be involved in a security policy case on such a high-profile issue. Secondly, given that the JCPOA is often hailed as the crown jewel of the EU foreign policy, this is a good case study to analyze its distinct foreign policy identity. Thirdly and finally, the UN Security Council has a crucial importance in the nuclear agreement because if a non-Iran JCPOA participant refers to the Joint Commission that another JCPOA party is

not upholding its commitments under the JCPOA, the issue could be taken to the UN Security Council, which could ultimately decide to re-impose on Iran all pre-JCPOA UN sanctions. Due to the importance of the UN Security Council in the nuclear agreement, the EU enjoys a double representation in the Joint Commission: it is necessary to bear in mind that one of its members (France) and a former member (the United Kingdom) hold permanent seats in the United Nations Security Council besides participating in the Joint Commission alongside Germany and the EU itself. This allows us to observe how the foreign policy of the members of the Union is aligned with that of the EU.

The present work is concerned precisely with the European Union's relationship with Iran, specifically in relation to the 2015 nuclear agreement. In the following pages, the EU's interest in the nuclear agreement with Iran and the values that make up the European identity will be examined in detail. To this end, the JCPOA itself, European trade with Iran and all the actions taken by the EU in conjunction with its three Member States, namely France, Germany and up until recently the UK, that are also members of the JC with the aim of preventing the agreement from collapsing will be analyzed.

1.2. Objectives

This study seeks to defend the hypothesis that there is coherence between the doctrine of the values that make up the identity of the EU and its concrete diplomatic action in relation to the case of Iran. The EU, from the beginning, has defined its foreign policy identity as the sum of a series of values such as multilateralism and respect for the international rule of law. In some way, this study, which analyses the EU's foreign policy based on its actions and interests, also aims to provide a critical view that exposes the Union's lack of effective power in international politics.

To this end, this study will attempt to answer the following research question: Is there consistency between the fundamental principles of the EU's identity and its actions with regard to its relations with Iran and the E3/EU+3? At the end, in the conclusion I will set out my reasoned response to this research question.

The objectives of this project are:

- To analyze whether the declarations of values that constitute the European identity are mirrored in its foreign policy actions.

- To examine the relationship between Iran and the EU in the framework of the JCPOA.
- To review the academic debate on the relationship between supra-national identity and foreign policy.
- To observe how the EU's foreign policy is an expression of its identity in the context of its negotiations with Iran.
- To understand how the Iran-EU relationship reflects the EU's foreign policy identity.

1.3. Methodology

The author hopes to prove that the EU's foreign policy with regard to the Joint Comprehensive Plan of Action (JCPOA) and the Islamic Republic of Iran is an expression of its own foreign policy identity. In order to do so, this paper will proceed in three parts. The first chapter reviews the state of the art, outlining the sources of documentation used, the main experts in the field and the lines of study they have employed to analyze the EU's foreign policy, and more specifically, its relation with Iran.

In the second chapter, the concept of identity will be analyzed from the perspective of the social sciences. To this end, we will focus on presenting the main tenets of the Constructivist school of thought. Since constructivism attaches great importance to the interests of the actors, it is also pertinent to examine what interests the EU has in Iran. Exploring the EU's identity and interests will enable us to see what kind of international actor it is in the international system as well as its foreign decision-making process. The aim is, therefore, to demonstrate that the category of identity is present in the construction of European foreign policy, so as to support the effectiveness of the constructivist theory and to ultimately contribute to the debate over the importance that this social theory of International Relations can have in the study of this discipline.

Lastly, the third chapter is dedicated to the analysis of the relationship between Iran and the EU since the signing of the JCPOA in 2015. This compels us to shed light on crucial milestones such as the JCPOA, its economic effects on European trade, the exit of the US from the agreement, the re-imposition of sanctions, and finally all the initiatives and measures that the EU has put in place in coordination with its member

countries to safeguard the agreement. It will be interesting to see how in this case, the EU has advocated throughout the process for multilateralism and diplomatic dialogue as the solution to international issues and as a safeguard for the rule of law in the international system. This analysis will provide us with the more theoretical and doctrinal side of the EU foreign policy identity.

However, this last chapter is not limited to a simple analysis of Iran-EU relations. In the last part of this chapter, some hypothetical measures that the E3/EU should adopt in order to keep the agreement alive and de-escalate tension between the US and Iran are outlined. These are presented from the underlying assumption that both the EU and Iran would mutually benefit from an improvement in relations. To date, there have been many European initiatives to protect the nuclear agreement and to establish a trade relationship with the Islamic Republic. On this basis, this paper also includes a potential European strategy aimed at achieving a strong and coherent position with all actors involved, i.e. regional countries, Iran and the US.

2. State of the art

2.1. EU-Iran relations in contemporary expert literature.

The Joint Comprehensive Plan of Action (JCPOA) was officially signed on 15 July 2015. This marked the culmination of two years of an intense and constructive process of negotiation between the Islamic Republic of Iran and the United States, China, Russia, the United Kingdom, France and Germany (hereinafter referred to as the E3/EU+3), all under the coordination and mediation of the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP). The deal remained unchanged and its provisions were complied with as agreed until 2018, when the US unilaterally decided to back off from its commitments and to re-impose sanctions on Iran.

Since that very moment, Europe has been forced to bear all the cost of keeping the remaining JCPOA signatories in the fold. To achieve this, a number of mechanisms have been activated; the latest of these is the triggering of the Dispute Resolution Mechanism (DRM) on January 2020 by Germany, France and the United Kingdom in the hopes of putting all sides back on the negotiating table and stopping the deal's demise, especially after Iran breached its commitments by pursuing uranium enrichment

above the permissible limits. The present paper seeks to analyze to what extent the EU foreign policy identity is reflected in its engagement with Iran.

In the first place, there is a lot of previous research focusing on the concept of foreign policy identity. Authors linked to Constructivism like Alexander Wendt, Ted Hopf, Rawi Abdelal, Rose McDermott, Yoshiko M. Herrera and Alastair Iain Johnson have in their works tried to define identity and its influence on actors' interests and actions. On top of that, the EU institutions themselves have introduced the concept of European identity in many of its official documents, especially after the 1990s, when it began to indicate its willingness to act as an international promotor of democracy, human rights, rule of law and multilateralism.

Secondly, the unfolding of events has been followed by the international community, scholars, think-tanks and specialized journals with great interest. It should also be stressed that the available literature on the study of EU-Iran relations is diverse and varied. Regarding the European Union, all its bodies publish a significant amount of official reports, documents and communications. The right of having access to the documents of the European Parliament, the Commission and the Council is enshrined in article 5 of the Treaty on the Functioning of the European Union. The EU publishes many official reports, studies, information booklets and magazines on myriad issues, which are all available on the Publications Office of the European Union.

In the case of the European Parliament, it mainly publishes briefings and press releases on the subject of the nuclear agreement with Iran, the impact of US sanctions, the state of Human Rights in the country and parliamentary resolutions on issues dealing with the country. In the European Parliament there is a Delegation for relations with Iran, which is currently chaired by MEP Cornelia Ernst. Since its creation in 2004, the Delegation is entrusted with a twofold mission: firstly, to monitor and to foster the dialogue with the Majlis (Iran's highest legislative body), and secondly to peruse developments in the relations between Iran and the Union.

Furthermore, the European Parliament Think Tank publishes very valuable information on a wide range of topics, ranging from economic and social policies to international relations. This think tank is dedicated to monitoring and analyzing foreign policy issues from an EU institutional perspective, so they tend to focus on the EU's role and on the courses of action to be taken. As regards the issue of the Iran nuclear

agreement, the available publications tend to examine aspects that are relevant for the survival of the agreement and its future prospect. In addition, the European Parliament Think Tank is partnered with other prestigious research institutions such as the European University Institute, the European Political Strategy Centre (EPSC), and the European Strategy and Policy Analysis System (ESPAS), which although they are all mainly focused on the EU, they still publish valuable information on the enormous challenges that lie ahead so that the EU can shape its policy agenda.

The Council of the European Union also publishes all its meeting documents including the agendas, minutes, conclusions, voting results, and outcomes, as well as press releases and its preparatory legislative documents. Among the latter, we find all the legislative acts adopted by this institution, including regulations and directives most notably pertaining to restrictive measures against Iran and to the suspension of EU sanctions. In addition, we also find many other documents that are not meant to have legal effects, such as conclusions and resolutions, but that are equally adopted by the Council and that are used to express a common political position on a specific topic. In regard to Iran, these cover a wide array of areas like cooperation on migration and refugee issues, investment projects, and energy relations. For its part, the European Council makes all its conclusions on Iran public too.

The EEAS official website is also a remarkable source of information owing to the fact that it posts a great amount of press releases and official communiqués in relation to the latest actions carried out by the HR/VP. At the present time, relations between Iran and the EU are coordinated through the Iran Task Force. This body was created on 20 July 2015 under the leadership of the Italian politician and political scientist Federica Mogherini, with the objective of supporting the HR/VP in his role as coordinator of the Joint Commission and “of coordinating the different strands of action of all Iran-related issues” (European Parliament, 2016, EU-Iran relations, Political dialogue, para. 5). Among the Iran-related publications, we find extensive information and reports on topics like the trade and cooperation relation between Iran and the Union and official statements that showcase the EU’s official stance in relation to the Iran nuclear deal.

Besides EU official institutions there are many think tank networks that have shown an interest in analyzing the EU's role in the negotiation, implementation, and preservation of the JCPOA.

These include the EU Non-Proliferation and Disarmament Consortium, which was established in July 2010 via Council Decision 2010/430/CFSP, which provided for the founding of a European network of independent think tanks aimed at promoting debate in order to identify measures to curb the proliferation of weapons of mass destruction and their delivery systems. To fulfill this goal, not only the Consortium organizes international conferences and ad hoc meetings to open new spheres of dialogue, but it also publishes its own publications. Thus, we find many of the EU Non-Proliferation and Disarmament Papers devoted to the study of Iran's nuclear program and the effectiveness of Europe's policies on the subject, in which first-rate researchers like Thanos Dokos, Paulina Izewicz and Dina Esfandiary have participated.

Currently, this network is comprised of a total of 88 European think tanks and it is managed jointly by six institutes working in close cooperation with the representative of the HR/VP. These six institutes are the Peace Research Institute in Frankfurt (HSFK/PRIF), the Stockholm International Peace Research Institute (SIPRI), the International Institute for Strategic Studies (IISS), the International Institute in Rome (IAI), the Vienna Center for Disarmament and Non-Proliferation (VCDNP), and La Fondation pour la recherche stratégique (FRS).

Among the different 88 think tanks that make up the Consortium, Carnegie Europe, the European Leadership Network, and Chatham House stand out for the quality and quantity of their analysis dedicated to the topic. The first of these, Carnegie Europe, is the Brussels-based European center of the wider think tank Carnegie Endowment for International Peace, headquartered in Washington, D.C., in the US. This research institute, which publishes articles and essays of great interest by experts such as Cornelius Adebahr and Jarrett Blanc, is specialized in the EU's policies on current strategic challenges, ranging from the European Neighborhood Policy to Iran and the JCPOA. As far as the European Leadership Network is concerned, the state of the nuclear agreement and Europe's actions to safeguard it is analyzed by authors like Esfandyar Batmanghelidj, Axel Hellman and Sahil Shah. Chatham House, a London-

based think tank, is also a reference institution where scholars like Sanam Vakil, Neill Quilliam and Richard Whitman publish their essays.

Another network of research centers is the European Policy Institutes Network (EPIN), which is made up of 38 European think tanks. These include the Centre for European Reform and the Centre for European Policy Studies (CEPS). As for the Centre for European Reform (CER), a great number of reports written by the European foreign and security policy expert Luigi Scazzieri on the issue at stake can be found. In the Centre for European Policy Studies we can find published many policy briefs by analysts Steven Blockmans and Gawdat Bahgat on the role played by European diplomacy in relation to Iran's nuclear ambitions.

What's more, it is also worth mentioning the European Council on Foreign Relations (ECFR), which is a pan-European institution dedicated to conducting research on the most relevant foreign and security policy issues for Europe. Among its team of experts, it is important to highlight the prominent presence of Ellie Geranmayeh, one of the leading scholars on EU-Iran relations at the present moment. The International Crisis Group is also a reference institution thanks to the contribution of Ali Vaez, who happens to be the Director of the Iran Project at this think tank.

On the other hand, the Institute for National Security Studies (INSS) articles offer an interesting perspective, among other reasons, for taking a much more critical line with Iran and the European Union. At last but not least, we should also mention specialized journals on European affairs that have at some point dealt with EU-Iran relations, such as Cooperation and Conflict, the European Review of International Studies (ERIS), European Security, and the EUISS Chaillot Papers.

2.2. Different policy institutions' standpoints.

The aforementioned foreign policy institutions, when analyzing current relations between the EU and Iran, have all mainly focused on Europe's capability to preserve the JCPOA after the US stepped out of the agreement, and if so, what measures should it take to achieve its goal.

To begin with, the European Union places great value on the survival of the nuclear agreement. Although Brussels remains committed to saving the agreement with Iran, it does not ignore the enormous challenges that lie ahead, and it does not rule out a

possible end of the agreement, despite its best efforts. Nevertheless, the EU has committed itself to continue negotiating with Iran in the hope of avoiding a definitive collapse. As EU High Representative Josep Borrell Fontelles (2019) tweeted: “#JCPOA is crucial for global security & nuclear non-proliferation. We have collective responsibility to preserve #IranDeal”.

The possibilities for the EU to save the nuclear agreement have been studied in detail by the most relevant policy institutions. Thus, pundits have in this regard developed two main lines of thought.

On the one hand, there are many who are openly skeptical about the prospect of Europe salvaging the deal, regardless of whatever actions it finally decides to take. Among these critics is Luigi Scazzieri, a research fellow at the CER specialized on the EU's neighborhood, migration and transatlantic relations, who asserts that Iran will flout the deal because the E3/EU+2 neither has the power nor the will to provide Iran with enough economic relief: the Europeans have failed to deliver any tangible results through the Instrument in Support of Trade Exchanges (INSTEX) special-purpose vehicle and China and Russia seem unlikely to tilt the balance of trade in favor of Iran. He goes to point out to the collapse of the agreement as a starting point for a hypothetical new round of negotiations that could culminate in a new deal. (Scazzieri, 2019)

In the same train of thought, we find Shimon Stein, a senior research fellow at the Institute for National Security Studies, who also insists on the impossibility of going back to the original agreement because the US continues to be an indispensable party, whose void cannot be filled by any of the remaining countries, not even altogether (Stein, 2019). Cornelius Adebahr from Carnegie Europe considers that the deal cannot survive with the US imposing such harsh sanctions on Iran, in spite of the European's endeavors to counteract their effect on the Iranian economy. Notwithstanding, he argues that even though Europe lacks the coercive capacity to bring back the US under the JCPOA, it should still try to deepen and widen the scope of the agreement with Iran and ensure that it keeps abiding by its terms in relation to uranium enrichment and IAEA monitoring (Adebahr, 2018). Equally skeptical on Europe's capabilities to preserve the deal, Paul Taylor, a contributing editor at Politico, dismisses Europe's efforts to

preserve the JCPOA as useless and instead perceives Russia and China as possible mediators between Trump and the Iranians (Taylor, 2019).

Table 1

Summary of direct quotes from scholars who believe the EU is incapable of salvaging the JCPOA

Scazzieri (2019)	“Probably not. Iran has warned it will violate the deal by the end of June unless the EU, Russia, and China deliver on their pledge to provide relief from U.S. sanctions. A last-minute rescue is unlikely. The so-called special-purpose vehicle set up by France, Germany, and the UK to skirt U.S. sanctions is not yet working. Even if it were made operational, its practical impact would be marginal because it would not cover oil sales and may itself be sanctioned by the United States”.
Stein (2019)	“Despite the flaws in the nuclear deal, Trump’s decision to withdraw was a mistake. To salvage the agreement means having the United States back on board. That is unlikely to happen for at least as long as Trump is president. The efforts by the EU3—France, Germany, and the UK—to salvage the deal are unlikely to compensate for the U.S. determination to strangle Iran economically and financially, which appears to be so successful that sitting it out until the end of Trump’s presidency—assuming he will be a one-term president—doesn’t seem to be an option for Iran”.
Adebahr (2018)	“Europe, in short, does not have the political power to defend the Iran deal with Washington gone rogue on its commitment. It cannot keep up economic ties against US pressure, much as policymakers in Iran demand precisely that”.
Taylor (2019)	“The United States, which tore up the Iran deal, doesn’t want to salvage it; and the EU doesn’t have the power, or the guts, to keep it going in defiance of Washington”.

On the other hand, we find those who believe that the Europeans still have a slim chance to save what is left of the Iran nuclear deal. One of the strongest supporters of such an idea is Ellie Geranmayeh, who also happens to be one of the prominent scholars on the issue at hand. Geranmayeh currently is a senior policy fellow and deputy head of

the Middle East and North Africa program at the European Council on Foreign Relations. According to her, Europe can still today keep the JCPOA on life support, though at the expense of driving wedge between Europe and the US, which will not be satisfied with Europe until all its signatories have joined its “maximum pressure” strategy. Moreover, from her perspective, the fact that Europe recently activated the DRM poses challenges for the survival of the nuclear, but it is also an opportunity. That is to say, the Europeans could use the DRM to create a new dialogue by acting as mediators between Iran and the US. Firstly, in relation to Iran, Europe could present the Islamic Republic with meaningful economic relief while at the same time adopting a tougher stance on its noncompliance of the limits imposed by the deal. Secondly, concerning the US, it could persuade the Trump administration of the need to ease its sanctions if it wishes to avoid war (Geranmayeh, 2020).

This view is also shared by Ali Vaez from International Crisis Group, who believes that apart from its role as a mediator, Europe may be left with no choice but to openly defy the US by making common cause with Russia and China to provide Iran with meaningful economic relief. Otherwise, the most likely outcome will be the collapse of the JCPOA, regional escalation, and the rupture of diplomatic relations between Europe and Iran (Vaez, 2020). Jarrett Blanc also agrees that there is still some hope to keep the nuclear deal on life support. Blanc, who in the past used to believe that without the US in it the deal would come to naught, he now thinks there is some room for optimism as Iran was compliant with the JCPOA for more than a year after Trump’s withdrawal, despite having had to endure very harsh sanctions. Nonetheless, Iran’s patience is running out and Europe, China and Russia need to act swiftly, even if this implies defying US sanctions threats (Blanc, 2019).

Table 2

Summary of direct quotes from scholars who believe the EU is capable of salvaging the JCPOA

Geranmayeh (2020)	“(…) the DRM could create new diplomatic openings if the E3 intend to use it this way. By acting tough on Tehran – and given that military clashes between the US and Iran have escalated in Iraq – E3 leaders may now find it easier to persuade President Donald Trump that Washington needs to show some flexibility on sanctions if it is to avert
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	war. The E3 can make a more robust case to Trump if it coordinates this effort with China and Russia. A tangible economic package put forward in the DRM process could at least persuade Iran to freeze its nuclear activities that breach the JCPOA's limits".
Vaez (2020)	"Among themselves, France, Germany and the UK can step up efforts to put INSTEX into effect, and additional means of boosting trade with Iran, which probably requires a certain degree of American acquiescence and European willingness to stand up to US pressure".
Blanc (2019)	"Yes—for now. The 2015 Joint Comprehensive Plan of Action (JCPOA) between Iran and seven other signatories has shown surprising resilience. A year ago, I called the deal dead, arguing that the most hopeful scenario was the renegotiation of a rump bargain with reduced benefits. But Iran has remained compliant for more than a year since the United States withdrew in May 2018 and began a campaign of maximum pressure, depriving Tehran of all the economic benefits of the deal and then some".

As a result, we can highlight two main theoretical and conceptual lines of interpretation:

a) the position that holds that the E3/EU+3 is incapable of salvaging the agreement because in the face of the magnitude of US sanctions, Europe does not have much room for maneuver and because any measures it puts in place will be insufficient to compensate for US pressure on Iran. The supporters of such ideas emphasize Europe's lack of political power.

b) the point of view defending that Europe still has a small chance of saving the nuclear deal. Although the advocates of this view recognize the enormous difficulty for Europe to be able to save the agreement in the face of the US pressure campaign; they still hope that the measures put in place by the E3/EU+3 will succeed in defusing the situation and that Iran will not abandon the nuclear agreement altogether.

3. Theoretical Framework

3.1. Europe's Foreign Policy Identity

If we want to shed some light on the EU's rationale for its actions and positions in regard to its external action, it is absolutely imperative that we examine its identities and its interests.

Before delving into the issue at hand, we must in the first place take a look at the "coming of age" of the European Union as an actor in the international stage, which is closely intertwined with its institutional history. As we all know, that which in the future would give rise to the EU has its origins in the horrors following World War II. Back then, the European nation-states' wish to pursue integration was driven by economic motives and by the determination to banish from Europe the specter of war once and for all. However, even if a substantial European security and defense policy did not take firm root until the 1990s, there still were precedents. In 1970, the European Community (EC) founded an intergovernmental foreign policy framework known as the European Political Cooperation (EPC), which was intended to enable Member States establish a common position on external issues, sometimes implementing economic sanctions and incentives. It is against this background that François Duchêne, one of the first scholars to attempt to conceptualize the EC's identity, defined it as a "civilian group of countries long on economic power and relatively short on armed force" (Duchêne, 1973, p. 19), which would in turn portray Europe as a "civilian power".

The EPC would not be formally codified until the advent of the Single European Act (SEA) in 1986. The Treaty of Maastricht of 1993 was another step on the road towards a consolidation of the Union's international standing. This treaty established a system of three pillars, out of which, the second of these was the Common Foreign and Security Policy (CFSP) pillar, which had an intergovernmental character. In the 2009 Treaty of Lisbon, Europe acquired legal personality, which was a turning point in the consolidation of the EU as an international actor. It should also be pointed out that with the entry into force of this Treaty, the Charter of Fundamental Rights became legally binding too. Hence, contrary to realist assumptions that states are the only actors in the international stage, the EU's gradual increase of its political standing in global affairs belies such ideas. In fact, the EU integration process has come to redefine sovereignty

and to enshrine the concept of multilateralism as a guarantor of peace and prosperity in Europe and abroad. As Henry Kissinger observed in 2004:

The most important event in Europe is the progressive erosion of the European nation-state [...]. Because the historic rivalries of Europe have been civilized into a domestic consensus, European diplomats seek to apply their new domestic experience in the international arena (Kissinger, 2004, para. 2).

The integration process has resulted in the transformation of Europe into an international actor that, although lacking some of the traditional characteristics of states, could be described as a polity with its own foreign policy identity.

In order to approach the concept of “European identity”, Constructivism will serve as a theoretical framework for analyzing the values used by the EU to position itself vis-à-vis others. This school of thought has been gaining much attention since the 1990’s when Realism and Liberalism, the leading international relations theories of the time, failed to provide a plausible explanation for the collapse of the Soviet Union (Koslowski & Kratochwil, 1994).

Constructivists argue that reality is mainly constructed by ideas, instead of material factors (i.e. capabilities), so they endeavor to uncover how individuals and groups participate in the shaping of their social perception of reality. This theory places great emphasis on context, which according to Ted Hopf is the “prism” through which identity is to be theorized (Hopf, 1998). This stems from the fact that any foreign policy is as much influenced by the social context in which it is set as by its material context. It should also be noted that for Constructivism, identities are socially constructed through the interaction among actors and by the social structure, which is made up of norms, institutions, ideologies, and cultures. Actors’ actions are determined by the social structure in which the actor participates, and in turn, through its actions, the actor would also be shaping the international structure in a mutually constructive relation. The aforementioned identity also shapes the actors’ interests. Curiously enough, since identities are changing, their interests are also likely to evolve as a result of these interactions.

Identity is a concept that lies at the heart of the Constructivist theory, whose key concepts we can use to address the question of actors’ identities. Identity is not merely

considered as a matter of image, but rather as a matter of essence that gives meaning and purpose to the actor's foreign policy. Alexander Wendt is recognized for having put the issue of identity at the core of international relations. In his view, the category of identity in the domain of international relations can be defined using certain concepts drawn from social psychology, such as motivation and behavior: Identity is a "property of international actors that generates motivational and behavioral dispositions" (Wendt, 1999, p. 224). He draws a distinction between two dimensions of identity: "corporate identity" and "social identity". On the one hand, "corporate identity" refers to "the intrinsic, self-organizing qualities that constitute actor individuality" (Wendt, 1994, p. 385). Such an identity generates four basic interests: first, "physical security, including its differentiation from other actors" (Wendt, 1994, p. 385); second, "ontological security or predictability in relationships to the world, which creates a desire for stable social identities" (Wendt, 1994, p. 385); third, "recognition as an actor by others" (Wendt, 1994, p. 385); and fourth, "development, in the sense of meeting the human aspirations for a better life" (Wendt, 1994, p. 385).

Corporate interests move the actors to interact between them and take action. Consequently, these elements, instead of simply being inherent to the condition of actors, are also linked to the process of social construction. The author goes on to explain that the way that the actor pursues its corporate interests depends on how it identifies itself in relation to others, which involves social interaction. On the other hand, "social identities" are defined as "a set of meanings that an actor attributes to itself while taking the perspective of others, that is, as a social object" (Wendt, 1994, 385). This means that social identities only exist in relation to others and that they allow actors to ascertain who they are in a social situation. Again, a concept borrowed from social psychology (perspective-taking) and applied to political theory.

What's more, while the actors only have one corporate identity, they have three other types of social identities varying in importance: type, role and collective identities. For the latter, these take place when the actors identify themselves with the wellbeing of others, to the point that the other is no longer perceived as an independent being, therefore, including a moral viewpoint to the equation (Wendt, 1994). As stated earlier, interests are dependent on identities, so in this way collective interests can arise. This is not to say that actors act altruistically on emotion and sacrifice in favor of the other; they still act on a rational basis but with the difference that the end of the rational action

is the group instead of the individual (Wendt, 1999). In a somewhat Durkheimian view, the social group replaces individual interests as the center of socio-political activity.

However, within the field of Constructivism, the concept of identity is not monolithic. Other authors such as Abdelal Herrera, Johnston and McDermott thereby define identity as a social category that can crystallize into four non-mutually-exclusive types:

- Relational comparisons: The collective identity that is defined by *what it is not*, through comparing and referencing itself to other collective identities. Ergo, identity is defined by the elements that *I* have and that *others* do not.
- Cognitive models: A worldview that enables the members of a group to make sense of political and social conditions. Likewise, cognitive models refer to “ways of reasoning” that are specific to a distinct identity group and that induce it to act accordingly.
- Social purposes: Goals that the actor may attach to its identity.
- Constitutive norms: This refers to the norms and practices that define the group’s identity. Such normative content allows other actors to recognize the group and sets individual obligations and collective expectations for its members (Abdelal, McDermott, M. Herrera, & Johnston, 2006).

As we can see, the Abdelal, McDermott, M. Herrera, & Johnston's model (2006) shares two central themes with Wendt's approach (1994), namely: a theoretical foundation drawn from social psychology and cognitive science, and a strong emphasis on explaining the concept of social group identity on the basis of a set of common rules of a moral nature. It is at least curious that within the constructivist approach, the definition of a central category such as that of “political identity” is built on assumptions that come from psychology, and not from political theory itself. In the case of the relationship between the EU and Iran, this may be relevant, to the extent that two different, and sometimes opposite, psychological frameworks are at stake.

The EU tends to identify itself as an actor that pursues via persuasion an international order based on universal values. This has led scholars like Ian Manners to characterize the EU as a “normative power”. In his own words, “it changes the norms, standards and prescriptions of world politics away from bounded expectations of state-

centricity”, which “are generally acknowledged, within the United Nations system, to be universally applicable” (Manners, 2002, 239). The EU would thus act as a modifier of standards in the international system. Analogously, Joseph Nye has defined the EU as a “soft power”, owing to its ability to attain an objective neither by using force nor coercion but persuasion (Nye, 2004).

A great number of pieces of EU legislation and other official documents give us an insight into how the EU represents itself. For instance, back in 1973, the Heads of State or Government of the nine Member States that used to make up the EC met in Copenhagen with the aim of issuing a joint declaration on what constitutes the European identity. By doing so they hoped to articulate the concept of a European identity in the European external action. This document refers to a set of values and principles as fundamental elements of European identity. These are representative democracy, rule of law, social justice, and respect of human rights. This declaration not only confirms Europe’s intention to play an active role in global affairs but also its will to contribute by adhering to the tenets embodied in the United Nations Charter:

“The Nine [...] are determined to defend the principles of representative democracy, of the rule of law, of social justice — which is the ultimate goal of economic progress — and of respect for human rights. All of these are fundamental elements of the European Identity”. (European Communities, 1973, p. 119)

“The Nine intend to play an active rôle in world affairs and thus to contribute, in accordance with the purposes and principles of the United Nations Charter, to ensuring that international relations have a more just basis; that the independence and equality of States are better preserved; that prosperity is more equitably shared; and that the security of each country is more effectively guaranteed”. (European Communities, 1973, p. 120)

Along the same lines, in 2003, the European Council adopted the European Security Strategy (ESS) under former High Representative of the Union Javier Solana. This document, entitled *A Secure Europe in a Better World*, represented a milestone for the development of the EU’s foreign and security. It was the very first time the EU laid down a clear set of security-related objectives, while drawing on its core values. The ESS attaches great importance to addressing security threats, within a multilateral

framework. For that matter, it underlined the need to cooperate with the UN to respond to such threats, out of which the proliferation of Weapons of Mass Destruction in the Middle East is regarded as the greatest of all. Europe also extends an open hand to those states that are isolated and offers them assistance in the form of trade and conditionality in exchange for them rejoining the international community (General Secretariat of the Council, 2003).

More recently, the European Union Global Strategy (EUGS) reflects similar views. In 2016, this Strategy entitled *Shared Vision, Common Action: A Stronger Europe* was presented by HR/VP Federica Mogherini to the European Council. This document sets out the European integration project as the answer to the challenges presented in the current international arena. In this strategy the EU again takes the opportunity to make clear its commitment to values such as multilateralism, and respect for international rules:

“The EU will promote a rules-based global order with multilateralism as its key principle and the United Nations at its core. As a Union of medium to-small sized countries, we have a shared European interest in facing the world together. Through our combined weight, we can promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world. The Iranian nuclear agreement is a clear illustration of this fact”. (European External Action Service, 2016, p. 15)

As if that were not enough, in its Global Strategy, the European Union also underlines the importance of disarmament and non-proliferation in achieving international stability. Aspects such as collaboration with international bodies and respect for international law, which are closely related to the fundamental principle of international rule of law, are at the heart of this interest in arms control:

“The EU will strongly support the expanding membership, universalisation, full implementation and enforcement of multilateral disarmament, nonproliferation and arms control treaties and regimes. We will use every means at our disposal to assist in resolving proliferation crises, as we successfully did on the Iranian nuclear programme.” (European External Action Service, 2016, p. 41).

Among the measures proposed to control the proliferation of arms, the EU proposes to strengthen its collaboration with international bodies such as the UN Human Rights Council, the International Criminal Court and the International Court of Justice to ensure effective compliance with international criminal law, international humanitarian law and international human rights law. For its part, the EU in its Strategy also commits itself to strengthening the control regimes of the common rules governing the export policies of its Member States for military equipment and technologies and to strengthening cooperation with third States' arms control authorities.

3.2. EU Interests in Iran

Iran is located at the junction of the Middle East. It shares borders with seven countries: Turkey, Armenia, Azerbaijan, Iraq, Turkmenistan, Afghanistan, and Pakistan. Located on its southern coast along the Persian Gulf, the Strait of Hormuz gives Iran control over the chokepoint through which a third of the world's natural gas and almost 25% of the oil are transported. Across the Strait, the country faces the Arab states that comprise the Gulf Cooperation Council (GCC): Saudi Arabia, UAE, Bahrain, Qatar, and Oman. Iran's strategic position allows it to serve as a bridge between east and west and become a crucial link of China's Belt and Road Initiative. For Europe, it also presents an alternative to the transit of goods and energy resources through Russia. In addition to this privileged geographic situation, Iran is a significant regional player, albeit an isolated one (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

The Islamic Republic has a non-negligible military power and it also provides support to proxies in order to leverage its position in the region. As we speak, it is notably involved in Iraq and Syria, and it also supports militia groups like Hezbollah in Lebanon and Islamic Jihad in the Palestinian territories. Although it is also involved in the ongoing civil war in Yemen, its relation with the Houthi rebels is not explicitly stated. Iran's regional behavior raises concerns about its expansionist nature among its GCC neighbors, especially in the case of Saudi Arabia. In spite of all this, its military capabilities are not free from defects as its technology and tactics are in some respects outdated (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

Iran and Europe have a long history of diplomatic relations owing to the historically strong Iranian ambition to build close relations with Europe. Out of all EU Member States, Germany is the one that has had the soundest relationship with the

Islamic Republic, which was especially relevant when the EU-Iran relation was not at its best. As Kenneth Katzman stated:

“Iran has always maintained full diplomatic relations with the EU countries, although relations have sometimes been disrupted by assassinations of Iranian dissidents in Europe or attacks by Iranian militants on European diplomatic property in Iran. There are regular scheduled flights from several European countries to Iran, and many Iranian students attend European universities”. (Katzman, 2018, p. 51)

The EU-Iran relations date back to the 1990s, when the CFSP had begun to develop. Between 1992 and 1997, the EU established a “Critical Dialogue” with Tehran, which attempted to strengthen moderate and reformist forces in Iran and to tackle issues like its Human Rights record, its position in the Israeli-Palestinian conflict and its alleged support for terrorism. This process was suspended in 1997 after a German Court found top Iranian officials complicit in assassinating four members of the Iranian-Kurdish opposition in Berlin. The process was revived in 1998, after Khatami’s election as president, under the name of “Comprehensive Dialogue”. Like its predecessor, it also sought to engage Iran so as to promote Human Rights and to enhance cooperation in areas of mutual interest with the long term aim of signing a Trade and Cooperation agreement between the bloc and the Islamic Republic (Jonsson, 2007). Today, the EU interests concerning Iran can be categorized into five main groups: regional stability, trade, environmental and sustainability issues, combatting drug trade, and promoting human rights (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

Firstly, for the EU, stability in the Middle East is in its best interest. It is essential to bear in mind that any disturbance in this neighboring region will make its effects felt in Europe due to geographical adjacency, economic ties and to the fact that there is a significant minority of European citizens of Middle Eastern descent. As evidenced by the Arab spring, war and political instability in these states may result in waves of refugees, violence and religious extremism that are prone to spill over to Europe. The EU perceives Iran as a regional actor too important to be ignored in the creation of a more stable Middle East. In fact, its nuclear program is a particular area of concern for Brussels because in the event that Iran goes down the track of nuclear

weapons, Saudi Arabia is likely to follow suit, dragging the whole region into a nuclear race (Jonsson, 2007).

Secondly, Iran is a 80 million people market that is very attractive for EU companies thanks to its geographical proximity, vast natural resources, diversified industrial base and growth potential, irrespective of the US sanctions. As it happens, Iran's crude oil reserves rank fourth largest in the world and its natural gas reserves rank second. Notwithstanding, its infrastructure is obsolete after years of facing an intensive sanctions regime. With the lifting of sanctions that the JCPOA brought about, Iran hoped that foreign direct investment would help it renovate its domestic capacities so that it could unfold its potential. This presented Europe with the opportunity to increase Iranian energy imports so as to diversify its energy sources and reduce its dependency on Russia (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

The EU used to be Iran's largest trading partner until 2008, when trade volume reached €27 billion. Sadly, trade volume witnessed a sharp decline following the imposition of sanctions on the Islamic Republic by the United Nations Security Council (UNSC) between 2006 and 2010. Moreover, negotiations for a non-preferential Trade and Cooperation Agreement (TCA) took place between 2002 and 2005, when Iran resumed its uranium enrichment program (European Commission, 2020). Last year, trade between the EU and Iran amounted to €5.22 billion, which compared to 2018 when it amounted to €18.35 billion, corresponds to a 71.54% fall. This decline is caused by the re-imposition of sanctions on Iran by the US and also by the EU's difficulties to foster business confidence among its companies so that they engage in trade with Iran ("Iran-EU Trade Down 71.5%", 2020). The EU also supports Iran's accession to the World Trade Organization (WTO) as it considers it a necessary step to integrate the Islamic Republic into the world economy (European Commission, 2020).

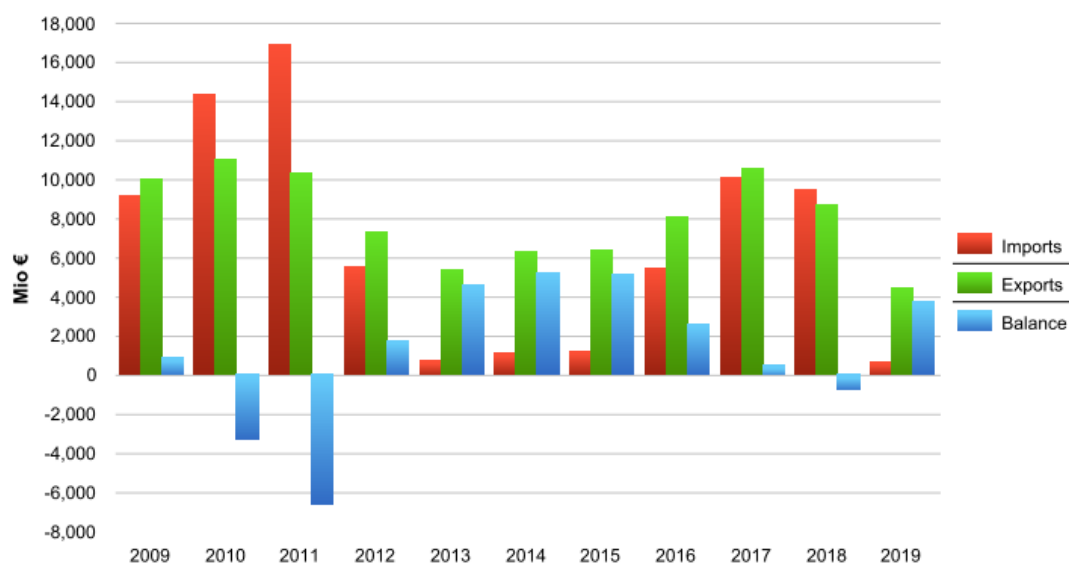


Figure 1: EU-Iran Trade flows and balance between 2009 and 2019 (European Commission, 2020)

Thirdly, Iran has been affected in recent times by worsening environmental conditions, especially with respect to its availability of water resources. Factors like a more unstable weather, waste of ground water, inadequate water recycling and high water consumption in cities and in its agricultural sector cause shortages in its water supply. Once again, this represents an opportunity for EU companies and industries, which are leaders in the field of sustainable water management (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

Fourthly, most of the opiate based drugs from Afghanistan destined for Europe pass through Iran, which is a major crossing point in the drug trafficking route. In 1999, under Khatami, the United Nations Office on Drugs and Crime established its first office in the country, and the EU and its Members States have strengthened cooperation with Tehran in terms of combating drug trafficking (Parsi, Esfandiary, & Garcés de los Fayos, 2016).

In line with the above, Iran is the country with the highest number of executions per capita in the world. In fact, in 2015, 977 people were executed, including minors, most of whom had been drug traffickers. This is because both the use and the sale of drugs are punishable by death in the Iranian penal code (Jonsson, 2007). One of the top priorities of the EU's agenda in Iran is the promotion of human rights. The Union is convinced that the death penalty cannot form the basis of an effective prosecution

policy under any circumstance. To achieve this purpose, the European Union has sought to persuade its Iranian counterparts of the need to improve transparency in its judicial decisions as well as in the total numbers of executions, since most of these usually take place inside prisons. To achieve this, the EU requests that Iran amend its legislation so that the death penalty is not allowed to be imposed on youths under the age of 18 or on people convicted of drug-related offenses, which would substantially decrease the number of death sentences (Parsi, Esfandiary, & Garcés de los Fayos, 2016). As reflected in the press release on the Council of the EU's conclusions on Iran of 14 November 2016, human rights and in particular the use of death penalty is one of the Union's priorities in its relationship with the Islamic Republic (Council of the EU, 2016).

4. Analysis

4.1. The JCPOA

The JCPOA is the result of a long and arduous process of negotiation between Iran and the E3/EU+3 that culminated in Vienna on 14 July 2015, when it was finally signed. The agreement was officially endorsed by the UNSC on 20 July 2015, when it adopted UNSC Resolution 2231, which was also endorsed by the EU. Adoption Day, on 18 October 2015, fixed the date for calling on all participants to put in place all the necessary legal and administrative preparations for the implementation of their commitments, as laid down in the JCPOA. From that day on, Iran would also start to apply the Additional Protocol, until it is definitively ratified by its Parliament.

The date of 16 January 2016 marked Implementation Day, when the IAEA declared Iran in full compliance with the JCPOA after it had fulfilled the required nuclear-related conditions. As a result, all EU, UN and US nuclear-related sanctions on Iran were lifted. In the case of the EU, these sanctions autonomously adopted against Iran in the previous years, especially between 2010 and 2012 and targeted Iran's banking, financial, oil, gas, transport and shipbuilding sectors, as well as its precious metals and petrochemical sales. However, those sanctions concerning arms embargo and missile technology as well as those restrictive measures against particular persons and entities associated with the violation of human rights have remained in place (European External Action Service, 2016).

On the other hand, the US, only lifted its “secondary sanctions”, that is to say, the sanctions related to its nuclear program that were imposed by Congress from 2010 onwards. This means that the “primary sanctions” against Iran that have been in force since the 1979 hostage crisis remain unaffected. These restrictive measures include a trade ban, a freezing of assets on listed terrorists and human rights abusers, and a restriction on the import of technologies and materials connected with the production of weapons of mass destruction (Blockmans & Viaud, CEPS, 2017).

On Transition Day, on October 2023, 8 years after Adoption Day or after the IAEA reaches its “Broader Conclusion that all nuclear material in Iran remains in peaceful activities” (E3/EU+3 & Iran, 2015, Sanctions section, art. 20), the UN will terminate its missile restrictions, the EU its remaining nuclear sanctions, and by that date Iran should already have ratified the Additional Protocol. As for the US, it should have sought legislative termination of certain economic sanctions against the banking and oil sectors as well as the removal of entities and individuals from the sanctioned list. At last, on Termination Day, 10 years following Adoption Day, Resolution 2231 will be terminated and the UNSC will close the Iran nuclear issue. For its part, the EU will terminate all its remaining sanctions (E3/EU+3 & Iran, 2015).

The JCPOA’s main aim is to ensure the peaceful nature of the Iranian nuclear program and to extend Iran’s breakout time to build a bomb from three months to a year. The deal also provides for extensive IAEA monitoring so that international inspectors can be able to detect any irregularity on the part of Iran in time. Under the terms of the JCPOA, until 2025, Iran’s uranium enrichment activities will be limited only to its facility in Natanz, where the number of operating centrifuges will be reduced by two thirds. Consequently, only 5,060 centrifuges of the IR-1 model, which are Iran’s oldest and least efficient installed centrifuges, will be allowed for use until 2030. Furthermore, until 2030, Iran pledges itself to cut down its enrichment to 3.67%, which is well below the necessary enrichment level of 90% to produce a bomb. Additionally, Iran is to eliminate approximately about 98% of its enriched uranium stockpile so that it is kept under 300 kg (Blockmans & Viaud, 2017).

The JCPOA also affects the underground uranium-enrichment facility at Fordow and the heavy-water nuclear facility at Arak. The first of these two will be converted in cooperation with Russia into a nuclear technology research center. Enrichment in this

facility will not be permitted until 2031; hence Iran will ship tons of low-enriched uranium that were stocked at Fordow to Russia. In regard to the heavy water reactor at Arak, its original core will be modified so that it does not allow for the production of plutonium for military purposes and that it is exclusively dedicated to the production of medical radioisotopes. Also, owing to the fact that the JCPOA provides for the ban of heavy water reactors and heavy water accumulation for 15 years, all spent nuclear fuel will be exported out of the country so that it is not reprocessed (Immenkamp, 2018).

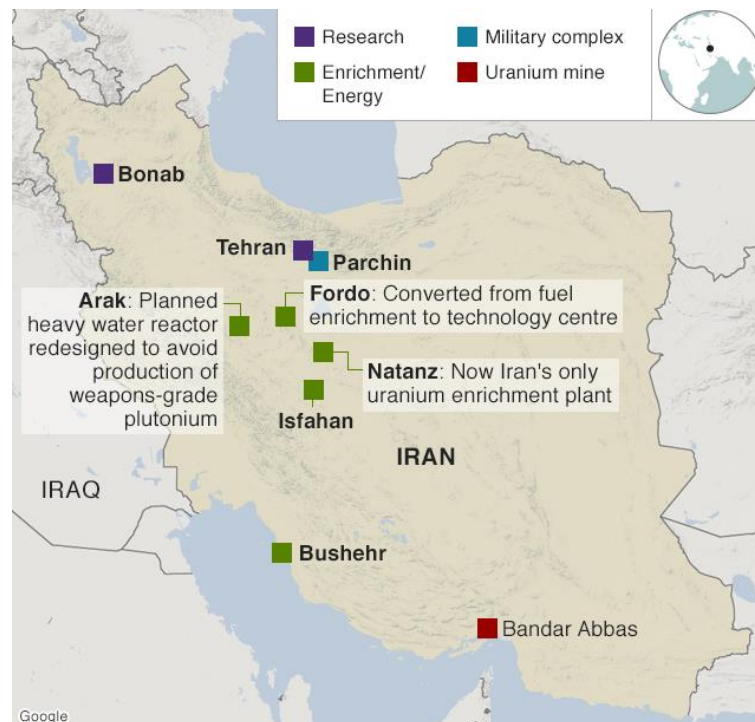


Figure 2: Changes agreed under the JCPOA to limit Iran’s nuclear program (BBC News, 2019)

The deal also foresees rigorous monitoring by the IAEA and an enquiry into evidence of past work on nuclear warhead design. Such inspection regime is three-fold: The first rests on the Safeguards Agreement, which Iran concluded with the IAEA in 1974, some years after ratifying the Nuclear Nonproliferation Treaty (NPT) in 1970 and joining the IAEA in 1959 (Cronberg, 2016). Section 1 paragraph 1 of the Safeguards Agreement obliges Iran:

“To accept safeguards (...) on all source or special fissionable material in all peaceful nuclear activities within its territory (...) for the exclusive purpose of

verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices”. (IAEA, 1974, p. 1)

Secondly, the JCPOA includes a 25-year and a 20-year monitoring of Iranian uranium mines and mills, and of Iranian centrifuge production facilities, respectively. Such continuous monitoring on potential weaponization-related activities is unique to this agreement and is not enforced in any other case in the world (Immenkamp, 2018).

The third is the Additional Protocol, which Iran has not yet ratified even if in 2003 it agreed to sign and implement it as a result of negotiations with the EU. It is noteworthy that the deal requires Iran to comply with the Additional Protocol, which it must ratify by 2023 (Cronberg, 2016). Pending ratification by Iran, the JCPOA grants IAEA inspectors’ full access to any Iranian nuclear site, including military sites. Iran, for its part, will have 24 days to comply with the IAEA access request. If it were the case that Iran was found to be in non-compliance, the deal also includes provisions for a hypothetical reintroduction of sanctions. Therefore, in the case that any Joint Commission party believed that Iran was not delivering on its commitments under the JCPOA, the Joint Commission may resort to the DRM in an effort to resolve the dispute (Blockmans & Viaud, 2017).

4.2. The EU’s institutional role in the Joint Commission

The E3/EU group is composed of the three European countries that are parties to the JCPOA, namely France, Germany and the UK, and is led by the HR/VP, which also acts as a direct link with the remaining EU member states that are not represented in the Joint Commission.

During the round of negotiations, the EU served as a bridge between Iran and the E3/EU+3. It managed to sustain dialogue and to initiate the major diplomatic breakthroughs as it was the only party that could be considered as a trustworthy moderator by the rest of the parties. According to former HR/VP Federica Mogherini:

“Yesterday the European Union wrote one of the best pages of its history: the Iranian nuclear deal has been reached thanks to the facilitation of the EU. It has been a difficult, complex, long process. What we have achieved is the result of the strong political will of all parties, and the combined commitment of many.

But it is mainly thanks to the extraordinary work of an extraordinary team, the European one, that we made it”. (Mogherini, 2015, para. 1)

The JCPOA provides for the creation of the Joint Commission, which was created to monitor the implementation (E3/EU+3 & Iran, 2015) of the agreement and is made up of all the E3/EU+3 countries in addition to Iran. Additionally, the JCPOA determines that the Joint Commission shall have quarterly meetings, which are confidential and shall always take place in Geneva, New York or Vienna. The EU has been entrusted with the paramount task of chairing the Joint Commission, with the support of the EEAS: “The High Representative of the Union for Foreign Affairs and Security Policy, or his/her designated representative will serve as the Coordinator of the Joint Commission” (E3/EU+3 & Iran, 2015, Annex IV, art. 1). Such a position gives the EU a prominent role in the DRM too, both as a leader and as a conciliator among the rest of the JCPOA participants.

On top of that, the HR/VP also serves as the Coordinator of two working groups. The first, the Procurement Working Group, is a procurement channel established in order to review proposals by States concerning activities and the transfer of nuclear-related goods, technologies and services to Iran. The Procurement Working Group reviews State proposals before submitting a recommendation to the UNSC, which shall in turn decide on the basis of that report and inform the State of its decision (United Nations, 2016). Secondly, the HR/VP is also vested with the task of coordinating the Working Group on Implementation of Sanctions Lifting. This group allows Iran to engage in negotiations with the E3/EU+3, in the case that it deems any of its members’ nuclear-related sanctions to be incompatible with the lifting of sanctions set out in the JCPOA, in view of resolving the issue. In default of agreement, Iran or any member of the E3/EU+3 may bring the matter to the attention of the Joint Commission (European External Action Service, 2016).

Therefore, the EU plays a central role in overseeing the implementation of the JCPOA. Thanks to its role as the Coordinator of the Joint Commission it is alert for any signs of arising issues that may jeopardize the proper implementation of the deal, and is also able to mediate in the event of disputes among the parties through the DRM. In fact, the EU carried out a multi-faceted conciliation and mediation work at various levels. Firstly, it built consensus with its Member States, including the UK, Germany

and France on the issue of Iran's nuclear program. Secondly, it bridged the gaps between Iran and the E3/EU+3. The EU has used the role conferred on it by the JCPOA to try to set itself up as a disinterested and neutral third party to gain autonomy from the US, especially since Trump left the agreement in 2018. In the case of China and Russia, although they perceive the EU as a rather weak party in international politics, the truth is that they also see it as a convener and appreciate that it is a counterbalance to the weight of the US within the Joint Commission (Blockmans & Viaud, 2017). In the words of Helga Schmid, the Secretary General of the European External Action Service (EEAS):

“Only the European Union could have played that role. No other actor would have been accepted. Russia, China and the US could not have done it, but also none of the EU Member States could have done it. It was only the EU that was accepted because the EU was perceived by both sides as a neutral actor, as a moderator, a facilitator. We were bridge builder in the context between Iran and the US, which continues to be difficult”. (Blockmans & Viaud, 2017, p. 1)

4.3. The JCPOA’s effect on European trade

Before the US abandoned the nuclear agreement in April 2017, the World Bank announced that the Iranian economy had improved by 2016 thanks to the lifting of sanctions by the JCPOA. This easing of sanctions also had a positive effect on the trade relationship between Iran and the EU. The Iranian market was again open to European investment and Iranian President Hassan Rouhani visited France and Italy in 2016, and European delegations did likewise in Iran (Blockmans & Viaud, 2017). During these visits, investment agreements were signed with some of the most important European multinationals, such as aircraft and car manufacturers and oil companies, as shown in Table 3:

Table 3

Trade agreements made by European companies in Iran

Total	Signed up to a \$4.8 billion project to supply needed technology to develop production in South Pars gas field.
Saipem	Signed a memorandum of understanding with Iran for cooperation in relation to natural gas and gas-related infrastructure.
Quercus	Signed a €500 million contract to build a 600-megawatt solar plant in central Iran.

PSA Peugeot-Citroen	Engaged in a €400 million joint venture with Khodro, its Iranian partner, to produce 200,000 vehicles a year.
Renault	Signed a €660 million joint venture to build annually 350,000 cars together with the Industrial Development & Renovation Organization of Iran (IDRO) and Parto Negin Naseh.
Scania	Signed two memoranda of understanding for the production of 1,350 public transport buses.
Siemens	Signed a deal to produce over 50 diesel locomotives to renovate Iran's railway network.
Airbus	Iran ordered 100 planes worth \$18-20 billion to modernize its air fleet.
Vodafone	Partnered with HiWEB, an Iranian ISP, to upgrade Iran's network and IT infrastructure.

Note. Data for Total from Selby-Green (2018), for Saipem from Jewkes (2016), for Quercus from Ward (2017), for PSA Peugeot-Citroen from Khalaj & Stothard (2016), for Renault from Dudley (2017), for Scania from Financial Tribune (2017), for Siemens from BBC News (2018), for Airbus from Hafezi & Hepher (2018), for Vodafone from Vodafone (2016).

Bilateral Iran-EU trade reached 21 billion euros in 2017, after having reached its lowest point in 2013. As an example, in the first 16 months after the entry into force of the nuclear agreement, bilateral trade increased by 79% compared to 2015 and Iranian exports to the EU increased by 450%. With regard to the oil sector, oil revenues returned to pre-sanction levels, in fact 40% of Iran's oil exports went to European countries, especially the UK, France, Italy, Spain, Hungary and Greece (Blockmans & Viaud, CEPS, 2017). It goes without saying that the EU not only had major political and strategic interests in the survival of the agreement but also economic ones.

From a political point of view, cooperation between Iran and the European bloc was strengthened in areas such as climate, energy, human rights, economics, migration and nuclear cooperation. In fact, in 2017 an EU-Iran High Level Seminar on 'International Nuclear Cooperation: Expectations and Responsibilities' was held as well as the Iran-EU Business Forum on Sustainable Energy (Blockmans & Viaud, 2017).

4.4. Challenges to the agreement

Despite the aforementioned conditions and verifications mechanisms covered by the Agreement, there was serious opposition to the deal from both sides. In the case of Iran, hardliners were dissatisfied and asserted that the deal would result in the US having more control over the Islamic Republic, thus putting at stake its independence

and sovereignty. The JCPOA also met with disapproval from candidate and (later) President Donald Trump, who did not hesitate to call the agreement an “embarrassment” that needed to be “corrected” (Blockmans, 2018). Trump’s opposition to the JCPOA was influenced by the fact that while other countries were growing richer through trading with Iran, the US refused to establish business relations with a state sponsor of terrorism. He even went as far as to call on the international community during a G20 summit in Hamburg in July 2017 to “stop doing business with nations that sponsor terrorism, especially Iran” (Davenport & Pitz, 2017, para. 2).

In particular, there are four aspects of the deal that drew criticism from skeptics:

- 1. Sunset provisions:** Given Iran’s past record of clandestine nuclear activities, detractors claim that the nuclear-related restrictions’ expiry dates give Iran a “patient pathway” to acquiring nuclear weapons. The US administration advocates for the imposition of these restrictions indefinitely and for the elimination of any relaxation of the conditions. By contrast, supporters of the JCPOA contend that no country has ever managed to acquire nuclear weapons while being subjected to such a strict level of IAEA inspections (Vakil & Quillian, 2019).
- 2. IAEA inspections regime:** As earlier noted, in the case that the IAEA requests Iran access to its nuclear sites, Iran has up to 24 days to grant inspectors permission. Critics are concerned that this period of time will allow Iran to conceal evidence of any sensitive activity it may have been carrying out. The US President is pressing for IAEA inspectors to have immediate access to all sites, including non-nuclear military locations. Nevertheless, they overlook the fact that, according to experts, radioactive particles are difficult to hide and that if it was not for the JCPOA, there would simply be no time limit for responding to an IAEA request (Vakil & Quillian, 2019).
- 3. Ballistic missiles program:** The 1980-1988 Iran-Iraq War saw the beginning of Iran developing its own ballistic missile capabilities. During this war, Iran felt especially vulnerable and helpless when its regional neighbors and some Western countries gave their support to Saddam Hussein, while Iraq inflicted heavy losses on Iran through the indiscriminate use of missiles and chemical weapons. Based on its past experience, Iran regards its missile program as cornerstone to its national security as well as a powerful deterrence tool in a

rather hostile neighborhood. Conversely, many states in the Middle East perceive Iran's ballistic missile program as a threat to regional stability. Such perception stems from the fact that Iran has been supplying Hezbollah, Iraq's Popular Mobilization Units, the Houthi rebels in Yemen and the Assad regime with an array of missiles and with missile production technologies. Even if Iran does not possess intercontinental ballistic missiles, it still has 13 different kinds of short and medium-range missiles, some of which can deliver nuclear weapons (Vakil & Quillian, 2019). Even if the JCPOA makes no mention of Iran's missile program, UNSC Resolution 2231 provided for an eight-year limitation on "any activity related to ballistic missiles designed to be capable of delivering nuclear weapons, including launches using such ballistic missile technology" (UNSC, 2015, p. 99). However, Iran has not halted its missile tests with the excuse that the missiles that its tests have a defensive nature and that its missiles are not designed to carry nuclear weapons, so they fall beyond Resolution 2231 constraints (Immenkamp, 2018).

- 4. Regional issues:** Given the current situation in the region, which is characterized by the intense rivalry between Iran, Israel and the Arab Gulf States, it should come as no surprise that the two latter argue that any solution to the issue must necessarily address the compelling regional challenges. Otherwise, they believe that the unfreezing of assets and the economic gains will enable Iran to project its influence across the region through the sponsoring of proxies and direct intervention in countries such as Lebanon, Iraq, Syria and Yemen. As a matter of fact, as early as 2004, King Abdullah II of Jordan warned of Iran's objective to establish a "Shia crescent" from the Gulf to the Mediterranean (Vakil & Quillian, 2019).

In view of the above, during his election campaign, Donald Trump was a staunch opponent of the JCPOA and advocated for a tougher stance on Iran. Once elected President, he made good on his electoral promise on May 8, 2018, when he announced that the US was abandoning the JCPOA. This also meant the progressive re-imposition of secondary sanctions targeting Iran pursuant to Executive Order 13846. It is unsurprising that Israel and the so-called Sunni Arab states, namely Saudi Arabia, the UAE, Bahrain and Egypt to some extent, welcomed Trump's decision to withdraw from the deal (Botta, 2018).

The departure of the US from the nuclear agreement was accompanied by the re-imposition of US secondary sanctions, which have extraterritorial effect, with serious economic consequences for Europe. The US granted companies 90-180 days to wind down their trade relations in Iran. The sanctions re-entered into force in two phases. The first phase, which began on 7 August, targeted the Iranian government's purchase of US dollar banknotes, Iran's sovereign debt, the automobile sector, and the sale and purchase of commercial planes, carpets, precious, raw and semi-finished metals (Geranmayeh, 2018).

The second wave of sanctions came into effect on 5 November and it re-imposed sanctions on Iran's shipping, ship-building, financial, insurance, energy and petroleum sectors. To do this, the US Office of Foreign Assets Control (OFAC) added Iranian entities such as the Iran's Central Bank, the Islamic Republic of Iran Shipping Lines (IRISL), the Naftiran Intertrade Company (NICO), the National Iranian Tanker Company (NITC) and the National Iranian Oil Company (NIOC) back to its the Specially Designated Nationals (SDN) List, so any non-US entity, which of course includes EU entities, wanting to conduct business with these entities may be penalized for violating US secondary sanctions. These sanctions, taken together, are specifically designed to reduce Iran's oil exports, which are the country's main source of revenue, and to close off Iran's access to the global financial networks (Geranmayeh, 2018).

4.5. Europe's bid to keep the US on board

The US' withdrawal from the agreement was a heavy blow for the JCPOA and it has put more pressure on Europe to prevent its collapse. With a view to preventing the US from pulling out of the agreement, the E3/EU negotiated with the US in January 2018 a "supplemental" agreement that addressed the JCPOA's limitations. By May of that year, both sides seemed to have reached an understanding on most of the issues of what was to be this supplemental agreement. In particular, they had agreed on the need to impose restrictions on Iran's missile program as well as on its regional activity, but they were unable to reach an agreement regarding the sunset clauses: Trump's maximalist demand of seeking indefinite zero enrichment capacity in Iran spoiled any chance for a diplomatic breakthrough (Vakil & Quillian, 2019). During the negotiations, the US also tried to undermine European unity by focusing on the weakest link in the chain: the UK. In January 2018, PM Theresa May met with US Secretary of State Rex

Tillerson. Nonetheless, the Prime Minister reiterated the UK's commitment to the JCPOA (Immenkamp, 2018).

After the re-imposition of US secondary sanctions, Iran threatened the remaining parties to walk away from the JCPOA altogether too if they did not provide it with some tangible economic relief to compensate for the US secondary sanctions' effect. In order to reassure Iran and to stress their commitment to the JCPOA, the European leaders, namely French President Emmanuel Macron, German Chancellor Angela Merkel, and British Prime Minister Theresa May, issued a joint statement on May 8, 2018. In it they regretted Trump's decision to leave the agreement and demanded Washington to "avoid taking action which obstructs [the JCPOA's] full implementation by all other parties to the deal" (Macron, May, & Merkel, 2018, para. 4). Furthermore, they raised the need to use the JCPOA as a basis from which to further negotiate and address issues not covered by the JCPOA, such as Iran's ballistic missile program, its activities in the Middle East and a long-term commitment by Iran regarding its nuclear program after 2025 (Macron, May, & Merkel, 2018). The Europeans had been working for more than a decade to bring Iran to the negotiating table and they were not willing to throw all that work out the window (Immenkamp, 2018).

On 9 May, HR/VP Federica Mogherini made a statement on behalf of the EU in which she stated that the JCPOA, based on the more than 10 quarterly reports of the IAEA, was working well and that there was no need to revise it. She added that as long as Iran continued to respect the nuclear agreement, Europe would remain firm in its commitments. For Europe, this issue was not only about possible economic losses but also about Europe's place in the international arena: if Europe demonstrates its inability to provide an effective response to US actions, it may set a long-lasting precedent for future US administrations to be in control of the EU's trade and foreign policy (Mogherini, 2018).

4.6. What has the E3/EU done to save the JCPOA?

On 16 May 2018, the EU's College of Commissioners discussed possible lines of action to be taken to safeguard the JCPOA and European interests. On the same day, the President of the European Commission, Jean-Claude Juncker, and HR/VP Mogherini presented to the leaders of the Union at an informal meeting in Sofia a series of concrete

proposals that were unanimously accepted by the EU leaders (European Commission, 2018). In the words of President Juncker:

“In Sofia, we saw a show of European unity. As long as the Iranians respect their commitments, the EU will of course stick to the agreement of which it was an architect - an agreement that was unanimously ratified by the United Nations Security Council and which is essential for preserving peace in the region and the world. But the American sanctions will not be without effect. So we have the duty, the Commission and the European Union, to do what we can to protect our European businesses, especially SMEs”. (European Commission, 2018, para. 2)

Having received the support of European leaders, on 18 May 2018, the European Commission took action to protect trade between EU and Iranian companies and to minimize the potential negative impact of the US secondary sanctions. On 19 May 2018, the Commissioner for Climate Action and Energy, Miguel Arias Cañete, visited Tehran to present to Iranian leaders these measures designed by the EU to ensure the continuation of trade with the Islamic Republic (Espinosa, 2018).

4.6.1. The Blocking Statute

The first of such measures was the reactivation of Regulation (EC) 2271/96, better known as the “Blocking Statute”. The Blocking Statute was first introduced on 22 November 1996 after the US had adopted the Helms-Burton Act against Cuba and the Iran and Libya Sanctions Act. It was designed to protect European operators, whether individuals or companies, involved in legitimate trade or movement of capital operations with such countries (Hellman, 2018). On 6 June 2018, the European Commission launched the process of updating the EU's Blocking Statute to include the new US measures, and it entered into force on 7 August, following a two-month scrutiny period to which neither the European Parliament nor the Council objected (Andreeva, Kocijancic, & Deville, 2018).

The EU does not acknowledge the extra-territorial application of any requirement or prohibition based on legislation adopted by third countries as legal in relation to international law. Consequently, the updated Blocking Statute prohibits EU operators from complying with US extraterritorial sanctions, unless the Commission exceptionally authorizes them to comply with those laws on the grounds that non-compliance would prove especially damaging to their or to the EU's interests. It also

includes a clause that, in theory, permits EU operators to recover any damages from the damaging party derived from extraterritorial sanctions through civil legal claims, and voids the effect in the EU of any third country's court rulings based on foreign laws (European Commission, n.d.).

On 6 July, a meeting of the JC of the JCPOA was held in Vienna at ministerial level and was chaired by Federica Mogherini, by virtue of her position as HR/VP. At this meeting, the E3/EU+2 and Iran, that is to say, the remaining parties to the deal, reconfirmed their commitment to the continued full and effective implementation of the nuclear Agreement, expressed their support for all efforts aimed at preserving the trade and economic relations with Iran, and welcomed the EU's initiative to update its Blocking Statute (Kaznowski & Deville, 2018).

However, in practice the Blocking Regulation risks being more of a symbolic gesture in furtherance of the JCPOA than an actual effective policy. Due to the fact that the inflictor of the damage is the US, it is likely to challenge any legal suit in EU courts brought by an EU operator looking for compensation for the damages arising from US secondary sanctions by reason of sovereign immunity. Also, the Blocking Regulation places EU operators in the dilemma of accepting sanctions either from the US or the EU. Given the central role played by the US in the global financial system, most operators are most likely to comply with US requirements even if that means being penalized by the EU in order to avoid losing access to the American financial system. To date, the Blocking Regulation has only been applied by European courts in a few cases and its enforcement remains rare and uneven (Thomson & Shah, 2020).

The Blocking Regulation may provide some legal comfort to medium-sized EU companies with limited or no presence in the US financial system. On the other hand, major multinationals with economic interests in the US may rather pull out of Iran. The Blocking Regulation's little effective power became manifest in the months following its update. The European multinationals that had signed agreements in Iran in the months prior to the US's withdrawal from the agreement decided either to drop or to suspend their investments in the country (Hellman, 2018). Such is the case of Total, France's largest energy entity, which announced that it was finally pulling out of its \$4.8 billion gas field project. Other companies like Peugeot-Citroen, Boeing, Siemens and Russian oil giant Lukoil also pulled out of their projects in Iran (R. Wald, 2018).

4.6.2. The EIB

The Commission Delegated Decision (EU) 2018/1102 of 6 June 2018 urged the European Investment Bank (EIB) to extend its External Lending Mandate (ELM) to invest in Iran (European Commission, 2018). Nevertheless, the president of the EIB, Werner Hoyer, although voicing his support for the EU's efforts to keep the agreement afloat, acknowledged that it was not possible for the EIB to do business with Iran. If the EIB would lend money to Tehran, it would risk losing access to US capital markets and of being exposed to US sanctions given the fact that almost a third of EIB lending is dollar dominated. This was a setback for the EU, which was confident that the European Investment Bank could support small and medium-sized companies in Iran and to increase liquidity, which is a source of concern for the country (Emmott & de Carbonnel, 2018).

4.6.3. Financial support

The European Union also launched a series of confidence-building measures with Iran, including financial assistance through the Development Cooperation and the Partnership Instruments. On 23 August 2018, the Union earmarked for Iran a €50 million aid fund. Of this amount, €18 million were allocated for economic and social development projects in Iran; €8 million for the private sector, including small and medium-sized enterprises as well as Iran's Trade Promotion Organization; another €8 million for environmental projects; and €2 million for fighting drug-related damages. However, despite the political goodwill, these figures are in stark contrast to the €20 billion in trade registered in 2017 between Iran and the EU (Geranmayeh, 2018).

On March 23, 2020, in the midst of the current COVID-19 crisis, current HR/VP Josep Borrell announced that the Union would send \$20 million in humanitarian aid to Iran, to alleviate the effects of the pandemic, and that it would support Tehran's request for IMF financial support (Emmott, 2020).

4.6.4. INSTEX

At present, INSTEX is a state-owned company registered as a *société par actions simplifiée* under French law, headquartered in Paris, and headed by Michael Bock, a former German Ambassador (Brzozowski, 2020). Its creation dates back to September 2018, when the governments of France, Germany and the UK began working with the Union to establish a special purpose vehicle (SPV) to make trade more feasible between Iran and the EU. Thus, on 31 January 2019, the Instrument in Support

of Trade Exchanges (INSTEX) was created, which is a new European SPV that works outside the US-controlled channels so as to allow non-dollar transactions between European and Iranian operators, while circumventing U.S. sanctions. The creation of INSTEX was finally announced on 28 June 2019 by the governments of France, Germany and the UK during a meeting of the Joint Commission of the JCPOA that was chaired by Helga Schmid, the EU's Secretary General of the EEAS (Batmanghelidj & Shah, 2019).

The rationale behind the creation of INSTEX is that the US listed SWIFT, the Brussels-based entity through which financial transactions are mainly conducted, as a potential sanctions-breaker. In November, albeit SWIFT is a Belgian company and may be subject to neither US jurisdiction nor sanctions, it finally announced that it would comply with US sanctions and remove Iranian banks from its network out of fear of any potential retaliation from Washington (Coppola, 2019). This move isolated the Iranian economy from international transactions, thus preventing European companies from making investments and engaging in trade with their Iranian counterparts. Up until then, the EU had been hoping that SWIFT would not comply with US requirements and continue its payment services to Iran. This prevented Iranian banks from conducting any transactions meant to finance EU imports and exports without being subjected to US secondary sanctions (Girardi, 2019). In this regard, INSTEX is the first real alternative to SWIFT.

INSTEX's operating principle is based on barter, and more specifically on matching incoming and outgoing cash flows. For instance, picture a European company selling machinery to an Iranian importer, and another European company buying medicines from Iran. Under normal circumstances, in the first scenario, the Iranian company would directly send its payment to its European counterpart, and in the second scenario, the European buyer would pay the Iranian seller. However, in the current circumstances, given that the European companies cannot directly receive the Euro payment from the buyer in Iran without facing US sanctions, they register all their sale documentations with INSTEX, which in turn matches the two transactions so that the two European companies pay each other: the European buyer sends its payment to the European seller. Furthermore, INSTEX is mirrored by its corresponding Iranian SPV, the Special Trade and Finance Instrument (STFI, known in Iran as SATMA by its Persian acronym), which works in exactly the same way but between Iranian operators.

In this manner there are no direct cross-border payments between Iran and the EU, but every party still receives their goods and payments (Coppola, 2019).

This channel is used exclusively for non-sanctionable trade, and more specifically, humanitarian goods that are exempted from US sanctions like foodstuffs, medical devices and medicines. Consequently, the mechanism does not include the oil industry, which is a key sector of the Iranian industry and is suffering the sanctions' economic consequences the most. As a matter of fact, oil exports are estimated to have fallen by 60% since the US re-imposed its sanctions. However, in the future, the scope of goods covered by INSTEX may be extended. In November 2019, Belgium, Denmark, Finland, the Netherlands, Sweden and Norway joined the three founding countries (France, Germany and the UK) as shareholders (Thomson & Shah, 2020). In addition, more European countries have expressed a desire to join despite American pressure to avoid it.

This increase in the number of shareholders allows INSTEX to have a wider access to capital and technical knowhow and skills. Countries like China and Russia have expressed their interest in joining too, as well as India and Turkey, which happen to be among Iran's major oil buyers. However, it is not advisable for non-European countries to join the SPV as this could render it even more vulnerable to US sanctions and because it is necessary for its proper functioning that its compliance framework is applied uniformly by all companies using it. Hence, ideally, these countries should establish their own SPVs to trade with Iran (Batmanghelidj & Shah, 2019).

On 31 March 2020, the UK Foreign and Commonwealth Office confirmed that INSTEX had concluded its first transaction to facilitate the exportation of €500,000 worth of medical goods to the Islamic Republic, which has been hit hard by COVID-19 (Foreign & Commonwealth Office, 2020). The mechanism is now in a process of increasing transactions so even if at first, analysts argued that the SPV would only be attractive to a handful of small and medium-sized enterprises with no significant ties to the US, actually, at present, European multinationals also seem to take an interest in the mechanism. In spite of this progress, INSTEX on its own does not seem to be able to fully deliver on the economic gains promised by the JCPOA, but it is rather a political message to show Tehran Europe's commitment to save the nuclear deal (Batmanghelidj & Shah, 2020).

4.6.5. The DRM

Iran began to violate the terms of the nuclear agreement on 1 July 2019 after it exceeded the limit of 300 kg of enriched uranium imposed by the JCPOA. Up to that point, the IAEA had confirmed in all its reports that Iran had been respecting the terms of the agreement. One week later, Iran increased the enrichment level to 4.5 percent from the 3.67 percent U-235 limit set by the agreement. On September 6, 2019, Tehran began using new advanced centrifuges to enrich uranium. In November that same year, Iran resumed its uranium enrichment activities at Fordow and exceeded the heavy water limit imposed by the JCPOA. In response, the EU HR/VP and the Foreign Ministers of France, Germany and the UK issued a joint statement on 11 November in which they expressed their concern about the latest developments and warned of the serious consequences that these may entail, including the triggering of the DRM (Foreign & Commonwealth Office, 2019). The last of Iran's infringements took place on 5 January 2020, when it lifted the limit on the number of uranium centrifuges in operation. Nevertheless, despite all the previous non-compliances, Iran still claims that it is ready to return to the path of full compliance if the rest of the parties to the JCPOA, and especially Europe, deliver the promised economic benefits (Batmanghelidj & Shah, 2020).

These breaches of the agreement are part of a strategic move by Tehran to force Europe into doing more to counter Washington's economic sanctions. Iran claims that despite having strictly adhered to the terms of the JCPOA, Europe has not kept its side of the deal. Iran also claims that the re-imposition of sanctions by the United States would have constituted a "significant non-performance" (E3/EU+3 & Iran, 2015, Dispute Resolution Mechanism section, art. 36), which would in turn allow Tehran "to cease performing its commitments under this JCPOA in whole or in part" (E3/EU+3 & Iran, 2015, Dispute Resolution Mechanism section, art. 36), as set out in the agreement. According to the Iranian logic, fewer economic benefits should merit a less strict compliance, an approach that is not shared by the Europeans. The E3/EU contend that Iran is not entitled to cease observing the agreement's nuclear limits because it never attempted to resolve its complaint through the JCPOA's official channels.

On 10 January 2020, an extraordinary meeting of the Foreign Affairs Council took place in Brussels to discuss this latest infringement committed by Iran. Four days later, on 14th January 2020, the three European countries activated the Dispute

Resolution Mechanism to open a period of negotiations to resolve the diplomatic deadlock and thereby save the agreement (Osiewicz, 2020). Interestingly, on the same day that the UK announced that it was joining its European allies in activating the DRM, British Prime Minister Boris Johnson declared that he would be open to replacing the JCPOA with another agreement negotiated by US President Donald Trump (“Boris Johnson: Replace Iran Nuclear Plan”, 2020). This might be a symptom of the beginning of the distancing between post-Brexit Britain and the rest of the European countries along with the European Union on foreign policy issues.

Meanwhile, Iran did not expect the E3/EU to activate the Dispute Resolution Mechanism: the DRM is devised to tackle a technical breach of the agreement by Iran, rather than a political crisis triggered by Iranian complaints of reduction in compliance by other parties, as in the current case (Vaez, 2020). The mechanism’s process is set out in articles 36 and 37 of the JCPOA and consists of five distinct steps that could result in the re-imposition of UN sanctions on Iran if negotiations came to naught:

1. In the event that any of the parties to the JCPOA believes that another party is in breach of the agreement's commitments, it may refer the issue to the Joint Commission. The current HR/VP, Josep Borrell, in his capacity as Coordinator of the Joint Commission, shall mediate between the members in order to resolve the issue to the satisfaction of the complainant. Once the DRM is activated by a non-Iran complaining party, the Joint Commission will have 15 days to settle the dispute, unless it agrees to extend the timeline for talks by consensus before the process moves on to the next stage, which can be done an indefinite number of times (Nichols & Irish, 2020). In the actual instance, HR/VP Borrell announced on January 24 that he had decided to extend the time available due to the complexity of the matter. This plays into the hands of the E3/EU, which hope that this will buy them time to keep the deal afloat until the next US presidential election in November (Strauss & Emmott, 2020). The first JC meeting to discuss the Iranian breaches took place on February 26th this year in Vienna, at the political director level. In this session, the participants stressed the importance of preserving the nuclear agreement as well as their concerns about Iranian non-compliance; but they also acknowledged that the US sanctions prevented Iran from reaping the promised economic benefits (EEAS Press Team, 2020).

2. In the case that the JC fails to resolve the dispute, any participant may take the compliance issue to the Ministers of Foreign Affairs of the participants of the agreement, who would have 15 days to settle down the issue. Although at this stage the HR/VP does not take part in the adoption of decisions in relation to nuclear transfers and activities, he shall still be chairing the meetings (Nichols & Irish, 2020).
3. If the JC and the Ministers of Foreign Affairs are all unable to resolve the matter, the complainant or the accused party could solicit that the issue be examined by a three-member Advisory Board. The two parties involved in the dispute would each appoint a member, while the third member would be independent. The Advisory Board would then have 15 days to provide a non-binding opinion on the compliance issue. Once the Advisory Board has issued its opinion, the Joint Commission would have to resolve the issue within 5 days based on the Board's opinion (Nichols & Irish, 2020).
4. If, despite the previous steps, the issue remains unresolved to the satisfaction of the complaining party, then the complaining party may consider the issue to constitute "significant non-performance" and "treat the unresolved issue as grounds to cease performing its commitments under this JCPOA in whole or in part" (E3/EU+3 & Iran, 2015, Dispute Resolution Mechanism section, art. 36). The complainant may also inform the UNSC of their decision, which would also include a description of the "good faith efforts" made and that it has exhausted all the possibilities offered by the JCPOA (Nichols & Irish, 2020).
5. The UNSC must then vote, within 30 days of the notification, on a resolution to continue Iran's sanctions relief. If it were the case that no resolution was adopted within the time period laid down, the sanction provisions in all previous UNSC resolutions would "snap back", meaning they would be re-imposed on Iran automatically, unless the UNSC decides otherwise (Blockmans & Viaud, CEPS, 2017).

However, it does not seem that Europeans are willing to escalate the issue to the UN Security Council. Iranian officials have already warned that the re-imposition of UN sanctions would prompt Iran to abandon not only the JCPOA but also the NPT. If this were to happen, the hardliners in Tehran would see their thesis of the futility of

negotiating with the West reinforced and it would certainly affect Europe's credibility to negotiate with Iran in the future (Geranmayeh, 2020).

4.7. Possible future steps

Experience shows that Europe has not been able to prevent the decline of the nuclear agreement single-handedly. They have failed to deliver the JCPOA's economic dividends, so Tehran has embarked on a process of reducing its nuclear commitments that has already reduced its break-out time. The EU by itself has a limited capacity to act and will need to build support for commitments to reduce tension and put Iran back on the path to compliance. The E3/EU should focus on a process of high-level shuttle diplomacy between the US and Iran aimed at protecting what remains of the nuclear agreement by acting on several fronts (Geranmayeh, 2019).

Firstly, in relation to Iran, the E3/EU could negotiate a less-for-less arrangement with the country. The objective of this "JCPOA-lite" would be to stop any further non-compliance by the Islamic Republic and to preserve the core conditions of the agreement, such as the limit of enriched uranium and centrifuges, in exchange for realistic economic benefits, such as an increase in the number of transactions between INSTEX and STFI or further investment in development aid. In addition, Europe should also encourage Iran to ratify the International Convention Against Transnational Organized Crime and the Convention Against Funding Terrorism to facilitate trade between the EU and Iran (Thomson & Shah, 2020). While it is not clear at this stage that Iran will accept this solution, it would be a very pragmatic possibility midway between a final collapse and a fully functioning agreement. This solution could avert the worst case scenarios, such as Iran leaving the NPT, and would save the deal's main pillars, making possible a full JCPOA restoration in case a future US administration wanted to rejoin diplomatic negotiations (Geranmayeh, 2019).

To achieve this less-for-less arrangement it would also be desirable that the E3/EU made common cause with China and Russia to gain a stronger position vis-à-vis Washington. Apart from increased cooperation with Moscow and Beijing, the E3/EU should also step up the pressure on these countries so that they take greater responsibility for helping the Iranian economy. For instance, China could offer to import more Iranian oil and help it find more buyers in exchange for a fuller implementation (Thomson & Shah, 2020). So far, these two countries have taken

advantage of Iran's isolation to make it more dependent. China has forced Iran to make significant concessions in exchange for investment and oil exports and Russia has done likewise in relation to energy markets and their security coalition in Syria (Geranmayeh, 2019).

Eventually, the EU must continue to offer support to Iran, but it must also make it clear that it does not overestimate its own power. If Europe were to abandon its current diplomatic stance and join the US's "maximum pressure" strategy, Iran would certainly notice the difference in terms of sanctions (Leonard, 2019).

Secondly, in relation to the US, although the EU must show autonomy in order to stop any attempt by Washington to coerce Brussels, all JCPOA participants recognize that for the agreement to work fully, support, or at least acquiescence by Washington to a relief of its secondary sanctions, such as those targeting the oil, petrochemical and metals sector, is indispensable (Geranmayeh, 2019). To achieve this, a number of options are presented. On the one hand, if the E3/EU uses the activation of the DRM as a sign of a tougher policy towards Iran and looks for convergent interests with the US in the Middle East region, it will be easier to convince Washington of the need to show greater flexibility in the sanctions imposed on Iran (Osiewicz, 2020).

On the other hand, Europe may also lobby Congress to make it realize that two years later its strategy with Iran has neither served to negotiate a new and better nuclear deal nor to make it give in on its regional ambitions on the contrary it has only increased tension and caused Iran to dangerously shorten its break-out time (Vaez, 2020). It would also be advisable for the E3/EU to maintain regular contacts with the Democratic presidential candidate's team in case that they win the November 2020 elections. Finally, Europe should present INSTEX to the US not just as part of the JCPOA but as part of the global humanitarian responsibility towards the Iranian population. Emphasizing INSTEX's humanitarian nature is also likely to give it greater protection and to get the US to approach INSTEX with a different perspective, which may require the E3/EU to increase the mechanism's transparency (Thomson & Shah, 2020). The goal of this would be to convince Congress of the need to put pressure on the US Department of Treasury and State to at least further facilitate trade in medicines and agricultural foodstuffs.

Other potential allies to de-escalate the situation are the Arab Gulf countries, such as Iraq, Oman, Kuwait and the UAE. These countries, despite their rivalry with Iran, are increasingly concerned about the possible consequences of an escalation of tension between Washington and Tehran and about the danger of Iran leaving the JCPOA for good, which would increase the likelihood of a nuclear race in the region or a US or Israeli strike on the Iranian nuclear facilities (Geranmayeh, 2020). The E3/EU may launch a diplomatic initiative jointly with the rest of the countries in the region to mediate between Saudi Arabia and Iran, which should also include groups such as the Islamic Revolutionary Guard Corps. This should send a clear message that Europe is willing to de-escalate regional tensions by working with Iran and its neighbors and by recognizing the legitimate security interests of all parties, all while not treating Iran as a pariah state. This regional dialogue may discuss concerns such as, nuclear issues beyond those included in the JCPOA, migration caused by conflict in Yemen and Syria and Iran's ballistic missiles (Thomson & Shah, 2020). However, it is on this last point that Iran will be less willing to give in. In the Islamic Republic, the ballistic missile program is perceived as a key element of national security and dignity. Given that Iran is just one of the eleven countries in the region with long-range missile capabilities, any unilateral rollback of its missile program would be perceived as a threat to its security and an imbalance in force (Persbo & Shah, 2020).

Iran's Hormuz Peace Endeavour (HOPE) initiative may provide a good starting point for a wider regional dialogue. This initiative was introduced by Iran at the UNGA and it tried to reach out to all regional states, even those with which Iran does not have diplomatic relations, to embark upon negotiations on a series of confidence-building measures, including a prospective non-aggression pact. According to some reports, there seems to be some progress at talks between Saudi Arabia, the UAE and Iran on this initiative on regional security, which may open the door to new regional dialogues. The EU could also play a role in getting the GCC to cooperate with the HOPE initiative, something that Iran would very much appreciate. In case of success, the E3/EU may bring to the table new maritime measures, such as a Charter for the Persian Gulf based on UNCLOS, to cover issues ranging from prior notification of military maneuvers to nuclear accident crisis management (Thomson & Shah, 2020).

6. Conclusions

This paper sought to defend the hypothesis that there was certain coherence between the EU's foreign policy identity and its concrete diplomatic actions in relation to its negotiations with Iran and its role in the JCPOA Joint Commission. Since its early days, the European Union has always highlighted a number of values as fundamental to its identity. These include multilateralism, rule of law and respect for international standards, democracy and human rights. Such values are not only a consequence of the history of the European integration process itself but are also a manifestation of its own identity as an actor in the international system. This study has drawn on theoretical concepts of international relations to create an analysis framework through which to demonstrate this hypothesis. As can be appreciated throughout this work, the hypothesis of the study is clearly and evidently demonstrated. It has been corroborated that the EU has its own distinct foreign policy identity and that in the case of its engagement with Iran there is a high degree of coherence between its values and its concrete actions.

Firstly, it has been demonstrated that when it comes to its engagement with Iran, the European Union is a player that has always advocated diplomatic dialogue. For the Union, a nuclear agreement with Iran was essential as this would be a first step towards deepening dialogue with Iran at more levels. Brussels hoped to build on the nuclear deal to address its interests and concerns regarding Iran, including trade, energy, migration, drug trafficking, and human rights.

Secondly, it is clear that in the case of the negotiations with Iran, the EU has played a "soft power" role. During the more than twelve years of the negotiating process between Iran, the US and the other members of the E3/EU+3, the EU played a fundamental role as a conciliator and mediator. It was thanks to these negotiating and persuasive skills that the EU managed to bring states with positions as disparate as those of Iran and the US to the negotiating table.

Thirdly, it is evident that the Union in its dealings with Iran has always advocated for the resolution of security threats within a multilateral framework that includes all interested parties. The EU did not only mediate between Iran and the United States. Internally, the EU also managed to build a common consensus on the need to engage Iran with its Member States, including the three that also participated in the JCPOA, namely France, Germany and the UK. Furthermore, the very functioning of the Joint Commission is a prime example of the same multilateralism that the EU advocates

in its official statements. In this body, the EU was vested with the authority to mediate any potential discord between the JCPOA members and to monitor the deal's implementation. The fact that the other states have entrusted the EU with such a great responsibility is a sign that the Union is perceived as an actor committed to multilateralism and as a rather collaborative partner. In this respect, the unilateral withdrawal of the United States from an international agreement contrasts with the European Union's multilateralism.

Fourthly, in the present case the EU has also stood out for its firm commitment to defending the rule of law in the international system. This study has shown how the US's withdrawal and the re-imposition of its secondary sanctions has been the greatest challenge that Europe has faced regarding the topic at hand. From the beginning, Europe was aware of the importance of delivering Iran the expected economic benefits for the proper functioning of the agreement. Thus, with the aim of saving the agreement, the European Union has adopted a large number of measures aimed at providing Iran with some economic relief and creating spaces for dialogue, such as the Blocking Statute, INSTEX or the Dispute Resolution Mechanism.

However, it is also clear that despite its efforts, the EU by itself has not managed to prevent the deterioration of the nuclear agreement. This also shows that the EU lacks sufficient political leverage. In order to save the JCPOA, the EU will need to join forces with the other participants in the agreement and de-escalate the tension between Iran and the United States if it is to save its great diplomatic triumph that placed it on a par with the great diplomatic players on the global stage.

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