
Non-Compliance and Nuclear Disarmament

The Iran Nuclear Deal

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18.1 Introduction

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT)¹ has been an important pillar of world peace in the international legal complex² of nuclear disarmament and arms control, as each non-nuclear-weapon State undertakes ‘not to manufacture or acquire nuclear weapons’.³ A constant challenge for great power rivalry and global geopolitical stability characterises States’ international legal interaction in the nuclear disarmament sphere. This interaction has variously taken the form of political diplomacy, the operation of tailored non-compliance machinery, and proceedings before international courts and tribunals (ICTs) as well as most recently the negotiation of the Iran Nuclear Deal (also known as the Joint Comprehensive Plan of Action or JCPOA). The difficulty of finding a ‘negotiated solution guaranteeing

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¹ Treaty on the Non-Proliferation of Nuclear Weapons (NPT), signed on 1 July 1968, entered into force 1970, 9 UNTS 161, available at www.un.org/disarmament/wmd/nuclear/npt/.

² G Mallard, ‘Crafting the Nuclear Regime Complex (1950–1975): Dynamics of Harmonization of Opaque Treaty Rules’ (2014) 25(2) *European Journal of International Law* 445–72.

³ NPT (n 1) Article II.

that Iran's nuclear program is exclusively for peaceful purposes'⁴ remains one of the central concerns of contemporary nuclear disarmament. The situation in relation to Iran is governed by the overarching NPT legal complex including the NPT, International Atomic Energy Agency (IAEA) Safeguards Agreements⁵ and the Additional Protocol⁶ (hereafter 'NPT legal complex'), as well as the Iran Nuclear Deal as mentioned above. The Iran Nuclear Deal is a detailed, 159-page agreement with five annexes which was reached by Iran and the P5+1 (China, France, Germany, Russia, the United Kingdom, and the United States) along with the European Union (EU) on 14 July 2015 through multiple rounds of negotiations which took approximately a decade.

Examining the NPT legal complex with reference to the Iran Nuclear Deal is a valuable opportunity to juxtapose and compare three types of machinery for settling disputes or bringing about compliance with international legal obligations. These three types of machinery are: political measures, non-compliance mechanisms (NCMs), and ICTs. Political measures have included unilateral sanctions efforts led by the US, the EU restrictive measures,⁷ and the good offices of China, Russia, and the EU. Non-compliance mechanism was established through the NPT, enabling the IAEA to serve as a watchdog for nuclear non-compliance. When the IAEA somewhat failed to limit the Iranian nuclear program to peaceful purposes only, the UN Security Council (UNSC) 1737 Committee⁸ and the

⁴ UNSC Resolution 2231 (2015), S/RES/2231(2015) 1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/225/27/PDF/N1522527.pdf?OpenElement>.

⁵ Under Article III of the NPT, 'all non-nuclear weapons states-parties are required to conclude a safeguards agreement with the IAEA ... in 1961, the IAEA's Board of Governors approved a document outlining the principles of safeguards'. For details, see IAEA, *Safeguards Implementation Practices Guide on Establishing and Maintaining State Safeguards Infrastructure*, July 2018, available at www-pub.iaea.org/MTCD/Publications/PDF/SVS_31_web.pdf; Arms Control Association, *IAEA Safeguards Agreements at a Glance*, February 2022, available at www.armscontrol.org/factsheets/IAEASafeguards.

⁶ 'The Additional Protocol [for verification of IAEA Safeguards] is not a stand-alone agreement, but rather a [model] protocol ... In May 1997, the IAEA Board of Governors approved the Model Additional Protocol ... and requested the Director General to use this model as a standard text for ... negotiations', available at www.iaea.org/topics/additional-protocol. As of 25 July 2022, Additional Protocols are in force with 139 States and Euratom. Another 13 States have signed an Additional Protocol but have yet to bring it into force.

⁷ EU Council, EU restrictive measures against Iran, available at www.consilium.europa.eu/en/policies/sanctions/iran.

⁸ UNSC Resolution 1737 (2006), S/RES/1737 (2006), available at [www.un.org/securitycouncil/s/res/1737-\(2006\)](http://www.un.org/securitycouncil/s/res/1737-(2006)). The UNSC 1737 Committee ceased to operate in 2015 as part of the implementation of the JCPOA and UNSC Resolution 2231 (2015).

JCPOA Joint Commission ('the Joint Commission') were established. Last but not least, Iran has also resorted to the International Court of Justice (ICJ) and the EU courts in recent years in the hope of resolving international legal disputes arising from the effects of unilateral US and EU sanctions and other political actions in relation to Iran's nuclear activities, which Iran considers violate obligations under the NPT legal complex.⁹

This shows that the history of the NPT legal complex is a recursive process¹⁰ in which new measures are developed to enhance compliance with the existing rules. The scope of IAEA safeguards since 1961¹¹ has evolved to ensure member States' fulfilment of their NPT obligations. The model Additional Protocol was approved in 1997 to increase the IAEA's ability to verify the peaceful use of nuclear material for 'exposed weaknesses'.¹² More recently, confronting the Iranian violations, a new formal non-compliance mechanism, the JCPOA, was set up in 2015 to assist further with ensuring compliance. The corresponding UNSC Resolution 2231 became a source of legal obligations for all UN member States including Iran and the US. The Joint Commission serves as the focal point for monitoring, fact-finding, and compliance by JCPOA member States. Similar to the UNSC 1737 Committee and its Panel of Experts,¹³ the Joint Commission and its subordinate working groups¹⁴ regularly review the implementation of obligations by the JCPOA member States,¹⁵ thereby assisting the UNSC in identifying evidence of non-compliance or non-performance¹⁶.

The Iran Nuclear Deal is an important complement to the NPT legal complex. It demonstrates how to address a 'complex global challenge'¹⁷ through negotiations on a complementary agreement (JCPOA) when a

⁹ The representative of the United States said 'our vote today demonstrates that the Council will act when countries violate their international obligations'. UN Security Council Press Release, SC/9268, 3 March 2008, available at www.un.org/press/en/2008/sc9268.doc.htm.

¹⁰ TC Halliday and G Shaffer, *Transnational Legal Orders* (Cambridge University Press 2015).

¹¹ On safeguards, see n 5.

¹² *Ibid.*

¹³ Established by UNSC Resolution 1929 (2010), S/RES/1929 (2010).

¹⁴ JCPOA, Annex IV – Joint Commission, available at <https://2009-2017.state.gov/documents/organization/245323.pdf>; And two new working groups as referred to later in the chapter.

¹⁵ JCPOA, Annex IV (n 14) 2, 'Functions', especially 2.1.14.

¹⁶ *Ibid.*

¹⁷ C Voigt, 'State Responsibility for Climate Change Damages' (2008) 77(1-2) *Nordic Journal of International Law* 1–22.

State Party (e.g., Iran) has not been fulfilling a core international treaty (here the NPT). It is also a case in which the permanent NCMs (i.e., the IAEA compliance machinery) operating under the treaty have been unable to persuade a party (Iran) to conform with its legal obligations (under the NPT). It features the establishment of a more effective non-compliance mechanism (i.e., the UNSC 1737 Committee or the Joint Commission, respectively, from 2006 to 2015 and since 2015) to resolve specific disputes with regard to compliance by relevant States (i.e., Iran from 2006 to 2015, Iran and the US since 2015). The work of the UNSC 1737 Committee, in parallel to political and diplomatic measures, contributed to the negotiations for and establishment of the JCPOA agreement as a peaceful solution to the Iranian nuclear crisis. The empirical evidence from the Iran Nuclear Deal suggests the use of mechanisms and approaches not involving recourse to ICTs can be successful in many circumstances.

Set against this positive trajectory is the decision of US President Trump in 2018 to withdraw from the JCPOA. However, this incident, too, demonstrates the effective use of mechanisms and approaches not involving recourse to ICTs. Following this decision, the United States put huge pressure on the EU to boycott international trade settlement services provided to Iran by European global banks¹⁸ and levied tremendous pressure on China through unilateral sanctions on those Chinese multinational companies like Huawei who were claimed by the US to serve as Iran's international trade partners.¹⁹ The strategic purposes of President Trump's pressure campaign on Europe and China were to force them to consent to the US withdrawal from the JCPOA and follow the United States in ending their obligations under the JCPOA, in addition to

¹⁸ G Mallard, S Farzan, and J Sun, 'The Humanitarian Gap in the Global Sanctions Regime: Assessing Causes, Effects and Solutions' (2020) 26(1) *Global Governance: A Review of Multilateralism and International Organizations* 121–53.

¹⁹ On 8 May 2018, Trump announced that the United States had unilaterally withdrawn from the Iran Nuclear Deal by reimposing the 'toughest sanctions' on Iran. In November, the United States pressured Germany, Italy, Japan, and other countries to abandon all telecom equipment from the world's largest vendor, Huawei, a private Chinese company. On 1 December, the US Department of Justice (DOJ) sent a request to Canada to arrest Huawei's Chief Financial Officer, Ms Meng Wanzhou, who was transiting in Vancouver Airport. Ms Meng was released in September 2021 after entering an agreement with DOJ. See G Mallard and J Sun, 'Viral Governance: How Unilateral US Sanctions Changed the Rules of Financial Capitalism' (2022) 128(1) *American Journal of Sociology* 144–88, available at www.justice.gov/opa/pr/huawei-cfo-wanzhou-meng-admits-misleading-global-financial-institution.

obtaining more leverage in the bilateral trade negotiations with the EU and China. This violated US legal obligations under JCPOA and UNSCR 2231 to lift 'all . . . national sanctions related to Iran's nuclear programme, including steps on access in areas of trade, technology, finance and energy'²⁰ so long as Iran continued to comply with the nuclear deal. In response, alongside the negotiations in the Joint Commission, the EU and China activated a range of political mechanisms, including diplomatic good offices and various forms of persuasion or coercion, e.g., Germany, France, and the UK's Instrument in Support of Trade Exchanges (INSTEX) in January 2019, the Swiss Humanitarian Trade Arrangement (SHTA) in February 2020, and the China–Iran twenty-five-year co-operation agreement in March 2021. These efforts successfully brought the United States back to the negotiating table in Vienna and Geneva with Iran and other JCPOA member States, which led the United States into compliance with its JCPOA obligations, in addition to providing preliminary sanctions relief to Iran. In contrast with recourse to an international court or tribunal, this shows how such political processes can lead to a positive outcome. This can be achieved by creating rich incentives or rewards for a complying party (Iran). Incentives include sanctions relief, humanitarian aid, or bilateral investment and trade programmes. These incentives may need to be accompanied by substantial penalties or coercions for a defaulting party (the United States). European humanitarian payment channels (e.g., SHTA, INSTEX), in addition to serving as a reward for Iran, are an example of pressure on US foreign policy, because the European efforts frustrated the US strategy to isolate Iran from the rest of the world in international trade by helping European multinational companies to return to Iran, one of the largest consumer markets in the Middle East. As the world's largest oil consumer, China, by signing the twenty-five-year agreement with Iran in March 2021, generated a substantial penalty for the United States. Although China promised to increase energy imports from the United States in the bilateral agreement signed in January 2020,²¹ China

²⁰ UNSC Resolution 2231 (2015), S/RES/2231 (2015) (n 4), Preamble and General Provisions, para v, and paras 18–33.

²¹ China committed to an additional \$18.5 billion and \$33.9 billion of oil purchases from the United States above the 2017 baseline, respectively, in 2020 and 2021 in Article 6.2, 1 (c), Chapter 6, in the US–China phase-one trade agreement in January 2020.

cut oil imports from the United States by 42 per cent in 2021²² and recovered substantial oil imports from Iran in the same year.²³

Certainly, the operation of NCMs and other means of dispute resolution, including recourse to ICTs, is interconnected, as shown in the dozens of cases of Iranian banks looking for judicial review of the EU's restrictive measures, or reparations, in the EU courts. This litigation reinforced Iranian diplomatic pressure for EU action against the 2018 US decision to withdraw from the JCPOA. The overall dynamic underlines how it is important for the international community to state its respect for the principles of international law when confronted by unilateral acts on the part of a hegemon in breach of a treaty. In this case such action was key for persuading Iran to meet its obligations under the JCPOA despite US conduct. The experience in respect of the judicial cases in the EU courts in relation to the Iran Nuclear Deal may be relevant beyond the field of non-proliferation, in many other areas of compliance in international and European law, such as climate justice, environment,²⁴ human rights²⁵ and public and private actors' decarbonisation obligations.²⁶ Relevant too is the gradual process in which the Iranian cases show how the EU courts became willing to interpret or reinterpret the Treaty on the Functioning of the European Union (TFEU) in a direction increasingly enabling the judicial pursuit of international justice.

²² Source of statistics: China Customs, available at <https://finance.sina.com.cn/money/future/roll/2022-01-26/doc-ikyakumy2759074.shtml>. 'In 2021, China's purchases of [phase-one trade agreement-] covered energy products reached 52 percent (Chinese imports) or 37 percent (US exports) of the annual commitment,' available at www.piie.com/research/piie-charts/us-china-phase-one-tracker-chinas-purchases-us-goods.

²³ Experts believe Iran contributes to 6 per cent of Chinese crude oil imports, replacing the United States as the eighth largest oil importer. See www.reuters.com/article/china-oil-import-iran-020-idCNKBS2JU0C8.

²⁴ C Voigt and M Zen (eds), *Courts and The Environment* (Edward Elgar Publishing 2018).

²⁵ C Voigt and E Grant, 'The Legitimacy of Human Rights Courts in Environmental Disputes: Editorial' (2015) 1–2 *Journal of Human Rights and the Environment* 131–38.

²⁶ C Voigt, 'The Climate Judgment of the Norwegian Supreme Court: Aligning the Law with Politics' (2021) 33(3) *Journal of Environmental Law* 1–14; C Voigt and J Knox, 'Introduction to Symposium on Climate Change Litigation in the Global South' (2020) 114 *American Journal of International Law Unbound* 35–39. See also The Hague District Court's landmark decision in *Urgenda*, and a series of high-proliferation cases in different places, including *Milieudefensie et al v Shell*, *Conservation Law Foundation, Inc. v ExxonMobil Corp. et al.*, *San Mateo et al. v Chevron et al.*, *Massachusetts v Exxon Mobil*, and, *Oakland, et al. v BP PLC et al.*

Section 18.1 has offered an initial discussion of the issues addressed in this chapter. Section 18.2 will provide an overview of the international legal framework with regard to Iran's obligations of nuclear non-proliferation. Section 18.3 will highlight the respective value of helping ensure Iran's compliance with its nuclear commitments to political and diplomatic mechanisms, the JCPOA as a formal non-compliance mechanism, the previous regime operating under the auspices of the UNSC, and proceedings in ICTs. Section 18.4 incorporates a discussion on the importance of fact-finding processes in this setting. Section 18.5 concludes.

18.2 The Legal Context

This section begins with a brief overview of the legal context for compliance and dispute settlement in respect of Iranian nuclear policy, on the basis that the functions, competencies, and operational mechanisms of international dispute resolution mechanisms need to be viewed from within the framework of the corresponding international law. International law plays a pivotal role here. The US Government, Iran, Israel, and the United States or its allies in the Middle East have all been required to consider the legal consequences of their potential actions.

18.2.1 *The Broad Legal Framework*

The broad legal framework²⁷ includes the Statute of the IAEA, the NPT, the Convention on Nuclear Safety (CNS), and Iran's Safeguards Agreement with the IAEA²⁸ and Additional Protocol²⁹ to the NPT, in addition to the JCPOA since 2015. In particular, Articles II and III of the IAEA Statute provide that each State Party shall establish and implement safeguards and apply safeguards to its activities with respect to atomic

²⁷ For a full list, see: IAEA, Country Nuclear Power Profiles, Iran (Updated 2020), Appendix 1: International, Multilateral and Bilateral Agreements, available at <https://cnpp.iaea.org/countryprofiles/IranIslamicRepublicof/IranIslamicRepublicof.htm>.

²⁸ The Agreement between Iran and the Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons, INFCIRC/214, entered into force 15 May 1974.

²⁹ Protocol Additional to the Agreement between the Islamic Republic of Iran and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, INFCIRC/214/Add.1, approved by IAEA Board 21 November 2003, and signed by Iran on 18 December 2003.

energy. Articles XVI and XVII of the IAEA Statute provide that the IAEA may 'report to the appropriate organs of the United Nations on actions taken by the Agency or its member States pursuant to this Statute . . . '. Article II of the NPT provides that non-nuclear States (like Iran) undertake not to develop, receive, or seek to acquire nuclear weapons, in light of which Iran is obliged to ensure its nuclear program is for peaceful purposes only, and this is subject to the IAEA's verification of fulfilment and compliance. The IAEA Safeguards Agreement and Additional Protocol with Iran set out Iran's legal obligations to provide information and additional access in a timely manner,³⁰ and to accept the designation of IAEA inspectors³¹ in order to assist the IAEA in completing its annual conclusions.³²

18.2.2 *UNSC Resolutions, UNSC 1737 Committee and the Panel of Experts*

The legal framework includes also a series of UNSC Resolutions. By UNSC Resolution 1737 (2006) of 23 December 2006, the Security Council decided to establish the 1737 Sanctions Committee to oversee and monitor UN-imposed sanctions against Iran. In 2010, the Security Council appointed a Panel of Experts to assist the Committee in its work,³³ in particular through fact-finding mechanisms, including the annual report of the Committee and the (periodic) report from the Panel of Experts.³⁴ In 2015, after the Iran nuclear deal was reached, the Security Council endorsed it in UNSC Resolution 2231 (2015). On 16 January 2016, the date of implementation of the Iran nuclear deal, the Council terminated the UN sanctions on Iran in accordance with the provisions of Resolution 2231 (2015). At present, although the 1737 Sanctions Committee and its Panel of Experts (POE)³⁵ no longer

³⁰ Ibid., Article 2.b(ii).

³¹ Ibid., Article 11.

³² Ibid., Article 10.c.

³³ See n 13.

³⁴ From 2006 to 2015, the 1737 Committee and its Panel of Experts issued ten reports. For details see Security Council Report, UN Documents for Iran: Sanctions Committee Documents, available at www.securitycouncilreport.org/un_documents_type/sanctions-committee-documents/?ctype=Iran&cbtype=iran.

³⁵ Although the UNSC 1737 Committee's POE was dissolved, the POE mechanism still plays an important role in other nuclear disarmament and sanctions regimes, for instance, on the DPRK nuclear ambitions. The effectiveness of this mechanism provides

exist, the UNSC remains the highest international oversight body in relation to the situation regarding Iranian nuclear activities.

18.2.3 *JCPOA and the Joint Commission*

In July 2015, Iran entered into the nuclear deal (JCPOA) with the United States, the United Kingdom, France, Russia, China, Germany, and the European Union. Under the JCPOA, Iran committed to limiting its nuclear programme to peaceful research purposes only in return for which the international community agreed to lift sanctions against Iran, including both UNSC sanctions and unilateral US and EU sanctions or restrictive measures listed in the appendix to the negotiated agreement. Paragraph ix of the preamble to the agreement provided for the establishment of a Joint Commission of the JCPOA, Article 24 of the agreement explicitly mandated the Joint Commission to address issues related to the lifting of sanctions, and Article 36 provided that if Iran believes that any party is not fulfilling the agreement, it may bring the matter to the Joint Commission for resolution. It is under this non-compliance mechanism that the current Iranian nuclear negotiations are taking place. For example, in May 2021, the two expert groups responsible for lifting sanctions against Iran and for US–Iranian measures to return to compliance submitted a draft agreement to a new round of meetings of the Joint Commission at the level of Political Director-Generals. The draft agreement essentially set out the framework for a final agreement for the United States and Iran’s return to the JCPOA. The draft agreement was unfortunately not signed in Vienna in 2022 due to the Russian invasion of Ukraine.

18.2.4 *International Courts and Tribunals*

The ICJ may give its views on relevant disputes only so far as jurisdiction can be established. However, there are jurisdictional clauses in Iran’s bilateral treaties with relevant countries, such as the United States (the US–Iranian Treaty of Amity of 1955) which provide for ICJ jurisdiction on certain matters. The Court of Justice of the European Union (CJEU)³⁶

a concrete example to show the relevance of the expert panel as a fact-finding body in addressing complex global challenges.

³⁶ M Lester and F Hobson, ‘Targeted Sanctions and Sanctions Targeted: Iranian Banks in the European Court’ (2013) May *Butterworths Journal of International Banking and Financial Law* 278–80.

has gradually expanded its jurisdiction over EU restrictive measures against individuals through its judicial precedents. Specific Iranian entities subject to EU restrictive measures, although not an individual EU citizen, can request review or annulment of the relevant restrictive measures.³⁷ Iranian parties have also requested the European Court of Human Rights (ECtHR) to review individual restrictive measures in accordance with the European Convention on Human Rights (ECHR) in a few cases.³⁸

18.3 Comparison of Political Diplomacy, NCMs and ICTs in the Iranian Case

The previous section having introduced the relevant elements of the international legal framework, this section now moves on to evaluate their relative contribution to ensuring Iranian compliance with its nuclear commitments.

18.3.1 *The Value of the JCPOA Joint Commission as a Non-Compliance Mechanism of the Iran Nuclear Deal*

From 2015 to 2018, the JCPOA Joint Commission fulfilled its function of assisting Iranian efforts to comply with the JCPOA and the NPT legal complex by helping verify that the Iranian nuclear programme was restricted to peaceful purposes only. The first Joint Commission held on 19 October 2015³⁹ addressed measures in the nuclear field, such as the retrofitting of the Arak heavy water reactor, the military dimension of the Iranian nuclear programme, and preparations for the implementation of sanctions-lifting measures. The Joint Commission also studied the arrangements for the follow-up implementation mechanism of the agreement and made work plans for the next step in implementing the agreement. On 25 April 2017, the seventh meeting of the Joint Commission noted the continued adherence to the agreement's commitments by all participants.⁴⁰ On the signing of the first commercial

³⁷ Case C-548/09 P, *Bank Mellī Iran v Council* (ECLI:EU:C:2011:735).

³⁸ *Islamic Republic of Iran Shipping Lines v Turkey* (ECHR Application No 40998/98) (2007).

³⁹ U.S. Institute of Peace, 'Adoption Day: Iran and P5+1 Comment', 19 October 2015, available at <https://iranprimer.usip.org/blog/2015/oct/19/iran-and-p51-adoption-day>.

⁴⁰ UN Security Council 7990th Meeting Press Release, SC/12894: 'Accord on Iran's Nuclear Programme Remains on Track, Political Affairs Chief Tells Security Council', 29 June 2017, available at www.un.org/press/en/2017/sc12894.doc.htm.

contract of the renovation project for the Arak heavy water reactor by Chinese and Iranian enterprises on the 23rd of that month, the parties expressed appreciation for the joint efforts of JCPOA member States.⁴¹

In May 2018, the Trump administration unilaterally withdrew from the Iran nuclear deal signed between Iran and the Obama Administration. This US unilateral exit from the JCPOA occurred at a time when the rest of the JCPOA member States including Iran were fulfilling their legal obligations. President Trump reimposed a series of sanctions against Iran and the European and Chinese global banks or firms, triggering the circumstances set forth in Article 36 of the Iran Nuclear Deal (as discussed). Following the US exit from the JCPOA in 2018, the Joint Commission gradually became a pivotal NCM by which the relevant parties could ensure Iran was complying with the agreement in spite of US withdrawal. However, after September 2019, Iran gradually suspended compliance with certain provisions of the Iran Nuclear Deal. Specifically, fifty-six ‘centrifuges were either installed or being installed’ and the piping at research and development lines was ‘reinstalled’ so as to restart nuclear activities in violation of the JCPOA legal obligations.⁴² Meanwhile, Iran said it was committed to the ‘reversibility’ of the countermeasures it had taken, promising that it could return to full compliance at any time. Through the IAEA verification mechanism,⁴³ the international community was able to understand that Iran’s countermeasures, while constituting necessary diplomatic pressure, did not yet pose an immediate nuclear security threat to regional peace and stability.

The 2020 US presidential elections brought President Joe Biden to office. Addressing the international dispute over these actions, a meeting of the Joint Commission at the level of political directors-general was held in Vienna on 6 April 2021, to discuss the resumption of US–Iranian implementation of the JCPOA. On 6 April 2021, the first round of indirect talks between the United States and Iran occurred in Vienna. Two expert working groups were formed to address the timetable to lift US unilateral sanctions on Iran and to reverse Iran’s breaches of the JCPOA since September 2019. In a sign of good faith, the US State

⁴¹ Wilson Project, ‘Iran Nuclear Milestones: 1967-2017’, 21 June 2017, available at www.wisconsinproject.org/iran-nuclear-milestones/.

⁴² IAEA, ‘IAEA Board Report: Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015)’, 8 September 2019, available at www.iaea.org/sites/default/files/19/09/govinf2019-10.pdf.

⁴³ IAEA, ‘IAEA and Iran – IAEA Reports’, available at www.iaea.org/newscenter/focus/iran/iaea-and-iran-iaea-reports.

Department held briefings on 6 April⁴⁴ and on 7 April⁴⁵ declaring that the United States was preparing to lift sanctions on Iran in order to restore the Iran Nuclear Deal. The Joint Commission held six rounds of talks over the following two months. On 12 June, the day before the sixth round of talks began, in another show of good faith, the United States announced the lifting of sanctions against three former Iranian officials and two companies.⁴⁶ Some experts believe that an important background factor for the US President's willingness to initiate indirect talks with Iran through the Joint Commission was China's active mediation and pressure,⁴⁷ in addition to EU pressure including through the INSTEX, its bilateral international trade settlement system with Iran, with an expectation that the US return to JCPOA would lead to Iran's full compliance. Earlier, on 27 March 2021, China and Iran had entered a twenty-five-year agreement on political, strategic, and economic cooperation, signed by Chinese State councillor and foreign minister Wang Yi and Iranian Foreign Minister Zarif in Tehran.⁴⁸ To this day, Iran maintains regular information exchange, inspection, and safeguards with the IAEA,⁴⁹ hoping that its countermeasures, which serve as pressure on the United States, will not be misunderstood as an immediate nuclear threat. The valuable work of the JCPOA Joint Commission has concluded a new draft agreement for relevant parties to resume commitments to the JCPOA. Although this draft agreement could not be signed

⁴⁴ U.S. State Department, 'Department Press Briefing – April 6, 2021', available at www.state.gov/briefings/departments-press-briefing-april-6-2021/. For a timeline in the negotiations played out over six rounds in Vienna from April to June 2021, see A Hanna, 'Iran Delays Return to Vienna Talks' (*The Iran Primer*, 19 July 2021), available at <https://iranprimer.usip.org/blog/2021/jul/19/iran-delays-return-vienna-talks>.

⁴⁵ U.S. State Department, 'Department Press Briefing – April 7, 2021', available at www.state.gov/briefings/departments-press-briefing-april-7-2021/.

⁴⁶ The three people whose sanctions were removed by OFAC are Ahmad Ghalebani, a managing director of the National Iranian Oil Company; Farzad Bazargan, a managing director of Hong Kong Intertrade Company; and Mohammad Moinie, a commercial director of Naftiran Intertrade Company Sarl. The two companies whose sanctions were lifted used also to deal in the petrochemicals trade.

⁴⁷ Reuters, 'Iran and China Sign 25-year Cooperation Agreement' (27 March 2021), available at www.reuters.com/world/china/iran-china-sign-25-year-cooperation-agreement-2021-03-27/.

⁴⁸ 'China, Iran Sign Agreement to Map Out Comprehensive Cooperation' (*China.org.cn*, 28 March 2021), available at www.china.org.cn/world/2021-03/28/content_77354164.htm.

⁴⁹ As reflected in the 11 June 2020, 8 September 2020, and 23 February 2021 reports of the director general of the International Atomic Energy Agency (GOV/2020/30, GOV/2020/47, and GOV/2021/15) (for a full list, see n 43).

as scheduled, following the unexpected circumstance of the Russian invasion of Ukraine on 24 February 2022, the JCPOA Joint Commission did successfully help to resolve the chapter of the Iranian nuclear crisis generated by the US withdrawal from the JCPOA in 2018.

18.3.2 The Contrasting Role Played by the UNSC in the Decade Prior

The decade from 2005 to 2016 witnessed developments from the beginning of sanctions against Iran under UNSC Resolution 1737 (2006) to the termination of sanctions against Iran under Resolution 2231 (2015). It documented the rich legal practice of the UNSC in maintaining peace in the Middle East, working for regional security and stability, and defending the international nuclear security system.

An international sanctions system was constructed through successive rounds of step-by-step, courteous resolutions seeking evidence-based and fact-based compliance. With the objective of exerting the pressure necessary for nuclear diplomacy, the UNSC improved investment and trade-related compliance and monitoring procedures⁵⁰ involving restrictive measures on the arms trade; ballistic missile programmes capable of delivering nuclear weapons; financial transactions related to Iran's nuclear and missile programmes; international financial services provided to or by designated financial institutions; and the international travel of targeted sanctioned persons and their financial assets.⁵¹ On the other hand, when Iran showed good faith in nuclear negotiations,⁵² the imposition of further UNSC sanctions was held back, although high pressure remained from the major powers including the United States. When the Iran Nuclear Deal, which was eventually struck in 2015, showed Iran would conscientiously fulfil its nuclear disarmament obligations in accordance with the JCPOA agreement, the UNSC terminated the UN sanctions in accordance with UNSCR 2231.⁵³

⁵⁰ UNSC Resolution 1737 (2006), S/RES/1737 (2006), paras 3, 4, and 6.

⁵¹ *Ibid.*, para 12.

⁵² For instance, on 6 August 2013, in his first press conference, Iran's new President Hassan Rouhani called for the resumption of 'serious and substantial' talks with the P5+1 over Iran's nuclear programme. On 11 November 2013, Iran and the IAEA issued a Joint Statement on a Framework of Cooperation, aimed at resolving the IAEA's outstanding disputes about Iran's nuclear programme, and allowing IAEA inspectors broader access to nuclear sites.

⁵³ See (n 4).

18.3.3 *The Role of Political Measures versus Non-Compliance Mechanisms*

The handling of the Iranian nuclear crisis, which emerged around 2003, and the Iraqi issue which came to a head around the same time⁵⁴ could be used to illustrate the difference between NCMs and political measures. The Iranian nuclear issue was peacefully settled via the JCPOA agreement, while the Iraqi issue ended in a different outcome.

The 2003 Iraqi issue was a situation where political measures did not contribute to a peaceful settlement of international disputes, when there was no effective NCM or ICT.⁵⁵ The international community considered that Iraq had 'repeatedly obstructed immediate, unconditional, and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency',⁵⁶ which constituted a serious violation of its international legal obligations. Iraq⁵⁷ failed to convince UNSC, UNSCOM, or IAEA to serve as an effective non-compliance mechanism to ensure that it would cooperate with weapons verification in good faith.⁵⁸

Contrastingly, the Iranian nuclear crisis was settled through political measures. NCMs including the UNSC 1737 Committee and its Panel of Experts played an active role through fact-finding and the provision of good offices which helped to bring this about. The value of these processes is reflected in the IAEA report of 28 April 2006: 'Agency inspectors found no undeclared nuclear material in Iran',⁵⁹ and 'the Agency is

⁵⁴ IAEA, 'IAEA Chief Addresses Iraq, North Korea and Iran Issues' (13 December 2002), available at www.iaea.org/newscenter/news/iaea-chief-addresses-iraq-north-korea-and-iran-issues.

⁵⁵ Situations in Iraq, the Middle East, Afghanistan, Balkans, Africa Among Key Issues before Security Council in 2002, available at www.un.org/securitycouncil/content/annual-round-ups; www.un.org/press/en/2003/sc7632.doc.htm.

⁵⁶ UNSC Resolution 1441 (2002), S/RES/1441 (2002) 'condemns Iraq's repeated obstruction of immediate, unconditional and unrestricted access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA), its failure to cooperate fully and unconditionally with UNSCOM and IAEA weapons inspectors as required by resolution 687 (1991), and its eventual cessation of all cooperation with UNSCOM and IAEA in 1998'.

⁵⁷ Statement by Mr Al-Douri, Iraq's Ambassador to the UN, to the UN Security Council at the hearing on Iraqi matters on 5 February 2003.

⁵⁸ For example, Statement by Jack Straw, MP, British Secretary of State for Foreign and Commonwealth Affairs, to the UN Security Council on 5 February 2003.

⁵⁹ IAEA, 'IAEA Board Report: Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran', 28 April 2006, available at www.iaea.org/sites/default/files/gov2006-27.pdf, para 33. For a different interpretation to the report above, see P Kerr,

unable to make progress in its efforts to provide assurance about the absence of undeclared nuclear material and activities in Iran'.⁶⁰ The IAEA in effect serves as an independent fact-finding mechanism, operating as a non-compliance mechanism to show the accurate extent of Iranian breaches. It helped to maintain the confidence of the international community that the Iranian crisis could be solved or negotiated through political measures, diplomacy, and NCMs, and a war avoided. On the following day, US President George W. Bush commented that 'the diplomatic process is just beginning . . . And I've told the American people that diplomacy is my first choice'.⁶¹ Through the active diplomatic good offices of various countries (e.g., Russia,⁶² the EU, China and other P5+1 countries), peaceful measures through NCMs (e.g., UNSCRs, the UNSC 1737 Committee, and the JCPOA) remained a viable way for the international community to resolve the Iranian nuclear crisis.

18.3.4 *Recourse to International Courts and Tribunals*

The ICJ and the CJEU are the ICTs to which Iran and Iranians have looked for judicial remedy to settle disputes with the United States and the European Union, respectively, with regard to damages caused by unilateral actions or foreign assets targeted by unilateral sanctions. The ICJ is historically an important forum for the settlement of disputes between the United States and Iran, as the US–Iranian Treaty of Amity of 1955 has provided jurisdiction.⁶³ The previous cases (prior to the JCPOA) brought by Iran at the ICJ,⁶⁴ namely, the *Oil*

'IAEA Raises New Questions on Iran Program' (*Arms Control Today*, June 2006), available at www.armscontrol.org/act/2006-06/iran-nuclear-briefs/iaea-raises-new-questions-iran-program.

⁶⁰ Ibid.

⁶¹ Radio Free Europe, 'U.S., Britain Seek Tough Diplomatic Action Against Iran' (*Radio Free Europe, Radio Liberty*, 29 April 2006), available at www.rferl.org/a/1068047.html.

⁶² Political representatives of the foreign ministries of China, France, Germany, Russia, the United Kingdom, and the United States discussed the Iranian nuclear issue in Moscow on 18 April 2006, where all participants called on Iran to make 'urgent and constructive moves' aimed at complying with IAEA decisions, starting with halting its enrichment processes. Earlier, Russia called for Iran to observe a moratorium on uranium enrichment until 28 April, when the IAEA was slated to make a report to the Security Council. For details see Radio Free Europe, 'Iran Report – April 28, 2006' (*Radio Free Europe, Radio Liberty*, 9(15), 29 April 2006), available at www.rferl.org/a/1342586.html.

⁶³ Article 36, Statute of the International Court of Justice.

⁶⁴ There were two cases in which Iran was a respondent in the ICJ, namely, United States Diplomatic and Consular Staff in Tehran (*United States of America v Iran*) in 1979 and

*Platforms*⁶⁵ and *Aerial Incident of 3 July 1988* cases,⁶⁶ indicate the ICJ is considered by Tehran to be an independent judicial authority with strong legal reasoning and fact-finding capability. In the *Oil Platforms* case, the Court confirmed the fact of the attacks by the US Navy on Iranian oil platforms, but also found that no direct trade relations existed between the two countries at the time of the attacks. For this reason, the US attacks were held not to violate the freedom of trade in oil guaranteed by the treaty, and there was no basis for the Iranian claim. In the *Aerial Incident* case, the ICJ verified the liability of the US Navy missile cruiser for the downing of Iran Air Flight 655, but none of the orders issued by the Court involved damages or compensation. The matter of damages was settled through bilateral negotiations.⁶⁷ The United States insisted the payment made was of an *ex-gratia* nature, refusing to acknowledge responsibility for the incident.⁶⁸

Two cases have been brought by Iran against the United States in the ICJ in the post-JCPOA period,⁶⁹ hoping that the Court could be a source of international justice against the unilateral sanctions reimposed by the US Administration after the US withdrawal from the nuclear deal. In both cases, Iran requested the Court issue provisional measures requiring the United States to lift or suspend unilateral sanctions measures.⁷⁰ On 3 October 2018, the ICJ issued a preliminary ruling⁷¹ requiring the United States to lift certain sanctions against Iran, mainly related to the import of food and medicines. On 13 February 2019, the ICJ

Anglo-Iranian Oil Co (*United Kingdom v Iran*) in 1951. For details see www.icj-cij.org/en/case/64; www.icj-cij.org/en/case/16.

⁶⁵ *Oil Platforms (Islamic Republic of Iran v United States of America)*.

⁶⁶ *Aerial Incident of 3 July 1988 (Islamic Republic of Iran v United States of America)*.

⁶⁷ Settlement Agreement as of 9 February 1996, available at www.icj-cij.org/public/files/case-related/79/11131.pdf.

⁶⁸ U.S. State Department, 'Iran–United States Claims Tribunal: Partial Award Containing Settlement Agreements on the Iranian Bank Claims against the United States and on the International Court of Justice Case Concerning the Aerial Incident of July 3, 1988' (1996) 35(3) *International Legal Materials* 553–602.

⁶⁹ *Certain Iranian Assets (Islamic Republic of Iran v United States of America)*, Judgment of 30 March 2023 [2023] ICJ Reports; *Alleged Violations of the 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran v United States of America)* Judgment of 2021 [2021] ICJ Reports 9 (hereafter 'Alleged Violations').

⁷⁰ Chapter II, Memorial of the Islamic Republic of Iran, 1 February 2017, in *Certain Iranian Assets* (n 69); Chapter II, Memorial of the Islamic Republic of Iran, 24 May 2019, in *Alleged Violations* (n 69).

⁷¹ Summary of the Order of 3 October 2018 in *Alleged Violations* (n 69), VI Operative Clause (para 102).

concluded that the Court has jurisdiction to admit part of the application brought by Iran against the United States⁷² in respect of Iran's claims arising from measures taken by the United States to block Iranian assets. At the time of writing, none of the orders issued by the Court in the two cases above has involved a broad lifting or suspension of unilateral US sanctions on Iranian assets.

The CJEU is where Iran has sought international justice against the restrictive measures imposed by the EU during the period from 2006 to 2015 when the JCPOA was under negotiation. Under US lobbying and pressure⁷³ the EU imposed unilateral and the UNSC restrictive measures on Iranian entities corresponding to UNSCR 1737 (2006) and UNSCR 1929 (2010).⁷⁴ Seventeen Iranian banks and a couple of shipping and other companies involved brought cases before the CJEU. The Court ruled early on from 2007 to 2012 that EU restrictive measures on certain Iranian entities were unlawful, as 'the Council cannot rely on a claim that the evidence concerned comes from confidential sources and cannot, consequently, be disclosed',⁷⁵ and thus, the EU Court issued decisions to annul them, after which it became a place for Iranian entities to look for international justice from the ICTs. After it became clear that Iran's nuclear programme since 2012 posed a serious threat to Europe's collective security, the EU refined its sanctions-related laws, including freezing the Iranian Central Bank's foreign exchange reserves managed in European banks and Iranian oil and gas companies,⁷⁶ and the number of cases in which the CJEU-annulled EU restrictive measures declined significantly.⁷⁷

⁷² *Certain Iranian Assets (Islamic Republic of Iran v United States of America)*, Preliminary Objections, Judgment of 13 February 2019 [2019] ICJ Reports 7 Press Release 2019/3, 13 February 2019.

⁷³ For instance, through 'Joint US–UK–France Demarche to Malaysia on Bank Mellat', see 'UK Requests Information on Bank Mellat to Share with Malaysia' (*The Telegraph*, 4 Feb 2011).

⁷⁴ Common Position 2007/140/CFSP; Council Decision 2008/475/EC (later amended by Council Decision 2010/413/CFSP); Council Regulation 423/2007 (later replaced by Council Regulation 961/2010).

⁷⁵ Case T-13/11, *Post Bank Iran v Council*, Judgment of the General Court of 6 September 2013, para 129.

⁷⁶ Council Decision 2012/35/CFSP; Council Decision 2012/635/CFSP (amending Council Decision 2010/413/CFSP); Council Regulation 267/2012 (replacing Council Regulation 961/2010).

⁷⁷ Mr Michael Bishop, lawyer of the EU Council Legal Service, testified in the UK House of Lords European Union Committee, 'The Legality of EU Sanctions', available at <https://publications.parliament.uk/pa/ld201617/ldselect/lducom/102/10202.htm>, para 23.

Shortly thereafter, the JCPOA was concluded and became effective in 2015, with the EU lifting all sanctions under UNSCR 2231. With the exception of human rights sanctions against Iran⁷⁸ which were not mentioned by Resolution 2231 and the Iran Nuclear Deal commitments, the EU has now completely lifted restrictive measures against Iran. Even so, after the US withdrawal from the JCPOA in 2018, many EU products including foods and medicines met with difficulties relating to bank settlements, as the global banks, including big banks in Europe, have remained concerned about US secondary sanctions.⁷⁹ The CJEU could be a potential place to settle related disputes, but proceedings in the European Court of Justice (ECJ) are now unlikely as cases concerning such matters have been ruled inadmissible, as the ECJ held in 2018 in the *Bank Mellat* case.⁸⁰ Iran has therefore lost interest in employing EU judicial procedures against the de facto European resumption of sanctions.⁸¹

18.3.5 *Respective Strengths of the Various Compliance Mechanisms and Processes*

In contrast to recourse to ICTs, NCMs show three distinct advantages. The first is timeliness. An NCM such as the Joint Commission of the JCPOA can hear complaints from relevant parties, private entities, or affected non-party stakeholders in a timely manner, and can convene expert-group-level, director-general-level, or ministerial-level meetings to promptly consider or mediate conflicts and contradictions in response to rapid changes in specific circumstances. The second advantage is

⁷⁸ EU restrictive measures against Iran, Measures responding to serious human rights violations, see www.consilium.europa.eu/en/policies/sanctions/iran/.

⁷⁹ G Mallard, F Sabet, and J Sun, 'The Humanitarian Gap in the Global Sanctions Regime: Assessing Causes, Effects and Solutions' (2020) 26(1) *Global Governance: A Review of Multilateralism and International Organizations*, 121–53.

⁸⁰ Case C-430/16 P, *Bank Mellat v Council* (ECLI:EU:C:2018:668), para 62: 'Consequently, following the repeal of the regime at issue on 16 January 2016 within the framework of the implementation of the JCPOA, the annulment of the regime at issue by the EU Courts could no longer procure an advantage for Bank Mellat capable of justifying the retention of an interest in bringing proceedings.'

⁸¹ 'Iran President Warns of "War Situation" as Sanctions Resume' (*AP News*, 6 November 2018); E Geranmayeh and J Miller, 'Iran: The Case for Protecting Humanitarian Trade' (*European Council on Foreign Relations*, 13 September 2018), available at https://ecfr.eu/article/commentary_iran_the_case_for_protecting_humanitarian_trade/.

flexibility. A mechanism such as the Joint Committee, or the UNSC Sanctions Committee or its Panel of Experts can monitor compliance and add, suspend, or lift sanctions measures in accordance with the degree of compliance observed. It is flexible enough to encourage parties with good faith in negotiations. The third advantage is that NCMs may offer 'carrots and sticks'. They may support diplomacy and reinforce the influence of major powers by identifying specific implementation or compliance challenges, improving bilateral economic and trade relations for a compliant party, while bringing condemnation, coercion, or pressure to bear on a non-compliant party.

ICTs can be employed to clarify legal obligations, provide authoritative explanations, issue an authoritative opinion on disputes between parties, and provide a voice for international justice through interim measures. The role is to reaffirm the fundamental principles of international law and to maintain the confidence of the international community that an international crisis like the new round of the Iranian nuclear crisis in 2018–2021 could be solved through peaceful means instead of any resorts to, or a threat of, use of force. Non-compliance mechanisms and ICTs can support each other where particular disputes are admissible before an international judicial body, like the CJEU in the Iranian cases prior to the JCPOA. The International Court of Justice reaffirms the applicability of international law⁸² in the face of unilateral acts of major powers in violation of international treaties.⁸³ This has been key for the international community in convincing Iran to comply with its obligations⁸⁴ under the NPT legal complex including the JCPOA after the US withdrawal.

The judicial cases at the ICJ and CJEU indicate three weaknesses with regard to recourse to the ICTs. The first weakness is a lack of timeliness. It is unlikely that an international court will be able to act in a timely manner. International adjudication calls for due process, allowing the relevant parties to document evidence and put forward their submissions. The second weakness is a lack of flexibility. Judicially available remedies may promote the annulment of restrictive measures or the payment of damages, but it is unlikely that ICTs will be in a position to follow the logic of political diplomacy or diplomatic negotiations with variable, context-dependent sanctions calculated to influence a situation

⁸² See n 72.

⁸³ See n 69.

⁸⁴ *Ibid.*

politically. The third weakness is a lack of 'carrots and sticks'. The past record of the ICTs in the above cases shows that an international court or tribunal takes a cautious approach with regard to requests for damages or reparations, especially the use of 'sticks' against major powers, and it is unlikely that ICTs will be able to provide such 'carrots' as a bilateral trade and economic co-operation agreement.

18.4 Fact-Finding Mechanism

The international legal mechanisms used to deal with the Iranian nuclear programme have most centrally involved specific forms of fact-finding, and this topic is correspondingly a final focus of reflection in this chapter. The IAEA sent experts to Iran to assist the Security Council in verifying relevant evidence or leads mentioned above, in conjunction with data collected by technical monitoring equipment installed inside Iran as the IAEA safeguards agreement⁸⁵ and Additional Protocol⁸⁶ with Iran. Serving the UNSC 1737 Committee, the Panel of Experts, composed of experts in various fields such as customs, banking, and trade, investigated the specific circumstances or extent of Iran's alleged violations of Security Council resolutions through independent sources, relying on statistics, field investigations, customs searches, and customs declarations from a global network of experts which produced periodic peer-reviewed reports on the specific facts of alleged violations.⁸⁷

Broadly, fact-finding mechanisms make a great contribution to global governance. First, these mechanisms serve as an alternative source of legitimacy in the international community, parallel to the diplomatic endeavours of major powers or working together with international negotiations under the auspices of relevant international organisations like the UNSC or IAEA to help address complex global challenges. Second, confronting complex global challenges, fact-finding mechanisms, through science-based or fact-based policy formation processes, participate in shaping global values and the global agenda. Finally, these mechanisms assist the international community in understanding the causes of disagreement or disputes and help with the development of acceptable solutions.

⁸⁵ See n 5.

⁸⁶ See n 28.

⁸⁷ See n 13.

Fact-finding mechanisms may also work specifically to incentivise compliance with international law in situations of non-compliance. One such example is the IAEA report on 22 February 2018,⁸⁸ confirming that Iran's nuclear activities were within the standards set out in the Iran Nuclear Deal. This was embarrassing for President Trump, who had been unhappy with the Iranian nuclear deal since he took office,⁸⁹ threatening Congress and his European allies to scrap it if the 'significant flaws in the deal' were not fixed.⁹⁰ Through a periodic fact-finding mechanism, including quarterly verification reports, the IAEA encouraged Iran to continue to respect the Iranian nuclear deal and safeguards under the NPT in spite of the US withdrawal, and, in doing so, provided a strong incentive for the United States to return to its JCPOA obligations.

Fact-finding mechanisms may also help generate pressures to push relevant parties back to negotiations when needed. The report by the IAEA in September 2021 is an example. Since his inauguration as US President in January 2021, President Biden had expressed his interest in a return to the Iran Nuclear Deal. The JCPOA parties held six rounds of talks in Vienna from April to June 2021. From June to November 2021, the United States and Iran were at an impasse. It was a fact-finding mechanism that helped to break the impasse by putting pressure on the Biden administration. The IAEA report in September 2021⁹¹ confirmed that Iran had restarted its nuclear programme, and that Iran's stockpile of enriched uranium and enrichment level exceeded the limit set by the JCPOA. Negotiations were restarted by the United States and Iran in late November 2021.⁹²

18.5 Conclusion

The international community has constructed comprehensive compliance and monitoring procedures in relation to nuclear non-proliferation

⁸⁸ IAEA (n 42).

⁸⁹ J Borger, S Kamali Dehghan and P Beaumont, 'Trump Threatens to Rip Up Iran Nuclear Deal unless US and Allies Fix "serious flaws"' (*The Guardian*, 13 October 2017), available at www.theguardian.com/us-news/2017/oct/13/trump-iran-nuclear-deal-congress.

⁹⁰ S Kamali Dehghan, 'What Is the Iran Deal and Why Does Trump Want to Scrap It?' (*The Guardian*, 9 May 2018), available at www.theguardian.com/world/2018/may/08/iran-nuclear-deal-what-is-it-why-does-trump-want-to-scrap-it.

⁹¹ See n 72.

⁹² J Hansler and K Atwood, 'Iran Nuclear Talks set to Resume in Vienna at the End of November' (*CNN Politics*, 3 November 2021), available at <https://edition.cnn.com/2021/11/03/politics/iran-nuclear-talks-restart-date/index.html>.

compliance, in which major powers have so far retained the right to impose sanctions on Iran's nuclear programme-related investment and trade activities, as well as on the arms trade, ballistic missile programmes, nuclear programme-related financial transactions, financial assets, and international travel of designated persons. Although some of these unilateral sanctions may not have been lawful,⁹³ and some extra-jurisdictional measures have been used in unlawful situations, their effective deterrence may have, to a certain extent, had the objective effect of safeguarding peace and avoiding war or armed conflicts in the context of peace and stability in the Middle East.

The Iranian nuclear agreement is a result of the joint efforts of P5+1 countries and Iran, which is also a powerful example of the use of political and diplomatic measures to resolve international conflicts and disputes. The good offices, diplomacy and negotiations in which the major powers engaged to solve the Iranian nuclear crisis, as well as the NPT legal complex (e.g., NPT, IAEA safeguards, Additional Protocol, relevant UNSCRs, JCPOA) and relevant NCMs (IAEA, UNSC, UNSC 1737 Committee, POE, and the JCPOA Joint Commission) and ICTs (e.g., ICJ and CJEU), are of potentially broader significance as institutional models for global governance in fields including climate change, protection of the global environment, and the creation of a Middle East Weapons of Mass Destruction Free Zone.⁹⁴

⁹³ See n 73.

⁹⁴ C Zak, F Sabet, D Esfandiari, R Einhorn, A Persbo, A Khlopkov, and G Mallard *From the Iran Nuclear Deal to a Middle East Zone? Lessons from the JCPOA for an ME WMDFFZ* (UNIDIR 2021). For details see www.unidir.org/JCPOA.

