

Snap back: the philosophy behind and Legitimacy of running





Pilot phase finished

Outputs:

- Policy-papers,
- Policy briefs,
- Policy notes,
- Policy analysis,
- Reports,
- Essays,

Audience:

- Public opinion abroad,
- Domestic public opinion,
- Decision-makers.

5 programs:

- Nuclear technology,
- Non-proliferation,
- Nuclear-weapon-free-zone,
- International law,
- International politics.



Invites researchers, academics etc. to work with us and submit papers.

The Legitimacy of Running the JCPOA Dispute Resolution Mechanism

An Analysis of E3 Compliance and Iran's Responsive Measures

Does Snapback or Trigger mechanism exist in JCPOA text?

Re-imposition of UN sanctions,
Dispute Resolution Mechanism,

The Concept of Abuse of Rights

International law prohibits states from exercising rights in ways that undermine others' rights or breach good faith:

South Africa's illegal presence in Namibia stripped it of legitimacy to assert legal rights.

Abuse of rights, violating “ex injuria jus non oritur”
(no right arises from a wrong)

Background of the JCPOA

Decades of mutual mistrust,

The JCPOA's Reciprocity Structure (reversibility):

Mutual Comeback to Point Zero

JCPOA Paragraph #26

The EU will refrain from re-introducing or re-imposing the sanctions that it has terminated implementing under this JCPOA, without prejudice to the dispute resolution process provided for under this JCPOA. There will be no new nuclear related UN Security Council sanctions and no new EU nuclear-related sanctions or restrictive measures. The United States will make best efforts in good faith to sustain this JCPOA and to prevent interference with the realisation of the full benefit by Iran of the sanctions lifting specified in Annex II. The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from re-introducing or re-imposing the sanctions specified in Annex II that it has ceased applying under this JCPOA, without prejudice to the dispute resolution process provided for under this JCPOA. The U.S. Administration, acting consistent with the respective roles of the President and the Congress, will refrain from imposing new nuclear-related sanctions. Iran has stated that it will treat such a re-introduction or re-imposition of the sanctions specified in Annex II, or such an imposition of new nuclear-related sanctions, as grounds to cease performing its commitments under this JCPOA in whole or in part.

JCPOA Paragraph #36

If Iran believed that any or all of the E3/EU+3 were not meeting their commitments under this JCPOA, Iran could refer the issue to the Joint Commission for resolution; similarly, if any of the E3/EU+3 believed that Iran was not meeting its commitments under this JCPOA, any of the E3/EU+3 could do the same. The Joint Commission would have 15 days to resolve the issue, unless the time period was extended by consensus. After Joint Commission consideration, any participant could refer the issue to Ministers of Foreign Affairs, if it believed the compliance issue had not been resolved. Ministers would have 15 days to resolve the issue, unless the time period was extended by consensus. After Joint Commission consideration – in parallel with (or in lieu of) review at the Ministerial level - either the complaining participant or the participant whose performance is in question could request that the issue be considered by an Advisory Board, which would consist of three members (one each appointed by the participants in the dispute and a third independent member). The Advisory Board should provide a non-binding opinion on the compliance issue within 15 days. If, after this 30-day process the issue is not resolved, the Joint Commission would consider the opinion of the Advisory Board for no more than 5 days in order to resolve the issue. If the issue still has not been resolved to the satisfaction of the complaining participant, and if the complaining participant deems the issue to constitute significant nonperformance, then that participant could treat the unresolved issue as grounds to cease performing its commitments under this JCPOA in whole or in part and/or notify the UN Security Council that it believes the issue constitutes significant non-performance.

JCPOA Paragraph #37

Upon receipt of the notification from the complaining participant, as described above, including a description of the good-faith efforts the participant made to exhaust the dispute resolution process specified in this JCPOA, the UN Security Council, in accordance with its procedures, shall vote on a resolution to continue the sanctions lifting. If the resolution described above has not been adopted within 30 days of the notification, then the provisions of the old UN Security Council resolutions would be re-imposed, unless the UN Security Council decides otherwise. In such event, these provisions would not apply with retroactive effect to contracts signed between any party and Iran or Iranian individuals and entities prior to the date of application, provided that the activities contemplated under and execution of such contracts are consistent with this JCPOA and the previous and current UN Security Council resolutions. The UN Security Council, expressing its intention to prevent the reapplication of the provisions if the issue giving rise to the notification is resolved within this period, intends to take into account the views of the States involved in the issue and any opinion on the issue of the Advisory Board. Iran has stated that if sanctions are reinstated in whole or in part, Iran will treat that as grounds to cease performing its commitments under this JCPOA in whole or in part.

US withdrawal and Iran's compliance

- Strategic patience: not simultaneous
- 15 IAEA reports of Iran's compliance
- Iran's remedial measures: gradual, reversible and proportionate: signal of adherence

The E3's Breach of Obligations

- Failure to deliver economic benefits violates the JCPOA
- Undermining its legitimacy to invoke the snap-back mechanism
- The JCPOA's Preamble and Annex II mandate sanctions relief in trade, finance, and energy
- The E3's over-compliance with U.S. secondary sanctions blocked Iran's economic opportunities, with European banks refusing transactions with Iranian entities
- Instrument in Support of Trade Exchanges (INSTEX) was largely ineffective

The Snap-back Illegitimacy for E3

No participant has formally declared Iran non-compliant

Invoking the DRM would misuse a legal tool to penalize Iran's contractual rights

breaching “pacta sunt servanda”

Conclusion

- The E3 can procedurally activate the JCPOA's snap-back
- Such action lacks legitimacy
- This case underscores the challenges of enforcing international agreements under hegemonic pressures, emphasizing the need for reciprocity and accountability in nuclear diplomacy.

Thanks for your attention

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