الأمم المتحدة

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الجمعية العامة
مجلس الأمن

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الجمعية العامة
الدورة الخامسة والسبعون
البند 93 من جدول الأعمال
تقرير الوكالة الدولية للطاقة الذرية

مجلس الأمن
السنة السادسة والسبعون

رسالة مؤرخة 20 تموز/يوليه 2021 موجهة إلى الأمين العام من الممثل الدائم لجمهورية إيران الإسلامية لدى الأمم المتحدة

يشرفني أن أحيل إليكم طيه رسالة مؤرخة 20 تموز/يوليه 2021 من وزير خارجية جمهورية إيران الإسلامية، محمد جواد ظريف، تتضمن استعراضا شاملا للتحديات التي اعترضت تنفيذ قرار مجلس الأمن 2231 (2015) وخطة العمل الشاملة المشتركة خلال السنوات الست الماضية (انظر المرفق)*.

وأرجو ممتناً التكرم بتعميم هذه الرسالة ومرفقها باعتبارها وثيقة من وثائق الجمعية العامة، في إطار البند 93 من جدول الأعمال، ومن وثائق مجلس الأمن.

(توقيع) مجيد **تخت روانجي**
السفير
الممثل الدائم

* يعمَّم باللغة التي قُدِّم بها فقط.

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مرفق الرسـالة المؤرخة 20 تموز/يوليه 2021 الموجهة إلى الأمين العام من الممثل الدائم لجمهورية إيران الإسلامية لدى الأمم المتحدة

Six years ago today, the Security Council unanimously adopted Resolution 2231 (2015). In spite of our strong and legitimate objections to the historic mistreatment of Iran by the Security Council—particularly throughout 8 years of aggression by Saddam Hussein, as well as during the course of an unnecessary nuclear crisis—Iran showed its good faith by engaging in negotiations to reach a diplomatic solution to the nuclear question. After thirteen years of complex negotiations, in 2015 Iran and the five permanent members of this Council plus Germany concluded the Joint Comprehensive Plan of Action, which is endorsed by and annexed to Resolution 2231.

The Security Council in its Resolution 2231 has affirmed "that conclusion of the JCPOA marks a fundamental shift in its consideration of this issue…"[1] The purported overarching purpose of all terminated resolutions of the UN Security Council on the Iranian nuclear issue was to reach "a diplomatic, negotiated solution that guarantees Iran's nuclear programme is for exclusively peaceful purposes."[2] That "diplomatic, negotiated solution" was reached, in a final and comprehensive manner, in the form of the JCPOA[3], endorsed by UNSCR 2231[4]. Iran implemented the JCPOA fully and in good faith[5]; it provided the IAEA with all the access it needed under the JCPOA and implemented the Additional Protocol; and all outstanding issues of the past were resolved to the satisfaction of the IAEA Board of Governors[6]. Indeed, as much as the deal fell short of providing Iran with the benefits of sanctions lifting due to—as will be shown in the following paragraphs—*mala fide* and insincerity on the part of the United States and lack of will and aptitude on the part of the EU/E3, it proved to be a solid solution in meeting concerns claimed in terminated UNSC resolutions, thus rendering them not just terminated but factually and legally obsolete.

UN Security Council Resolution 2231 also emphasizes "that the JCPOA is conducive to promoting and facilitating the development of normal economic and trade contacts and cooperation with Iran…"[7] and that Member States must "give due regard to the termination" of sanctions. The JCPOA participants have underlined that "the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA."[8]

[1] Preambular Paragraph 7 of UNSCR 2231 (2015)

[2] Preambular Paragraph 13 of terminated UNSCR 1929 (2010)

[3] According to paragraph ii of the Preamble and General Provisions of the JCPOA: "The full implementation of this JCPOA will ensure the exclusively peaceful nature of Iran's nuclear programme". Furthermore, paragraph iv of the JPOA stipulates that "successful implementation of this JCPOA will enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the nuclear Non-Proliferation Treaty (NPT) in line with its obligations therein, and the Iranian nuclear programme will be treated in the same manner as that of any other non-nuclear-weapon state party to the NPT."

[4] According to Preambular Paragraph 8 of UNSCR 2231: "Affirming that full implementation of the JCPOA will contribute to building confidence in the exclusively peaceful nature of Iran's nuclear programme".

[5] 15 Reports of IAEA prove the efficacy of the JCPOA and Iran's good-faith implementation of its commitments even following U.S. withdrawal: GOV/INF/2016/1 of 16 January 2016; GOV/2016/8 of 26 February 2016; GOV/2016/23 of 27 May 2016; GOV/2016/46 of 8 September 2016; GOV/2016/55 of 9 November 2016; GOV/2017/10 of 24 February 2017; GOV/2017/24 of 2 June 2017; GOV/2017/35 of 31 August 2017; GOV/2017/48 of 13 November 2017; GOV/2018/7 of 22 February 2018; GOV/2018/24 of 24 May 2018; GOV/2018/33 of 30 August 2018; GOV/2018/47 of 12 November 2018; GOV/2019/10 of 22 February 2019; and GOV/2019/21 of 31 May 2019.

[6] GOV/2015/53 of 14 August 2015, GOV/2015/68 of 2 December 2015 and GOV/2015/72 of 15 December 2015.

[7] Preambular Paragraph 13 of UNSCR 2231(2015)

[8] Paragraph 6 of Statement of the JCPOA Joint Commission held at ministerial level on 6 July 2018, (See Annex 5).

However, the United States—aided and abetted by its European accomplices—never implemented these and many other provisions of Resolution 2231 and the JCPOA in good faith. The western JCPOA participants continued to use economic pressure to achieve those illegitimate political objectives that they had failed to achieve in the course of the long and tedious JCPOA negotiations: the same objectives that they had finally agreed to address and dispose of in a way that was not fully satisfactory to any of the JCPOA participants, including—and especially—Iran. Indeed, Iran clearly stated its positions in the Security Council meeting on 20 July 2015[9] and immediately after the adoption of the Resolution[10]. However, it fulfilled all its JCPOA commitments in good faith, verified by numerous IAEA reports[11]—even 15 months after the U.S. unlawful withdrawal[12].

The US and E3 have been transparent about their transgressions and have repeatedly stated their ill-intention to compel Iran to renegotiate those provisions through economic pressure and blackmail. Such intentions—which in and of themselves constitute a grave violation of Paragraphs 28 and 29 of the JCPOA[13]—were uttered privately—and even publicly—after the "Implementation Day"[14], and repeated by former US president Trump[15]—and regrettably the E3[16]—since 2017. The Biden administration—again, aided and abetted by the E3—has since its inauguration in January 2021 continued Trump's economic terrorism against Iranians as supposed "leverage" to achieve the same objectives.

The US and E3 illusion that there can ever be a renegotiation of the timetable enshrined in the JCPOA and Resolution 2231 represents utter bad faith. The timetable for

[9] S/PV.7488

[10] See Annex 1, Statement of the Islamic Republic of Iran following the adoption of United Nations Security Council resolution 2231 (2015) endorsing the Joint Comprehensive Plan of Action, 20 July 2015 (S/2015/550)

[11] See 10 IAEA Reports before U.S withdrawal: GOV/INF/2016/1 of 16 January 2016; GOV/2016/8 of 26 February 2016; GOV/2016/23 of 27 May 2016; GOV/2016/46 of 8 September 2016; GOV/2016/55 of 9 November 2016; GOV/2017/10 of 24 February 2017; GOV/2017/24 of 2 June 2017; GOV/2017/35 of 31 August 2017; GOV/2017/48 of 13 November 2017; GOV/2018/7 of 22 February 2018.

[12] See 5 IAEA Reports after US withdrawal: GOV/2018/24 of 24 May 2018; GOV/2018/33 of 30 August 2018; GOV/2018/47 of 12 November 2018; GOV/2019/10 of 22 February 2019; and GOV/2019/21 of 31 May 2019.

[13] "28. The E3/EU+3 and Iran commit to implement this JCPOA in good faith and in a constructive atmosphere, based on mutual respect, and to refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation. Senior Government officials of the E3/EU+3 and Iran will make every effort to support the successful implementation of this JCPOA including in their public statements. The E3/EU+3 will take all measures required to lift sanctions and will refrain from imposing exceptional or discriminatory regulatory and procedural requirements in lieu of the sanctions and restrictive measures covered by the JCPOA."
"29. The EU and its Member States and the United States, consistent with their respective laws, will refrain from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations with Iran inconsistent with their commitments not to undermine the successful implementation of this JCPOA."

[14] In letter of 1 February 2018 (See Annex 2), Iran referred to this and clearly refuted the logic: "In contravention of the explicitly restricted scope of the JCPOA, attempts have been made to link the JCPOA to or condition the fulfilment of the obligations of other participants upon extraneous issues—deliberately excluded by the JCPOA participants from the deal. This includes Iran's necessary and proportionate defensive missile program. Let me remind all JCPOA participants that the clearly stated objective of the JCPOA is to ensure that Iran's nuclear program will remain exclusively peaceful, and as U.S. Under-Secretary Sherman testified before the US Senate on 3 December 2014 "if the peaceful nature of Iranian nuclear program was successfully assured then the question of delivery systems would become irrelevant."

[15] https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-iran-nuclear-deal/

[16] "Conscious of the importance of collective efforts to guarantee regional stability and security, we reiterate our conviction that the time has come for Iran to accept negotiation on a long-term framework for its nuclear programme as well as on issues related to regional security, including its missiles programme and other means of delivery." https://www.gov.uk/government/news/joint-statement-by-the-heads-of-state-and-government-of-france-germany-and-the-united-kingdom;
See also para 52 in http://www.g8.utoronto.ca/foreign/g7_-_foreign_ministers_communique.pdf

termination of voluntary restrictions accepted by Iran in the JCPOA—maliciously called "JCPOA sunset clauses," in order to evoke fear—were the subject of the longest and most difficult negotiating process—which began from the very first day of the Muscat discussions in August 2012, and continued until the evening of July 13, 2015. Agreement on the current timetable required great flexibility and compromise on the part of the Islamic Republic of Iran, and huge sacrifices by Iran on other significant issues.

Obviously, no one was fully satisfied with the agreed timetable—certainly not Iran, which rightly believed that there was no reason for any restriction on its nuclear program, because in its view, the so-called nuclear crisis had been artificially manufactured from the start. Iran moved from zero limitations to the current time-bound restrictions, and the U.S. and E3 in return abandoned their desire for longer timeframes. However, after Trump withdrew from the deal, the U.S. and E3 believed that they could reap the fruits of their poisonous tree and resume their old habit of "what's mine is mine and what's yours is negotiable."

It should not be forgotten today that to show the pivotal importance of the agreed timeframe, the Resolution in its first operative paragraph "Endorses the JCPOA, and urges its full implementation on the timetable established in the JCPOA." Thus, the timetable—or the so-called "sunset clauses"—is an inseparable, non-negotiable component of the JCPOA and UNSCR 2231. Thus, any attempt to extort an extension of the agreed timetable undermines both the JCPOA and UNSCR 2231 in their entirety.

Moreover, the bargains made in Resolution 2231 and its two annexes were in total cognizance of Iran's disagreement—frequently supported by Russia and China—with the western members of the E3+3 over certain issues, including Iran's defense capabilities and western malign behavior in West Asia, and particularly the Persian Gulf region. While the E3 and U.S. were not prepared to—or probably even capable of—addressing Iran's grave concerns over the unfathomable level of their arms sales[17] and malign behavior and constant interventions in Iran's own neighborhood, which have left our region in ruins[18], Iran was still compelled to pay a hefty price in Paragraphs 2, 3, 4 and 5 of Annex B of UNSCR 2231. As Iran and the EU/E3+3 had agreed in the preliminary JPOA—reached on 23 November 2013 in Geneva—to address previous Security Council resolutions in the final accord (JCPOA)[19], what is reflected in Annex B of UNSCR 2231—despite Iran's objection—concludes those issues as having been addressed.

Illegitimate as they are, these three areas of extortion have been the primary cause of perpetual significant non-performance of the JCPOA in various forms during the past (almost) 6 years; primarily by the United States, but also by the EU/E3, resulting in irreparable harm to the Iranian people who have been wrongfully deprived of the economic benefits that they were entitled to. This practice has been fully documented in numerous official letters to the JCPOA Joint Commission Coordinator—mostly under JCPOA Dispute Resolution Mechanism—and the UN Secretary-General. The blatant disregard of the United States for its JCPOA obligations began with a minimalist and lackluster implementation of the JCPOA during the Obama administration[20], continued with blatant hostility and a

[17] After the deal, the U.S. seemed to be convinced of the logic of the deal. Secretary Kerry pointed out in a meeting at the Council on Foreign Relations on 24 July 2015: "The [Persian] Gulf States currently spend about $130 billion a year on their military. Saudi Arabia spends 80 billion (dollars). Iran spends 15 billion (dollars). So you've got to think about, so, what's going on out there? What's going on is that a lot of these countries have fancy toys—F-16s and missiles and different, you know, missile defense—but they don't have enough people on the ground who are prepared to fight, prepared to stand up and take the fight to the bad guys" (https://www.cfr.org/event/assessing-iran-nuclear-accord).

[18] See Annex 14.

[19] The Preamble of JPOA states: "There would be additional steps in between the initial measures and the final step, including, among other things, addressing the UN Security Council resolutions, with a view toward bringing to a satisfactory conclusion the UN Security Council's consideration of this matter."

[20] See Annex 2. Letter of 2 September 2016 to JCPOA Coordinator on U.S. not issuing license for the sale or lease of passenger aircrafts, hindering Iran's free access to its assets abroad, obstructing reengagement of the

campaign to destroy the JCPOA during the first year of the Trump administration[21], further exacerbated by its withdrawal from the JCPOA[22], its "maximum pressure" policy—indeed what is economic terrorism[23] and medical terrorism[24]—and punishment of those complying with UNSCR 2231 in the remaining three years of the administration[25], and extended by the

non-American banking and financial community with Iran, re-introduction of certain sanctions under Executive Order 13645 and failure of U.S. President to use his constitutional authority to prevent "the US Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 as well as EU/E3 serious failures and unconstructive attitude in the UNSC; Letter of 17 November 2016 to the JCPOA Coordinator on "Iran Sanctions Extension Act", and lackluster implementation of JCPOA by especially with regard to banking and financial services as well as harassment of Iran's business partners; and Letter of 16 December 2016 to JCPOA Coordinator on US significant breach of its obligations by the extension of "Iran Sanctions Act" on 14 December 2016. These non-compliance instances were also reported by the UN Secretary General and reflected in his report to the Security Council (See: S/2016/589 dated 12 July 2016).

[21] See Annex 3. Letters on significant non-performance by the Trump Administration Before U.S. Withdrawal: Letter of 28 March 2017 to the JCPOA Coordinator on open hostility of Trump administration towards JCPOA and malicious prevention of normalization of trade with Iran; Letter of 28 May 2017 to the JCPOA Coordinator on U.S. policy of reversing Iran's benefits from JCPOA even when it purported to comply by renewing the required waivers; Letter of 19 July 2017 to the JCPOA Coordinator on United States' systematic policy of dissuading Iran's economic partners from engaging with Iran and President Trump pressure on world leaders to stop doing business with Iran; Letter of 13 August 2017 to the JCPOA Coordinator on U.S. allegation of non-compliance by Iran in spite of repeated verifications by the IAEA; Letter of 19 August 2017 to JCPOA Coordinator and IAEA Director General on U.S. efforts to affect the professional work of the IAEA; Letter of 18 September 2017 to JCPOA Coordinator on U.S. manufacturing of fabricated excuses to get out of the JCPOA; Letter of 16 October 2017 to JCPOA Coordinator on unlawful decertification within a U.S. domestic procedure on 13 October 2017; Letter of 1 February 2018 to JCPOA Coordinator, objecting to the ultimatum by President Trump on 12 January 2018, demanding other JCPOA participants to follow him in unlawfully altering the terms of the agreement

[22] See Annex 4. Letters on U.S. Withdrawal: Letter dated 10 May 2018 to JCPOA Coordinator under Paragraph 36 of JCPOA on measures that need to be taken through the Joint Commission to address the wrongful acts by the United States against Iran and international law, including its unlawful withdrawal from the accord and the re-imposition of sanctions; Letter of 10 May 2018 to the Secretary-General of the United Nations on unlawful U.S. withdrawal and history of U.S non-performance and E3 failures (A/72/869-S/2018/453)

[23] Terrorism= the unlawful use of violence and intimidation, especially against civilians, in the pursuit of political aims.

[24] See Annex 10 Letter of 12 March 2020 to UN Secretary-General on U.S. unlawful prevention of Iranian access to medicine and supplies to deal with COVID-19.

[25] See Annex 6. Letters under paragraph 36 to register multiple cases of significant non-performance by U.S. and EU/E3: Letter of 17 June 2018 to JCPOA Coordinator requesting the convening of a ministerial meeting of the Joint Commission under Paragraph 36 procedures; Letter of 21 August 2018 to JCPOA Coordinator under Paragraph 36 on failure of EU/E3+2 to implement their commitments of 25 May and 6 July 2018; Letter of 6 November 2018 to JCPOA Coordinator on Iran's exhaustion of all DRM procedures and its initiation of remedial action under Paragraph 36; Letter of 7 April 2019 to JCPOA Coordinator under Paragraph 36 on EU/E3 significant non-performance emanating from G7 Foreign Ministers' Communique of 6 April 2019; Letter of 17 July 2019 to JCPOA Coordinator on cases of significant non-performance by EU/E3 under Paragraph 36; Letter of 3 October 2019 to JCPOA Coordinator on the joint statement of E3 leaders constituting a breach of JCPOA and UNSCR 2231; Letter of 18 June 2020 to JCPOA Coordinator on implications of U.S. decision to stop nuclear waivers; Letter of 2 July 2020 to JCPOA Coordinator under Paragraph 36 on cases of significant non-Performance by E3.
Also see Annex 9, Letter of 10 April 2019 to UN Secretary-General on the unlawful designation of IRGC by the United States and Annex 11, Letter of 8 May 2020 to UN Secretary-General on U.S. persistent violations of international law and UN Charter.

Biden administration's attempt to use Trump's crimes against humanity[26] as bargaining "leverage" for their illegitimate objectives outside of the JCPOA and UNSCR 2231 (2015)[27].

The EU/E3 for their part remained politically committed to the JCPOA and initially took a measured and mild diplomatic stance against the unlawful U.S. withdrawal from the JCPOA and its re-imposition of sanctions. However, as it became gradually clear to the EU/E3 that they were incapable of performing their own obligations under the JCPOA and commitments undertaken following the U.S.' withdrawal at the highest level[28], they sought to conceal their multiple cases of significant non-performance[29] by calling for a "Trump deal,"[30] in clear violation of Paragraphs 28 and 29 of the JCPOA, and Operative Paragraph 2 of UNSCR 2231(2015)[31].

Following the U.S. withdrawal from the JCPOA, the UN Secretary General[32], the remaining JCPOA participants[33] and many other members of the international community called on Iran to use the Dispute Resolution Mechanisms under the JCPOA and to allow the remaining JCPOA participants to rectify the negative consequences of the unlawful U.S. withdrawal. While expressly reserving its right to undertake immediate reciprocal action[34]

[26] According to *Newsweek* (https://www.newsweek.com/mike-pompeo-says-iran-must-listen-us-if-they-want-their-people-eat-1208465) "Mike Pompeo Says Iran Must Listen to U.S. 'If They Want Their People to Eat'". This amounts to public acknowledgment of a policy intentionally designed to deprive an entire population of food and medicine, with the intention of causing mass starvation to advance illegitimate political objectives; a textbook case of a "crime against humanity". Furthermore, the Unites States' sanctions and hostile conduct and policy also flagrantly breach the Order of the International Court of Justice, issued on 3 October 2018. (https://www.icj-cij.org/public/files/case-related/175/175-20181003-ORD-01-00-EN.pdf)

[27] See Annex 13, Letters on requirements for a possible U.S. return to JCPOA: Letter dated 12 March 2021 to the Coordinator of JCPOA Joint Commission on the pre-requisites for return of the United States to JCPOA; Letter dated 11 April 2021 to the Coordinator of JCPOA Joint Commission on the sanction-lifting obligations of the United States.

[28] See Annex 5. Commitments by EU/E3 and EU/E3+3 following U.S. withdrawal: Statement of the meeting between EU/E3 Minister with Minister of Foreign Affairs of the Islamic Republic of Iran (Brussels, 15 May 2018); Statement from the Joint Commission of the Joint Comprehensive Plan of Action 6 July 2018; Joint Ministerial Statement (24 September 2018).

[29] See Annex 6, particularly letters of 21 August 2018, 6 November 2018, 7 April 2019, 17 July 2019, 3 October 2019 and 2 July 2020 to JCPOA Coordinator.

[30] "Boris Johnson: Replace Iran nuclear plan with 'Trump deal', says PM", https://www.bbc.com/news/uk-politics-51104386. Also see Op. cit., https://www.gov.uk/government/news/joint-statement-by-the-heads-of-state-and-government-of-france-germany-and-the-united-kingdom.

[31] "Calls upon all Members States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA and this resolution and by refraining from actions that undermine implementation of commitments under the JCPOA".

[32] "Statement by the Secretary-General on the Joint Comprehensive Plan of Action (JCPOA)", 08 May 2018. Available at: https://www.un.org/sg/en/content/sg/statement/2018-05-08/statement-secretary-general-joint-comprehensive-plan-action-jcpoa

[33] "Remarks by High Representative/Vice President Federica Mogherini on the Statement by U.S. President Trump Regarding the Iran Nuclear Deal (JCPOA)", Rome, 8 May 2018.

[34] See Annex 4, particularly letter of 10 May 2018 to the Coordinator of the JCPOA Joint Commission: "It is Iran's unquestionable right—recognized also under the JCPOA and UNSCR 2231—to take appropriate action in response to persistent numerous unlawful acts by the U.S., particularly its withdrawal and re-imposition of all sanctions. However, as President Rouhani announced in his televised response on 8 May and further elaborated in the Statement of the Government on 10 May 2018, the Islamic Republic of Iran will decide its next step in the course of few weeks following consultations with the remaining JCPOA Participants to see if and how the commitments collectively undertaken by EU/E3+3 vis-a-vis Iran could be fulfilled in the absence of a reneging party by EU/E3+2. Nothing in this period would affect Iran' right to react and protect its national interest as appropriate, a right which is manifestly recognized in the JCPOA and the UNSC resolution 2231(2015)."

under Paragraph 26[35], Iran officially initiated—for the third time[36]—the Dispute Resolution Mechanism under Paragraph 36 of the JCPOA[37] on 10 May 2018[38]. However, acting in good faith, Iran refrained from applying the 'remedy' foreseen in Paragraph 36 of the JCPOA in order to enable the remaining JCPOA participants to make good on their promises[39]. Unfortunately, instead of implementing their obligations under UNSCR 2231, and the JCPOA—in particular paragraph 3 of Annex II—and their commitments under the Statements made on 15 May, 6 July and 24 September 2018[40], the private as well as public sectors of the EU/E3 engaged in *over*-compliance with the U.S.' "maximum pressure" targeting all Iranians. Considering the economic prowess and size of the EU/E3, their utter impotence—even in operationalizing a minimalist INSTEX for humanitarian trade indicate apparent complicity with the Trump administration to extort concessions from Iran through inhuman economic pressure, even amid a worldwide pandemic.

Following the abject failure of the EU/E3 to implement even one of their eleven commitments following the U.S. withdrawal, coupled with the significant non-performance of their own JCPOA obligations, Iran on 6 November 2018 put the Coordinator and the remaining JCPOA participants on notice that it will no longer postpone taking remedial action under Paragraph 36 of the JCPOA.[41] No action was taken by the EU/E3 and none of the

[35] Paragraph 26 of the JCPOA: "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."

[36] The first two instances of invoking paragraph 36 of the JCPOA were in the letter of 16 December 2016 (see Annex 2) and the letter of 1 February 2019 (see Annex 3).

[37] Paragraph 36 of the JCPOA: "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 non-performance, 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."

[38] See Annex 4, particularly letter of 10 May 2018 to the Coordinator of the JCPOA Joint Commission.

[39] IAEA Reports to the Security Council: S/2016/57 (19 January 2016), S/2016/250 (15 March 2016), S/2016/535 (13 June 2016), S/2016/808 (22 September 2016), S/2016/983 (21 November 2016), S/2017/234 (20 March 2017), S/2017/502 (14 June 2017), S/2017/777 (13 September 2017), S/2017/994 (28 November 2017), S/2018/205 (8 March 2018), S/2018/540 (6 June 2018), S/2018/835 (12 September 2018), S/2018/1048 (26 November 2018), S/2019/212 (6 March 2019), S/2019/496 (14 June 2019).

[40] The EU/E3 unfulfilled commitments following U.S. withdrawal include: maintaining and deepening economic relations with Iran; the continued sale of Iran's oil, gas, condensate, petroleum products and petrochemicals and related transfers; effective banking transactions with Iran; continued sea, land, air and rail transportation relations with Iran; the further provision of export credit and development of special purpose vehicles in financial, banking, insurance and trade areas with the aim of facilitating economic and financial cooperation, including by offering practical support for trade and investment; the further development and implementation of Memoranda of Understandings and contracts between European companies and Iranian counterparts; further investment in Iran; the protection of EU economic operators and ensuring legal certainty; the further development of a transparent, rules-based business environment in Iran". See Statement of 15 May 2018 in Annex 5.

[41] See Letter of 6 November 2018 in Annex 6.

European JCPOA Participants even bothered to write a rebuttal for another 6 months. Having repeatedly exhausted the Dispute Resolution Mechanism to absolutely no avail, the Islamic Republic of Iran was left with no recourse but to exercise its rights under Paragraphs 26 and 36 of the JCPOA and to apply remedial action and cease performing its commitments in part on 8 May 2019. Iran duly informed the Coordinator of the Joint Commission that its "decision is fully consistent with the JCPOA and within the terms foreseen by it. We reaffirm our resolve to continue to support the JCPOA in good faith and in a constructive atmosphere. The Islamic Republic of Iran remains prepared to engage in good faith dialogue with the E3+2 at all levels, and to resume implementation of all the above provisions commensurate with the realization of the objectives set out in the JCPOA and commitments made by the Joint Commission since May 8, 2018."[42]

A review of the above-mentioned documents—reproduced in full in annexes to this letter—clearly illustrates that from the beginning of the process, the U.S. and EU/E3 kept Iran's enjoyment of economic dividends and normalization of trade and economic relations, that it had been promised in the JCPOA and UNSCR 2231, contingent upon meeting extraneous demands that had already been settled in the JCPOA negotiations and addressed in Annex B of UNSCR 2231. Moreover, it can be readily ascertained from a review of the enclosed documents that the EU/E3—and regrettably the Coordinator of the Joint Commission—failed to address the complaints by Iran, even after the U.S.' unlawful withdrawal, in a fair and objective manner.

Having considered the above factual background of nearly 6 years of JCPOA practice, one cannot but conclude that from legal, moral and practical points of view, the United States and the E3 have practically forfeited any reasonable and legitimate grounds for resorting to the mechanism foreseen in Paragraphs 36 and 37 of the JCPOA and operative Paragraphs 11 and 12 of the UNSCR 2231 concerning a possible reapplication of provisions of previous resolutions terminated under Paragraph 7(a) of UNSCR 2231. When the JCPOA was being negotiated, the parties agreed to the Dispute Resolution Mechanism in Paragraphs 36 and 37 of the JCPOA—which form the precondition for the activation of Paragraphs 11 and 12 of UNSCR 2231, a complicated and intentionally cumbersome procedure—as an avenue of last resort for ensuring mutual implementation of commitments under the JCPOA in an atmosphere of mutual distrust. This innovation was a method of ensuring compliance, and not a mechanism to protect non-performance by one-side wielding a threatening stick of recourse to Paragraphs 11 and 12, even when the injured party had previously invoked the same provisions of the JCPOA, and in good faith[43]. This procedure most definitely was never intended to be utilized in an arbitrary manner; giving participants a carte blanche to unilaterally destroy a comprehensive solution carefully and painstakingly negotiated after years of a stalemate. The absurdity of this logic was shown in the circus created by then U.S. Secretary of State Pompeo in the autumn of 2020.[44]

[42] Annex 7. Letters on Iran taking remedial measures: Letter of 8 May 2019 from President Rouhani to E3+2 leaders on the exhaustion of procedures under Paragraph 36 and beginning of remedial measures by Iran under Paragraph 36; Letter of 8 May 2019 to JCPOA Coordinator informing them of remedial measures by Iran following the exhaustion of procedures under Paragraph 36; Letter of 7 July 2019 to JCPOA Coordinator on Iran's second remedial step under Paragraph 36; Letter of 5 September 2019 on third remedial step by Iran under Paragraph 36.

[43] Annex 8. Letters on inadmissibility of E3 resort to Dispute Resolution Mechanism: Letter of 25 June 2019 to JCPOA Coordinator responding to the 21 June demarche of E3 ambassadors in Iran concerning Iran's actions under Paragraph 36; Letter of 29 January 2020 to new JCPOA Coordinator, rejecting his letter of 14 January purporting to activation of DRM by E3 under Paragraph 36; Letter of 10 March 2020 to JCPOA Coordinator illustrating Iranian exhaustion of DRM procedures under Paragraph 36 and inadmissibility of E3 recourse to DRM.

[44] Annex 12. Letters Rejecting U.S. Abuse of Security Council Process: Letter dated 20 August 2020 to the President of the Security Council on the inadmissibility of U.S. "notification"; Letter dated 4 October 2020 to the Secretary-General rejecting the abuse the processes of UN Security Council by the United States;

The International Court of Justice clearly established in its 1971 advisory opinion on Namibia that "one of the fundamental principles governing international relationships thus established is that a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship."[45]

In this context, the United States and the E3—with their history of disowning and/or not fulfilling their obligations under the JCPOA and UNSCR 2231— "cannot be recognized as retaining the rights which [they] claim to derive from" the two documents. The United Nations' credibility rests on preventing a repeat of the abuse of a procedure that has become defunct for the E3 and the United States due to their own proven malice. This must remain so until they prove, with action, a good-faith commitment to respect all the terms of the JCPOA as initially agreed, ensure full economic benefits therefrom for Iran and its people, and compensate them for the immense losses they incurred.

Throughout the past six years the Islamic Republic of Iran has proven its commitment to the Joint Comprehensive Plan of Action in deeds and not just words. My Government and the people of Iran have made enormous sacrifices—almost single-handedly—to preserve the JCPOA in spite of U.S. contempt for it and EU/E3 complacency in the face of that contempt. As history has shown, the Iranian people have throughout the course of their millennia-old and glorious civilization triumphed over intimidation, coercion or extortion. At the same time, today, the Islamic Republic of Iran remains prepared to reciprocally contribute to serious efforts to revive the full implementation of the JCPOA by all in an atmosphere of good faith, equal footing and mutual respect.

I will be grateful if you would have this letter circulated as a document of the General Assembly and of the Security Council.

(*Signed*) M. Javad **Zarif**

[45] Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, Para. 91.

Annex 1. Statement of the Islamic Republic of Iran following the adoption of United Nations Security Council resolution 2231 (2015) endorsing the Joint Comprehensive Plan of Action, 20 July 2015 (S/2015/550)

1. The Islamic Republic of Iran considers science and technology, including peaceful nuclear technology, as the common heritage of mankind. At the same time, on the basis of solid ideological, strategic and international principles, Iran categorically rejects weapons of mass destruction and particularly nuclear weapons as obsolete and inhuman, and detrimental to international peace and security. Inspired by the sublime Islamic teachings, and based on the views and practice of the late founder of the Islamic Revolution, Imam Khomeini, and the historic *Fatwa* of the leader of the Islamic Revolution, Ayatollah Khamenei, who has declared all weapons of mass destruction (WMD), particularly nuclear weapons, to be *Haram* (strictly forbidden) in Islamic jurisprudence, the Islamic Republic of Iran declares that it has always been the policy of the Islamic Republic of Iran to prohibit the acquisition, production, stockpiling or use of nuclear weapons.

2. The Islamic Republic of Iran underlines the imperative of the total elimination of nuclear weapons, as a requirement of international security and an obligation under the Treaty on the Non-Proliferation of Nuclear Weapons. The Islamic Republic of Iran is determined to engage actively in all international diplomatic and legal efforts to save humanity from the menace of nuclear weapons and their proliferation, including through the establishment of nuclear-weapon-free zones, particularly in the Middle East.

3. The Islamic Republic of Iran firmly insists that States parties to the Treaty on the Non-Proliferation of Nuclear Weapons shall not be prevented from enjoying their inalienable rights under the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of the Treaty.

4. The finalization of the Joint Comprehensive Plan of Action (JCPOA) on 14 July 2015 signifies a momentous step by the Islamic Republic of Iran and the E3/EU+3 to resolve, through negotiations and based on mutual respect, an unnecessary crisis, which had been manufactured by baseless allegations about the Iranian peaceful nuclear programme, followed by unjustified politically motivated measures against the people of Iran.

5. The JCPOA is premised on reciprocal commitments by Iran and the E3/EU+3, ensuring the exclusively peaceful nature of Iran's nuclear programme, on the one hand, and the termination of all provisions of Security Council resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), 1929 (2010) and 2224 (2015) and the comprehensive lifting of all United Nations Security Council sanctions, and all nuclear-related sanctions imposed by the United States and the European Union and its member States, on the other. The Islamic Republic of Iran is committed to implement its voluntary undertakings in good faith contingent upon same good-faith implementation of all undertakings, including those involving the removal of sanctions and restrictive measures, by the E3/EU+3 under the JCPOA.

6. Removal of nuclear-related sanctions and restrictive measures by the European Union and the United States would mean that transactions and activities referred to under the JCPOA could be carried out with Iran and its entities anywhere in the world without fear of retribution from extraterritorial harassment, and all persons would be able to freely choose to engage in commercial and financial transactions with Iran. It is clearly spelled out in the JCPOA that both the European Union and the United States will refrain from reintroducing or re-imposing the sanctions and restrictive measures lifted under the JCPOA. It is understood that reintroduction or re-imposition, including through extension, of the sanctions and restrictive measures will constitute significant non-performance which would relieve Iran from its commitments in part or in whole. Removal of sanctions further necessitates taking

appropriate domestic legal and administrative measures, including legislative and regulatory measures to effectuate the removal of sanctions. The JCPOA requires an effective end to all discriminatory compliance measures and procedures as well as public statements inconsistent with the intent of the agreement. Iran underlines the agreement by JCPOA participants that immediately after the adoption of the Security Council resolution endorsing the JCPOA, the European Union, its member States and the United States will begin consultation with Iran regarding relevant guidelines and publicly accessible statements on the details of sanctions or restrictive measures to be lifted under the JCPOA.

7. The Islamic Republic of Iran will pursue its peaceful nuclear programme, including its enrichment and enrichment research and development, consistent with its own plan as agreed in the JCPOA, and will work closely with its counterparts to ensure that the agreement will endure the test of time and achieve all its objectives. This commitment is based on assurances by the E3/EU+3 that they will cooperate in this peaceful programme consistent with their commitments under the JCPOA. It is understood and agreed that, through steps agreed with the International Atomic Energy Agency (IAEA), all past and present issues of concern will be considered and concluded by the IAEA Board of Governors before the end of 2015. The IAEA has consistently concluded heretofore that Iran's declared activities are exclusively peaceful. Application of the Additional Protocol henceforth is intended to pave the way for a broader conclusion that no undeclared activity is evidenced in Iran either. To this end, the Islamic Republic of Iran will cooperate with the IAEA, in accordance with the terms of the Additional Protocol as applied to all signatories. The IAEA should, at the same time, exercise vigilance to ensure full protection of all confidential information. The Islamic Republic of Iran has always fulfilled its international non-proliferation obligations scrupulously and will meticulously declare all its relevant activities under the Additional Protocol. In this context, the Islamic Republic of Iran is confident that since no nuclear activity is or will ever be carried out in any military facility, such facilities will not be the subject of inspection.

8. The Joint Commission established under the JCPOA should be enabled to address and resolve disputes in an impartial, effective, efficient and expeditious manner. Its primary role is to address complaints by Iran and ensure that effects of sanctions lifting stipulated in the JCPOA will be fully realized. The Islamic Republic of Iran may reconsider its commitments under the JCPOA if the effects of the termination of the Security Council, European Union or United States nuclear-related sanctions or restrictive measures are impaired by continued application or the imposition of new sanctions with a nature and scope identical or similar to those that were in place prior to the implementation date, irrespective of whether such new sanctions are introduced on nuclear-related or other grounds, unless the issues are remedied within a reasonably short time.

9. Reciprocal measures, envisaged in the dispute settlement mechanism of the JCPOA, to redress significant non-performance are considered as the last resort if significant non-performance persists and is not remedied within the arrangements provided for in the JCPOA. The Islamic Republic of Iran considers such measures as highly unlikely, as the objective is to ensure compliance rather than provide an excuse for arbitrary reversibility or means for pressure or manipulation. Iran is committed to fully implement its voluntary commitments in good faith. In order to ensure continued compliance by all JCPOA participants, the Islamic Republic of Iran underlines that in case the mechanism is applied against Iran or its entities and sanctions, particularly Security Council measures, are restored, the Islamic Republic of Iran will treat this as grounds to cease performing its commitments under the JCPOA and to reconsider its cooperation with the IAEA.

10. The Islamic Republic of Iran underlines the common understanding and clearly stated agreement of all JCPOA participants that affirms that the provisions of Security Council resolution 2231 (2015) endorsing the JCPOA do not constitute provisions of the JCPOA and can in no way impact the performance of the JCPOA.

11. The Government of the Islamic Republic of Iran is determined to actively contribute to the promotion of peace and stability in the region in the face of the increasing threat of terrorism and violent extremism. Iran will continue its leading role in fighting this menace and stands ready to cooperate fully with its neighbours and the international community in dealing with this common global threat. Moreover, the Islamic Republic of Iran will continue to take necessary measures to strengthen its defence capabilities in order to protect its sovereignty, independence and territorial integrity against any aggression and to counter the menace of terrorism in the region. In this context, Iranian military capabilities, including ballistic missiles, are exclusively for legitimate defence. They have not been designed for WMD capability, and are thus outside the purview or competence of the Security Council resolution and its annexes.

12. The Islamic Republic of Iran expects to see meaningful realization of the fundamental shift in the Security Council's approach envisaged in the preamble of Security Council resolution 2231 (2015). The Council has an abysmal track record in dealing with Iran, starting with its acquiescing silence in the face of a war of aggression by Saddam Hussain against Iran in 1980, its refusal from 1984 to 1988 to condemn, let alone act against, massive, systematic and widespread use of chemical weapons against Iranian soldiers and civilians by Saddam Hussain, and the continued material and intelligence support for Saddam Hussain's chemical warfare by several of its members. Even after Saddam invaded Kuwait, the Security Council not only obdurately refused to rectify its malice against the people of Iran, but went even further and imposed ostensibly WMD-driven sanctions against these victims of chemical warfare and the Council's acquiescing silence. Instead of at least noting the fact that Iran had not even retaliated against Saddam Hussain's use of chemical weapons, the Council rushed to act on politically charged baseless allegations against Iran and unjustifiably imposed a wide range of sanctions against the Iranian people as retribution for their resistance to coercive pressures to abandon their peaceful nuclear programme. It is important to remember that these sanctions, which should not have been imposed in the first place, are the subject of removal under the JCPOA and Security Council resolution 2231 (2015).

13. Therefore, the Islamic Republic of Iran continues to insist that all sanctions and restrictive measures introduced and applied against the people of Iran, including those applied under the pretext of its nuclear programme, have been baseless, unjust and unlawful. Hence, nothing in the JCPOA shall be construed to imply, directly or indirectly, an admission of or acquiescence by the Islamic Republic of Iran in the legitimacy, validity or enforceability of the sanctions and restrictive measures adopted against Iran by the Security Council, the European Union or its member States, the United States or any other State, nor shall it be construed as a waiver or a limitation on the exercise of any related right the Islamic Republic of Iran is entitled to under relevant national legislation, international instruments or legal principles.

14. The Islamic Republic of Iran is confident that the good-faith implementation of the JCPOA by all its participants will help restore the confidence of the Iranian people, who have been unduly subjected to illegal pressure and coercion under the pretext of this manufactured crisis, and will open new possibilities for cooperation in dealing with real global challenges and actual threats to regional security. Our region has long been mired in undue tension while extremists and terrorists continue to gain and maintain ground. It is high time to redirect attention and focus on these imminent threats and seek and pursue effective means to defeat this common menace.

Annex 2. Letters pertaining to non-performance by the Obama Administration:

Letter of 2 September 2016 to JCPOA Coordinator on U.S. multiple cases of U.S. non-performance and serious E3/EU failures

In the name of God, the Compassionate, the Merciful

2 September 2016

Her Excellency,

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

Excellency,

The Joint Comprehensive Plan of Action required all JCPOA Participants to use the opportunity between the Conclusion Day and the Implementation Day to take all necessary preparatory steps in order to ensure full and effective materialization of their respective commitments on the Implementation Day. However, I regret to remind you that nearly 8 months after the Implementation Day, the most important sanctions-lifting obligations by the United States and some European Participants have yet to be fulfilled. There have also been actions in contravention of certain other obligations and many cases of procrastination. Moreover, increasing evidence of behind-the-scene arms-twisting and blatant threats against dealing with Iran by official government organs is coming to our attention, indicating lack of good faith even in areas of ostensible compliance.

Iran, as repeatedly verified by the IAEA and officially acknowledged numerously by all JCPOA participants, has fully and scrupulously complied with every single one of its voluntary commitments under the JCPOA, and has even over-complied in some areas in order to remove any pretext. Regrettably our restraint, patience and one-sided compliance have not lead to any improvement. The Iranian leadership and people rightly feel that Iran has yet to attain meaningful economic dividends from JCPOA, causing increasing popular discontent with engagement.

While Iran has made a full investment in compliance, the effective lifting of sanctions has been incremental, very slow and at times prohibitively cumbersome. On August 26th, in an article entitled "Banks cannot invest in Iran without US guarantees," the Financial Times reported that "banks have effectively gone on strike and are not dealing with Iran again" because "the American position is so bizarre, [they] can't take the risk." On August 31st, the Wall Street Journal published another article entitled "German Businesses Blame U.S. for Iran Trade Disappointment," quoting a leading European trade federation executive, acknowledging that "companies are afraid of U.S. retaliation."

Only reciprocal compliance can sustain international agreements. The global atmosphere of Déjà vu caused by empty promises of JCPOA sanctions-lifting provisions is not only eroding and undermining the entire JCPOA, but also reversing the positive atmosphere caused by its conclusion.

It must be reiterated that the JCPOA required both sides — not just Iran — to use the time between July 14 and Implementation Day, to make sure that before Implementation Day, all the technical and preparatory works had been done to start implementing the deal — and not beginning to consider ways and means for its implementation — on the Implementation Day.

Such preparations, as we now know, were not put in place with non-American banks before or even since the Implementation Day. While there is ample evidence of public and secret obstruction by various agencies and instrumentalities of the US Government particularly OFAC, the United States has offered the unacceptable excuse that banks are private entities and outside its control. However, no such excuse can be concocted for airplane licenses that OFAC has refused to issue for nearly 8 months as detailed below. It is self-evident that license for airplane sales only requires the involvement of OFAC and does not require any action by anyone outside US Government. Hence there can be no excuse for the undue prohibitive delays in the performance of this US obligation, which has caused loss of opportunities for Iran and irreparable damage to the global environment for doing business with Iran.

Under these unfortunate circumstances, I feel obliged to request the convening of the Joint Commission at the ministerial level as soon as possible in order to address the numerous and persistent failures, particularly by the United States, to perform commitments undertaken under the JCPOA. In this context, I would like to provide a few examples of the main areas of such serious failures:

A) Sale of Passenger Aircraft to Iran

The US Government has failed to perform its obligation and is clearly procrastinating by not issuing the necessary licenses for the sale or lease of passenger aircrafts to Iran for the past 7 months in at least 4 specific cases:

- On 5 Feb 2016, DAE, an Emirati leasing company, requested a license to lease 6 Airbus A330 aircrafts to Iran Air under the number: DAE Aircraft Re-export case IA-2016-326471-1. No response from OFAC till now.
- Nearly seven months ago, Airbus made a request to sell civil aircraft to Iran in a much publicized case. Having addressed the IRU problem - which in everyone's view was concocted by some bureaucrat at OFAC to sabotage or at least delay the deal, Airbus submitted an impeccable application over two months ago. OFAC has procrastinated in providing the requisite license.
- ATR applied for a license at the same time as Airbus. No news whatsoever.
- Boeing made an official application for sale of Boeing civilian aircraft to Iran on 14 June 2016. No reply from OFAC, which has apparently misinformed the State Department that Boeing has not even applied.

It should be noted that the US made an unequivocal and unconditional commitment about civil aviation in JCPOA. The implementation of this commitment is not contingent upon any other performance by Iran, nor complicated by private business decisions. It SOLELY requires issuance of licenses by OFAC, an official organ of the US Government, under full control and authority of the US President and his administration. Such licenses should have been issued "by a stroke of a pen" many months ago.

Clearly, the design and components of civil aircrafts produced by Airbus and Boeing were not unknown to the USG. So the USG knew about all the purported complications — including what parts were included in Airbus and Boeing Jets — when it entered into this commitment under JCPOA. The USG had over 6 months from 14 July 2015 to 16 January

2016 to work out the way to resolve any and all domestic procedures required for it to perform its undertaking.

A more recent OFAC action, veiled under a positive façade of lifting – the non-existing – restriction for the flight of aircraft with 10% US content to Iran, has instead introduced a new restriction preventing airlines from engaging in code-sharing with non-designated Iranian carriers. Paragraph b(8) of the General License J issued by OFAC on 29 July 2016, prohibits putting any Iranian carrier flight number on any Boeing and Air Bus flight operated by any non-US operator to Iran. This provision prevents the wide-spread code-sharing practice that has been undergoing for decades, even at the height of sanctions. Such dishonest and malicious introduction of this new fine print – probably by an unscrupulous bureaucrat — not only amounts to a significant non-performance of the JCPOA commitment not to introduce new sanctions, but is clearly an act of malicious bad faith, destroying any remaining confidence.

B) Banking and Financial Issues

The Iranian Central Bank is still unable to have 'free access' to its assets held abroad because of U.S. lack of cooperation in converting those assets into non-US currencies as well as their transfer. This amounts to failure by the U.S. to perform its commitment under paragraph 21(iv) and paragraphs 4.1.1 and 7.2 of Annex IV of the JCPOA. Should this performance necessitate removing additional restrictions, it must be granted since such restrictions are "preventing the full implementation of the sanctions-lifting."

Moreover, non-American banks are disinclined from establishing or restoring business relations with Iran, principally due to OFAC's prohibitive signals and measures, which trivialize and extensively qualify sanctions-lifting provisions, while aggrandizing and blatantly threatening about the remaining sanctions. Another significant impediment is the lack of any assurances that the US Department of Justice will not penalize non-American banks again for doing business with Iran. The Secretary of States has made public statements encouraging banks to engage, but as indicated by the aforementioned FT article, "he has hitherto been unable, or unwilling, to persuade the [DoJ] to do this. So the banks have effectively gone on strike and are not dealing with Iran again." The failure to provide assurances against future repetition of DoJ practice of imposing exorbitant penalties goes against the US commitment, in paragraph 26 of the JCPOA, to "prevent interference with the realization of the full benefit by Iran of the sanctions lifting specified in Annex II." The US obligation to "take adequate administrative and regulatory measures to ensure clarity and effectiveness with respect to the lifting of sanctions under JCPOA," is of the essence in its sanctions-lifting commitment, thus requiring the US administration to take proactive measures to ensure effective lifting of sanctions.

The US, the EU and other members of EU/E3+3 have a clearly-articulated affirmative obligation in Paragraph 33 of the JCPOA to "… to ensure Iran's access in areas of trade, technology, finance, and energy." The US is, then, obligated under the JCPOA to facilitate, and not to hinder directly or indirectly, Iran's free access to its assets abroad as well as reengagement of non-American banking and financial community with Iran.

C) US Visa Waiver Program

Under the US Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, nationals of Visa Waiver Program (VWP) countries who have traveled to or been present in Iran from 1 March 2011 or those who are also nationals of Iran are no longer eligible to travel or be admitted to the United States under VWP. It was announced later that a case by case waiver might be issued for individuals who traveled to Iran for legitimate business-related purposes following the conclusion of the JCPOA (14 July 2015). No waivers have been envisaged for tourist trips to Iran or for academic and scientific exchanges, which had always been unrestricted and not penalized even before JCPOA.

The new Act was adopted against several provisions of JCPOA, including paragraphs 26, 28 and 29. In accordance with paragraph 26 of the JCPOA, the United States is committed to prevent interference with the realization of the full benefit by Iran of the sanctions lifting specified in Annex II. Under Paragraph 28 of the JCPOA, the US is committed to refrain from any action that would undermine its successful implementation. The same has been stipulated in the General Provisions of the JCPOA, Paragraph viii, which goes as far as stating that the E3/EU+3 will refrain from "imposing discriminatory regulatory and procedural requirements in lieu of the sanctions and restrictive measures covered by this JCPOA." Also, paragraph 29 of the JCPOA has committed the United States to "refrain from any policy specifically intended to directly and adversely affect the normalization of trade and economic relations with Iran…"

D) The US Reintroduction of Certain Sanctions

The US Presidential Executive Order 13645 has been re-introduced inconsistent with the JCPOA. Executive Order 13645 was supposed to be terminated as of "Implementation Day" consistent with Paragraph 21(xix) of the JCPOA, Paragraph 4 of its Annex II, and Paragraph 17.4 of its Annex V. Although Section 1(d) of Executive Order 13716 revoked that Executive Order, several parts of the revoked Order including its section 9 to 19 are re-introduced in the Executive Order 13716. This is not consistent with United States commitment for termination of the Executive Order as well as paragraph 26 of the JCPOA regarding refraining from re-introduction or re-imposition of lifted sanctions.

Furthermore, there is evidence of actions being contemplated in US Congress that would constitute a material breach of JCPOA obligations. According to reports today, "Hillary Clinton supports a clean reauthorization of the Iran Sanctions Act and believes Congress should get this done in short order when they return from recess."

E) EU's Unprecedented Restrictions on Export of Certain Items to Iran

The EU has introduced discriminatory restrictions for the sale of dual use items (other than those items in NSG list) to Iran by adding an additional list of items to Annex II of the EU Regulation 1861 and requiring Iranian buyers to provide an End User Certificate signed by an Iranian Authority as a condition for sale of such items to them. No such procedure was ever required even before the JCPOA. This new regulation was put in place despite EU's commitment in paragraph 28 of the JCPOA to "refrain from imposing exceptional or discriminatory regulatory and procedural requirements in lieu of the sanctions and restrictive measures covered by the JCPOA."

F) US/EU's Unconstructive Attitude against Iran in the UNSC

The UNSCR 2231 unambiguously set the tone for the post-JCPOA relations between Iran and the Security Council by "affirming that conclusion of the JCPOA marks a fundamental shift in its consideration of this issue." It must be noted that such 'fundamental shift' is a consequence of the conclusion and not even implementation of JCPOA. Iran — which not only concluded but fully and verifiably implemented its commitments under JCPOA in their entirety and even beyond — at the very least expected to see this 'fundamental shift' in its treatment by the Council, its members and the Secretariat. The first report by the Secretariat on the implementation of resolution 2231 was revealingly reflective of the biased and confrontational attitude, reminiscent of worst days of confrontation prior to the JPOA and JCPOA process, and imposed on the Secretariat by one JCPOA Participant and acquiesced in or even supported by some others. The ensuing debate in the UNSC, where US and E3 chose to revive pre-JCPOA negative ambiance in the Security Council towards Iran, was infuriatingly inconsistent with the collective commitment of the EU/E3+3 to materialize that 'fundamental shift' by the Council.

Excellency,

Iran has faithfully observed its JCPOA commitments for the past 14 months preceded by more than 20 months of full and verified JPOA implementation by Iran. This shows Iran's resolve and determination to honor its word. This should not be misunderstood or misconstrued as Iran's willingness or even ability to continue a one-sided implementation. No agreement can survive unilateral implementation by one party without reciprocity on the part of the other parties.

I strongly urge you both as the Coordinator and as EU representative, and through you other members of EU/E3+3, to recognize the urgency of the situation and to bring all JCPOA participants, in particular the US into full and effective compliance with their respective JCPOA obligations.

I sincerely hope that these serious failures will have been corrected and reversed before the meeting of the Joint Commission to avoid unnecessary complications. This particularly requires, as the first essential steps, ensuring effective sanctions-lifting in banking and finance sectors and issuing relevant authorizations for sale of aircrafts to Iran without further delay.

I cannot emphasize enough the detrimental implications of the continuation of the current state of failures to perform various fundamental provisions of JCPOA by one and at times several JCPOA Participants. This will have far-reaching ramifications beyond JCPOA and its participants. The impact of continued reluctance to abide by commitments will be immense and irreversible on wider global issues, including those covered by JCPOA as well as on multilateral diplomacy as a whole.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 17 November 2016 to the JCPOA Coordinator on “Iran Sanctions Extension Act”, and lackluster implementation of JCPOA especially with regard to banking and financial services

In the name of God, the Compassionate, the Merciful

17 November 2016

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

On 15 December, the United States House of Representative chose to pose an unprecedented threat to the JCPOA by adopting a bill to re-impose the Iran Sanctions Act of 1996 in complete defiance of US commitments under the JCPOA. If enacted and signed into law, the so-called ‘Iran Sanctions Extension Act’ would plainly violate the ‘letter, spirit and intent’ of the JCPOA and could unleash irreversible consequences beyond anyone’s control.

The United States’ commitment not to extend Iran Sanctions Act beyond its expiry date of 31 December 2016 constituted an integral part of the deal, as it was clearly pledged by the United States Secretary of State during the last hours of the JCPOA negotiations in Vienna. He explicitly agreed that extension of ISA would constitute ‘re-introduction and re-imposition’ of sanctions, and hence a specific reference was superfluous.

Excellency,

All JCPOA participants, including the United States, have “commit[ted] to implement the JCPOA in good faith… and to refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation.” The United States, in particular, has also committed under paragraph 26 (Preamble and General Provisions) to “refrain from re-introducing or re-imposing the sanctions specified in Annex II that it has ceased applying under this JCPOA”, and to “make best efforts in good faith to sustain this JCPOA.”

As such the US Administration is required to use all tools and authorities at its disposal to prevent this clear ‘non-performance’ on the part of the United States. I should remind you of Iran’s statement under paragraph 26 that “it will treat such a re-introduction or re-imposition of the sanctions… as grounds to cease performing its commitments under this JCPOA in whole or in part.”

The Islamic Republic of Iran has scrupulously complied with all its commitments under the JCPOA, as consistently verified by the IAEA and repeatedly acknowledged by all JCPOA participants and the international community as a whole. Iran has hitherto exercised enormous restraint in the face of lackluster implementation of JCPOA by some participants, in particular the United States, especially with regard to banking and financial services as well as persistent public and private harassment of Iran’s business partners by various US institutions, agencies and instrumentalities. We continue to remain committed to JCPOA as a multilateral and mutually advantageous instrument.

I strongly urge you, in your capacity as the Coordinator of the JCPOA Joint Commission, to take into serious consideration the urgency of the situation, and the detrimental course of action that such an extension might trigger; and to use all available means including through other JCPOA participants and the Commission to ensure performance by the United States of all its commitments under the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 16 December 2016 to JCPOA Coordinator on US significant breach of its obligations by the extension of "Iran Sanctions Act" on 14 December 2016,

In the name of God, the Compassionate, the Merciful

16 December 2016

Her Excellency

Ms. Federica Mogherini

EU High Representative for Foreign Affairs and Security policy,

Coordinator of the JCPOA Joint Commission

Excellency,

Pursuant to my letters dated 2 September and 17 November 2016, detailing a series of significant shortcomings in the implementation of United States' undertakings under the JCPOA and warning about the consequences of the extension of the Iran Sanctions Act, I must inform you, in your capacity as the coordinator of the JCPOA Joint Commission, that on 14 December 2016, the United States committed a significant breach of its obligations under the JCPOA by re-introducing the sanctions under ISA.

The renewal of Iran Sanctions Act — with or without signature by the U.S. President — constitutes a clear violation of the commitment undertaken by the United States under the JCPOA to 'refrain from re-introducing or re-imposing the sanctions that it has ceased applying under this JCPOA' (paragraphs 26 and 28). It also contravenes the principle of 'good faith' which all JCPOA participants committed to observe in performing their obligations including through 'refraining from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation' (paragraph (viii) of Preamble and General Provisions).

As the IAEA and all JCPOA participants have consistently and repeatedly verified and acknowledged, Iran has strictly complied with its voluntarily undertakings under the JCPOA ever since its 'Adoption Day', notwithstanding frequent breaches, procrastinations and lackluster implementation on the part of some participants, particularly the United States.

Iran continues to be committed to the full implementation of the JCPOA in good faith, while underlining the 'reciprocal' nature of the commitments laid down in the JCPOA as well as its 'multi-lateral' character, which requires all its participants to be equally committed to their respective obligations, thereby contributing to the integrity and sustainability of this historic achievement.

In light of the above, I request you, in your capacity as the Coordinator of the JCPOA Joint Commission, to:

1. Bring this letter to the attention of all JCPOA participants in accordance with paragraph 36 of the Joint Comprehensive Plan of Action;

2. Convene a meeting of the Joint Commission in accordance with paragraphs 2.1.12 and 2.1.14 of Annex IV;

3. Convene urgently a meeting of the Working Group on Sanctions, in accordance with paragraphs 7.1, 7.4 and 7.5 of Annex IV.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 3. Letters on significant non-performance by the Trump Administration Before U.S. Withdrawal

Letter of 28 March 2017 to the JCPOA Coordinator on Trump hostility towards JCPOA and prevention of normalization of trade with Iran

In the name of God, the Compassionate, the Merciful

28 March 2017

Her Excellency

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

Excellency,

Since the assumption of office by the new US Administration, what used to be 'lackluster' implementation of the JCPOA by the previous administration has now turned into total and open hostility towards the deal, threatening to render the entire bargain meaningless, unbalanced and unsustainable.

The Islamic Republic of Iran has fulfilled all its obligations under the agreement; and is thus entitled to demand and receive the full benefits as stipulated in the JCPOA; a multilateral undertaking which "includes reciprocal commitments", requires implementation "in good faith and in a constructive atmosphere, based on mutual respect", enshrines the undertaking of all participants "to refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation" and underlines "that conclusion of this JCPOA marks a fundamental shift" in dealing with Iran — also repeated in the preamble of UNSCR 2231. The declared policy and practice of the current administration in the United States flout every single one of these clearly stated commitments of the "Government of the United States of America".

It is evident that the "Government of the United States of America" has maliciously intended — since the very beginning — to prevent normalization of trade with Iran and to deprive Iran from the economic dividends clearly envisaged in the JCPOA, by ensuring continued – and even exacerbated — uncertainty about future of economic relations and cooperation with Iran.

More than 50 proposed sanctions legislations in the US Congress since the adoption of JCPOA have served one clearly articulated purpose: to prevent normalization of trade and destroy the necessary climate of confidence for economic relations. The unlawful policy of "review" — an unacceptable position taken by the current US administration in defiance of all other participants' call for adhering to the terms of the agreement — is another manifestation of the same approach. It intends to create indefinite uncertainty and fear in the global economic community about the future of economic relations with Iran. This has in fact had significant detrimental consequences, including postponement of implementation of

contracts following the illegal extension of ISA during the previous administration and allusions to possible non-extension of the JCPOA-required waivers as a consequence of the "review process."

Augmented by behind-the-scene arm-twisting and cumbersome OFAC regulations – particularly for Non-US firms, this — now official — policy is a clear violation of paragraph 29 of JCPOA, which unambiguously stipulates that "The EU and its Member States and the United States, consistent with their respective laws, will refrain from any policy specifically intended to directly and adversely affect the normalization of trade and economic relations with Iran inconsistent with their commitments not to undermine the successful implementation of this JCPOA."

The pattern of provocative statements against the JCPOA by senior US administration officials threatens the sustainability of the JCPOA by further diminishing the atmosphere which is indispensable for successful implementation of its sanctions-lifting provisions. These statements not only disrespect the established principles of international law, in particular those enshrined in the UN Charter and reaffirmed by the JCPOA, but also contravene the provisions of the JCPOA, including in particular paragraph 28, which stipulates "Senior Government officials of the E3/EU+3 and Iran will make every effort to support the successful implementation of this JCPOA including in their public statements."

I therefore urge you, in your capacity as the Coordinator of the JCPOA Joint Commission, to use all available means, including through other JCPOA participants and the Joint Commission, to ensure that the United States immediately ceases and desists from these behaviors which are clearly in violation of its JCPOA commitments, and to bring its policies and actions into compliance with the agreement "in good faith." We also expect other JCPOA participants to put in place necessary measures to redress the impact of these statements and action in order to ensure the survival of the JCPOA.

I have thus instructed Deputy Foreign Minister Araghchi to officially raise this issue in the next meeting of the Joint Commission on 25 April and request you to put it on the agenda of the Commission.

Iran reserves the rights to take necessary measures in response to any action or omission, which could in effect jeopardize the balance of "the reciprocal commitments" as enshrined in the JCPOA and adversely affect its 'balanced' implementation. Iran cannot afford to keep implementing the deal unilaterally while a key participant persists in its systematic violation of key provisions of the JCPOA by invoking irrelevant, extraneous and unfounded excuses.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 28 May 2017 to the JCPOA Coordinator on U.S. policy of reversing Iran's benefits from JCPOA even when U.S. purported to comply

In the name of God, the Compassionate, the Merciful

28 May 2017

H.E. Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the E.U. for Foreign Affairs and Security Policy

Excellency,

The positions and practices of the U.S. government, particularly during the past four months, have been consistently at odds with the intent and spirit of the JCPOA, and on several occasions amount to clear violations of the unambiguous obligations of the United States as clearly stated in the JCPOA. The United States, as a matter of declared policy, is in violation of a general principle of international law, specifically repeated in JCPOA "to implement the JCPOA in good faith". It must be emphasized that this obligation has been operationalized, *inter alia*, by Paragraph 26 of the JCPOA, which clearly stipulates the U.S. obligation to "make best efforts in good faith to sustain the JCPOA and to prevent interference with the realization of full benefit by Iran of the sanction lifting specified in Annex II."

The statements by President Trump and senior officials of his Administration, in total disregard for the letter of the JCPOA, have resulted in a state of total global limbo, destroying any confidence about the future of the JCPOA, thereby forcing Iran's current and potential partners to take a stand-by policy in their interactions with Iran and Iranian parties, refraining from finalizing agreements that are vital for the minimal — let alone full — benefit by Iran of the sanction lifting specified in the JCPOA and its annex.

Every action – even in superficial implementation of the JCPOA commitment by the U.S. – has been designed, articulated and presented with a stated intent of exacerbating uncertainty, and depriving Iran from the benefits it is entitled to. Most significantly, the U.S. administration has declared a "review policy" and has designated an arbitrary, self-serving "review day", which is totally alien to and inconsistent with the JCPOA, where all commitments should be implemented in good faith and based on the timing stipulated in the JCPOA.

Pursuant to my previous communications, I wish to bring to the attention of JCPOA participants some recent instances which constitute non-performance by the U.S. of its commitments under the JCPOA:

1. On 17 May 2017, the U.S. State Department announced that it would "continue to waive sanctions as required to continue implementing U.S. sanctions-lifting commitments in the Joint Comprehensive Plan of Action." This commitment, however, was intentionally performed in form, substance, language and surrounding actions in a manner least conducive to "the realization of full benefit by Iran of the sanction lifting specified in Annex II."

a. On the same day, the U.S. designated a number of Iranian individuals and entities.[46] The latter designation, unlike previous ones, did not even refer to sanction lifting of the JCPOA.

b. The announcement for the continuation of cessation of application of sanctions was made through a media note which was issued by the State Department with respect to "Human Rights Sanctions on Iran."[47]

This is not a coincidence. It has now become the State Department policy to inform the public of its measures in performance of JCPOA obligation under the most negative headings in order to ensure the least positive impact for Iran. On 18 April, The State Department used the headline "Iran Continues To Sponsor Terrorism" in a Press Statement that informed the public that "The U.S. Department of State certified to U.S. House Speaker Paul Ryan today that Iran is compliant through April 18th with its commitments under the Joint Comprehensive Plan of Action."[48]

These measures could only be construed as aiming to reverse Iran's benefit from the JCPOA. In fact, the stated objective of this conduct — similar to the-now-public account of the statutory action taken on 18 April 2017[49] — is to "call into question the U.S.'s long-term support for the nuclear accord" in order to increase uncertainty and dissuade engagement with Iran.

Apart from the unrelenting persistence on so-called 'review policy' — which is by itself a violation of U.S. obligations — the malign phraseology of the State Department announcement as well as the Presidential Memorandum of 18 May 2017[50] cast more doubt about the U.S. Government's willingness to abide by its commitments "in good faith and in a constructive atmosphere".

2. The Media reported that Steven Mnuchin, the U.S. Treasury Secretary has stated, during his testimony to the House Ways and Means Committee, that "the U.S. Treasury is reviewing licenses for Boeing Co. and Airbus to sell aircraft to Iran".[51] It must be underlined that any further delay or hindrance, under any pretext whatsoever, would amount to a significant non-performance of clearly-stipulated U.S. obligation under paragraph 22 of the JCPOA.

3. U.S. Senate Committee on Foreign Relations on 25 May 2017 approved a new bill titled "Countering Iran's Destabilizing Activities Act of 2017" (S.722)[52]. Our initial evaluation indicates that this bill, as amended, re-introduces — in contravention of paragraph 26 of JCPOA — some of the sanctions whose application were to be ceased and constructs an extensive sanction regime *vis-à-vis* Iran which will diminish the impact of the current sanction lifting and will further make the JCPOA sanction termination on the transition day moot and irrelevant. It also aims at imposing further sanctions, which would interfere with the realization of the full benefit by Iran of the sanctions lifting, also in violation of paragraph 26 of JCPOA.

Current and former senior U.S. Government officials have publicly admitted that this new bill would create concrete impediments for the successful implementation of the JCPOA and will negatively affect the effectiveness of the lifting of sanction under the JCPOA.

[46] https://www.treasury.gov/press-center/press-releases/Pages/sm0088.aspx
[47] https://www.state.gov/r/pa/prs/ps/2017/05/270925.htm
[48] https://www.state.gov/secretary/remarks/2017/04/270315.htm
[49] https://www.wsj.com/articles/white-house-intervened-to-toughen-letter-on-iran-nuclear-deal-1493151632
[50] https://www.whitehouse.gov/the-press-office/2017/05/17/presidential-memorandum-secretary-state-secretary-treasury-and-secretary
[51] https://www.reuters.com/article/us-usa-iran-sanctions-idUSKBN18K2U4
[52] https://www.congress.gov/115/bills/s722/BILLS-115s722rs.pdf

I would like to put on record that if the current bill is adopted and entered into force, Iran will consider officially invoking the procedures of paragraph 36 of the JCPOA.

I respectfully urge you, in your capacity as the Coordinator of the JCPOA Joint Commission, to use all available means, including through other JCPOA participants and the Joint Commission, to ensure that the United States immediately ceases and desists from these behaviors which are clearly in violation of its JCPOA commitments, and to bring its policies and actions into compliance with the agreement "in good faith." We also expect other JCPOA participants to put in place necessary measures to redress the impact of these measures in order to ensure the survival of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 19 July 2017 to the JCPOA Coordinator on United States' systematic policy of dissuading Iran's economic partners from engaging with Iran and President Trump pressure on world leaders to stop doing business with Iran

In the name of God, the Compassionate, the Merciful

19 July 2017

Her Excellency,

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

Excellency,

I write further to my previous correspondence concerning the abysmal record of the United States in implementation of its JCPOA commitments. On 10 July 2017, the White House Principal Deputy Press Secretary officially acknowledged in a 'public statement' that President Trump "in his discussions with more than half a dozen foreign leaders … underscored the need … to stop doing business with … Iran."[53]

While bureaucratic harassment coupled with the behind-the-scene arm twisting by the United States to dissuade Iran's economic partners from engaging with Iran has continued unabated since the "implementation day," the statement represents a public and official acknowledgment that the United States — through the most "senior official of the U.S. Administration" — is systematically engaged in a "policy specifically intended to directly and adversely affect the normalization of trade and economic relations with Iran."

The United States has thus publicly accepted that the President of the United States and the U.S. Administration are in material breach of the letter of paragraph 29 of the JCPOA, which stipulates:

The EU and its Member States and the United States, consistent with their respective laws, will refrain from any policy specifically intended to directly and adversely affect the normalization of trade and economic relations with Iran inconsistent with their commitments not to undermine the successful implementation of this JCPOA.

Furthermore, the announcement by the White House Deputy Press Secretary is a "public statement" by a "senior official of the U.S. Administration" intended to undermine the successful implementation of the JCPOA, which in itself is another material breach of the letter of paragraph 28 of the JCPOA, which stipulates:

> Senior Government officials of the E3/EU+3 and Iran will make every effort to support the successful implementation of this JCPOA including in their public statements.

[53] The "public statement" also contains baseless allegations, accusing Iran of supporting terrorism. It must be noted that those allegations are irrelevant to this discussion as U.S. obligations under paragraph 29 are categorical and unconditional. Furthermore, the recent revelations by U.S. allies against each other have exposed the fact beyond any doubt that it is the United States itself which continues to support the most vicious state-sponsors of extremist terror in the region.

The U.S. Administration has gone so far in its disdain for the JCPOA as not only to ignore its obligation to carry out its commitments "in good faith" and in a "constructive atmosphere", but also to actively undermine the deal and its successful implementation by actively and publicly dissuading other countries from engagement with Iran. The US has thus failed to even live up to its own self-declared policy of adhering to the deal pending the conclusion of its unlawful and unacceptable 'policy review'. I have to underline again – as I did in my previous correspondence – that the "policy review" is in and of itself another clear violation of the letter and spirit of JCPOA, since it is intentionally creating an endlessly-prolonged global uncertainty adversely affecting normalization of trade and business with Iran.

To this I should add the now habitual policy of imposing illegal and unjustified sanctions against Iranian entities simultaneous with the minimal actions by the United States to avoid significant non-performance. The content of the certification letters to Congress, the method and content of the announcements as well as the now-routine simultaneous imposition of sanctions clearly manifest a bad faith attempt to prevent such minimal statutory requirements to have even the slightest positive impact on the normalization of trade and business with Iran. The episodes of 17 and 18 July were the third time in 3 months that this amateurish act of bad faith was rehearsed.

Such positions and actions obstinately taken by the United States are persistently violating the letter and spirit of the JCPOA as stipulated in Paragraphs 26, 28 and 29 of the JCPOA. I urge you, in your capacity as the Coordinator of the JCPOA Joint Commission, to use all your authority to ensure that the United States would immediately cease further accumulating violations of the JCPOA and to begin honoring its obligations "in good faith". We also expect other JCPOA participants to put in place necessary measures to redress the impact of such unlawful U.S. behavior in order to ensure the survival of the JCPOA.

In the absence of urgent meaningful and effective remedial measures by the U.S. and/or other JCPOA participants, the Islamic Republic of Iran reserves its right to take necessary measures, including recourse to the procedures stipulated under paragraphs 26 and 36 of the JCPOA, in order to counter the unlawful behavior of the United States and to preserve the legitimate rights and interests of the Iranian people.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 13 August 2017 to the JCPOA Coordinator on U.S. allegation of non-compliance by Iran in spite of repeated verifications by the IAEA

In the Name of God, the Compassionate, the Merciful

13 August 2017

Her Excellency,

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

Excellency,

Pursuant to my previous letters concerning the alarming record of the United States in implementation of its JCPOA commitments — the latest of which is dated 19 July 2017 — I would like to bring the following additional information to your attention.

It is a firmly established fact, certified SEVEN times over by the IAEA, that Iran has been in full compliance with the terms of the JCPOA. The U.S. senior officials, however, strive dearly to put a spin on it and distort the entire issue of Iranian nuclear compliance. Having admitted on 17 July 2017, for the second time in 6 months, Iran's compliance with the deal, the U.S. Secretary of State used the occasion to level irrelevant baseless accusations against Iran, thereby further destroying the 'atmosphere' needed for JCPOA's 'successful implementation' in an exhibition of bad faith.

Only a few days later, on 25 July 2017, the President of the United States followed suit, in an interview with the Wall Street Journal, by foretelling that Iran 'will be non-compliant … I do not expect that they will be compliant …" He went as far as to contradict his own Secretary of States' certifying Iran's compliance with its commitments by stating: "it is easy to say they comply … it is a lot easier but it's the wrong thing." President Trump even openly stated his desire — and apparently his instructions — that Iran be declared noncompliant in 90 days. He made it crystal clear that had he been the judge on the compliance issue, he would have declared Iran noncompliant 180 days ago. He finally revealed his intention to overrule his staff if they deem Iran compliant in 90 days. President Trump has reportedly assigned a special White House team in order to deliver to him the conclusion that he desires. According to one news account, he has already written the conclusion and simply needs his aides to manufacture the justifications. It is clear that the current and intended course of action as well as the rhetoric by President Trump are in blatant violation of the letter, spirit and intent of the JCPOA.

Apparently, a politically orchestrated race has begun among the U.S. senior government officials, who are supposedly committed to 'make every effort to support the successful implementation of the JCPOA including in their public statements', to undermine the deal. Not a single 'public statement', interview, official address to the United Nations or press release is published by Senior U.S. Administration officials without disparaging the JCPOA.

More alarming is the "rational" approach to achieving the same malicious objective, advocated by certain U.S. lawmakers and administration officials. Senator Bob Corker suggested to Washington Post on 26 July that the more prudent tactic for tearing up the deal is

to bide until the US allies are taken onboard. In further articulation of this tactic, the U.S. Secretary of State Rex Tillerson said at a State Department briefing on August 1st, that "It is important in my view that we coordinate as much as we can with our European allies and with Russia and China, who are signatories as well, because the greatest pressure we can put to bear on Iran to change behavior is a collective pressure. We are in discussions with, in particular, our European allies about their view of how Iran is doing under the agreement. They have generally acknowledged that in the past, this — the administration and the U.S. in the past — did not lean into Iran very hard, they didn't demand very much of them under the agreement, and in fact, they want to do the same, so we are getting good agreement from them on leaning into Iran." Attempts to put pressure on the IAEA, including the reported visit to Vienna by U.S. Permanent Representative to the United Nations is a further illustration of this policy, which endangers the role of the Agency. These represent dangerous and destructive manifestations of institutionalized bad faith in violation of paragraph 28 of JCPOA. If further pursued, this tactic would amount to significant non-compliance with several other provisions of the JCPOA, which shall be brought to your attention should this malicious tactic is put in operation.

I therefore urge you — in your capacity as the Coordinator of the Joint Commission — and all other JCPOA participants to take necessary corrective and remedial action *vis-a-vis* such irresponsible acts and policies that are clearly in violation of the letter and spirit of the JCPOA. It is evident that the United States should bear the responsibility for the consequences of such policies.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 19 August 2017 to JCPOA Coordinator and IAEA Director General on U.S. efforts to affect the professional work of the IAEA

In the Name of God, the Compassionate, the Merciful

19 August 2017

Her Excellency

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

His Excellency

Mr. Yukiya Amano

Director-General

International Atomic Energy Agency

Excellencies,

I am writing to draw your kind attention to another step on the part of the United States that flies in the face of the JCPOA, the UNSC Resolution 2231 of 2015, and if not remedied, will challenge the credibility of the IAEA. It's been widely reported that the U.S. Permanent Representative to the United Nations "will travel to Vienna to discuss the US government's concerns about the Iran nuclear deal with the International Atomic Energy Agency" and to "press IAEA on Iran deal compliance".

Although US officials are at liberty to travel to Vienna or other places, and although Agency officials are entitled to receive different people, the publicly stated purpose of this visit raises several serious concerns over further violations of the letter and spirit of the JCPOA and the UNSC Resolution 2231, which this time could also undermine the credibility of the Agency, which is vital to the non-proliferation regime in general and the JCPOA in particular.

On one hand, even before the visit takes place, the way it is planned and publicized and the signal that it sends have notable detrimental consequences for the successful implementation of the JCPOA, in terms of the further uncertainty and ambiguity that it is designed to cause among other governments and the private sector with regard to the stability and future sustainability of the JCPOA. In this sense, this is another example of 'mala fide' on the part of the U.S. Government, with the aim of limiting Iran's benefits from the deal; a constant practice of various agencies and instrumentalities of the United States ever since the JCPOA was even being negotiated, which has continued to be exacerbated even in a more grave and manifest manner during the current administration. Like other instances mentioned in my previous communications with the High Representative, this is in contradiction both with the spirit and the letter of the JCPOA, particularly its paragraphs 26, 28 and 29.

Moreover, this visit with its announced purpose, is not in conformity with several provisions of the JCPOA and the UNSC Resolution 2231 which deal with the role of the Agency and the necessity of upholding its independence and protecting the sensitive information that comes to its knowledge. The Security Council has clearly emphasized "the essential and independent role of the International Atomic Energy Agency (IAEA) in verifying compliance with safeguards agreements." Regrettably, this visit, with the stated purpose to 'press the Agency', is widely perceived by the international community as a manifest and blatant attempt by a Permanent Member of the Security Council — openly hostile to the JCPOA and determined to undermine and destroy it — to put pressure on the Agency and adversely affect the professional and impartial nature of the work of the IAEA in carrying out the job entrusted to it by the UNSC Resolution 2231 and the resolutions of the Board of Governors, thereby undermining the independence and credibility of the work of the Agency.

It should be emphasized that — as clearly stipulated in the JCPOA and UNSC Resolution 2231 — the IAEA should avoid "hampering the economic and technological development of Iran" and respect "security provisions in force and the rights of individuals; and take every precaution to protect commercial, technological and industrial secrets as well as other confidential information coming to its knowledge." Any Contribution to the destructive approach of the US Administration to undermine "successful implementation" of the JCPOA, or sharing any information on Iran and its nuclear activities, which is not included in regular updates that Director General provides to the IAEA Board of Governors, with any third party including the U.S. government's envoy will not be in conformity with the above-mentioned provision.

I am confident the Director General and his team will deal with this visit and other similar attempts with absolute professionalism and integrity. I request the High Representative of the European Union for Foreign Affairs and Security Policy, in her capacity as the coordinator of the Joint Commission, to distribute this letter among all participants of the Joint Commission, and to add this issue to the agenda of the upcoming meeting of the Commission for further consideration and due action.

Please accept, Excellencies, the assurances of our highest consideration.

M. Javad Zarif

Letter of 18 September 2017 to JCPOA Coordinator on U.S. manufacturing of fabricated excuses to get out of the JCPOA

In the name of God, the Compassionate, the Merciful

18 September 2017

Her Excellency,

Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the European Union for Foreign Affairs and Security Policy

Excellency,

Further to my previous correspondence concerning the persistent and repeated violations by the United States of its commitments under the JCPOA, I would like to bring to your attention and, through you all JCPOA participants, the following:

It is now a common fact that the United States Government is set to pile up fabricated excuses either to get out of the JCPOA outright or to make it impossible and irrational for Iran to continue its good faith, patient and scrupulous adherence with the deal. The scenario, as recently outlined by the U.S. Ambassador to the United Nations, Nikki Haley, is to 'decertify' Iran's compliance with the JCPOA in total defiance of 8 IAEA reports — including the most recent one — to the contrary, taking comfort that such apparently 'internal procedure' would relieve the U.S. Government of its international commitments under the deal.

In addition to the devastating consequences of such policy for the overall credibility of the Agency as the sole competent body mandated under the JCPOA to verify Iran's compliance and its ensuing implications for the cause of non-proliferation, I would like to make it clear that taking such course of action constitutes sheer bad faith as it entails misusing the United States' President's 'respective role' vis-à-vis the Congress to trigger a process in the U.S. Congress which could end up landing the U.S. Government in 'significant non-performance'. The U.S.' 'decertification' — while irrelevant to and not recognized by the JCPOA itself — would be a prelude to paralyzing the JCPOA either through the Congress' re-imposition of sanctions in 60 days or by exacerbating the atmosphere of uncertainty which has been promoted by the United States as an established policy for the past 2 years — and particularly since the inauguration of the new administration — in violation of its commitments under paragraphs 26, 28 and 29 of the JCPOA.

The U.S. Congress has also been keeping pace with the Administration in defying the U.S. commitments under the JCPOA. In addition to the extension of ISA in 2016 and the adoption of CAATSA earlier this year – both of which constituting violations of JCPOA as elaborated in my previous letters, the House of Representatives approved a bill on 13 September 2017 aimed at prohibiting any fund from being used to issue a license regarding section 5.1.1 of Annex II to the JCPOA, and eventually annulling the "Statement of Licensing Policy for Activities Related to the Export or Re-Export to Iran of Commercial Passenger Aircraft and Related Parts and Services" issued in accordance with the U.S. commitments under the JCPOA. If ultimately adopted and implemented, the Bill will materially breach the JCPOA's Annex II, paragraph 5.1.1, which requires the U.S. to "Allow for the

sale of commercial passenger aircraft and related parts and services to Iran by licensing the (i) export, re-export, sale, lease or transfer to Iran of commercial passenger aircraft for exclusively civil aviation end-use, (ii) export, re-export, sale, lease or transfer to Iran of spare parts and components for commercial passenger aircraft, and (iii) provision of associated serviced, including warranty, maintenance, and repair services and safety-related inspections, for all the foregoing."

The legislation, if finalized and implemented, would clearly be a 'significant non-performance' as it not only violates paragraph 5.1.1 of the Annex II of the JCPOA, but also breaches several other provisions including paragraph 26 (the U.S. commitment to refrain from re-introducing and re-imposing the sanctions specified in Annex II that United States has ceased applying under the JCPOA), paragraph 28 (the U.S.' commitment to refrain from imposing exceptional or discriminatory regulatory and procedural requirements in lieu of the sanctions and restrictive measures covered by the JCPOA), and paragraph 29 (the U.S. commitment to refrain from any act that may directly and adversely affects the normalization of trade and economic relations with Iran).

Excellency,

The obligations of all sides under the JCPOA, and the mechanisms and procedures for verification of Iran's full compliance with its obligations have been painstakingly detailed in the JCPOA and its annexes and cannot be the subject of arbitrary re-interpretation by any participant. While the United States has miserably failed to fulfill its commitments clearly enunciated under the JCPOA, it cannot try to justify such violations or pursue its publicly stated policy of undoing or renegotiating the JCPOA, by concocting non-existent – or even clearly excluded – requirements for Iran.

It should be borne in mind that while the Islamic Republic of Iran has a clear preference for the survival and continued scrupulous implementation of the JCPOA, and while it has proven its good faith and exercised maximum restraint in the face of continued and persistent U.S. violations and intransigence, the renowned patience of Iranian people is not limitless and the options of the Iranian Government are not limited. Iran will exercise those options if the violations, reinterpretations and bad faith attempts to deprive Iranian people of their rightful gains from the agreement, coupled with inaction by others, destroy the balance of mutual gains within the bargain, so carefully and meticulously negotiated by all of us in the course of over 10 long years of posturing and negotiations. It is not prudent for the U.S. to revert to the already-tested pre-negotiation posturing and if it chooses to insist, it alone will have to bear full responsibility for unraveling this historic agreement and its consequences. 'Successful implementation' of the JCPOA is dependent on genuine fulfillment of the respective obligations by all participants in good faith. I respectfully urge you as the Coordinator of the Joint Commission, to remind all members about the need for a concerted action to halt the dangerous trend followed by one member which could have serious consequences for the whole deal.

Please Accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 16 October 2017 to JCPOA Coordinator on unlawful decertification within a U.S. domestic procedure on 13 October 2017

In the name of God, the Compassionate, the Merciful

16 October 2017

H.E. Ms. Federica Mogherini

Vice President of the European Commission

High Representative of the E.U. for Foreign Affairs and Security Policy

Excellency,

On 13 October — less than a month after abusing the UNGA to repeat anti-JCPOA rhetoric, calling it "one of the worst transactions" and "an embarrassment to the United States" — the U.S. President finally carried out his unlawful threat of decertification within a U.S. domestic procedure under INARA. It was an entirely baseless move in utter defiance of the IAEA's consecutive reports verifying Iran's full implementation of its commitments. Coupled with inflammatory rhetoric, baseless accusations and appalling insults against the Iranian nation, the outrageous move by the United States unmasked its contempt for the JCPOA and its repeated failures to fulfil its own undertakings therein. In this regard, I would like to draw your attention to my letter of 18 September 2017, where I explained how such action under the guise of the U.S. "internal procedure" would not only jeopardize the credibility of the IAEA, but also violate the provisions of the JCPOA. I also underlined in that letter that the U.S. administration cannot hide behind such domestic procedure that it is maliciously initiating itself, and will have to bear full responsibility for its aftermath in Congress.

It has been a tired and irritating habit of the President and other U.S. officials to make statements against the JCPOA or bring up fallacious non-nuclear issues to criticize the deal, with a view to escaping from the obligations under JCPOA and creating a smokescreen to cover the many and repeated cases of non-performance by the U.S., which were enumerated and brought through you to the attention of JCPOA Participants, including *inter alia* in my letters of 2 September 2016, 17 November 2016, 16 December 2016, 28 March 2017, 28 May 2017, 1 July 2017, 13 August 2017, 19 August 2017 and 18 September 2017.

The October 13th speech of the U.S. President in its entirety constituted a blatant violation of the letter, spirit and intent of the JCPOA. Apart from many irrelevant and erroneous accusations against the Islamic Republic of Iran, he exposed the real U.S. intention to destroy the JCPOA. The U.S. President openly declared his government's intention to use Congressional mechanisms in bad faith to force the JCPOA Participants to renegotiate the agreement. He unlawfully threatened the world that "in the event we are not able to reach a solution working with Congress and our allies, then the agreement will be terminated." These statements and the publicly-stated envisaged actions, coupled with recent national legislations including H.R. 3364 and the upcoming legislative initiatives, including amendments to INARA, which according to the U.S. president intend "to strengthen enforcement, prevent Iran from developing an intercontinental ballistic missile, and make all restrictions on Iran's nuclear activity permanent under U.S. law" constitute material breaches of fundamental provisions of JCPOA, that has become an integral part of Security Council resolution

2231; cosponsored by the United States and unanimously adopted by the Council, whose provisions are final and non-negotiable.

All other JCPOA Participants have repeatedly rejected re-opening a working bargain, which was the subject of long and intensive negotiations and which includes carefully balanced commitments. The Islamic Republic of Iran — which implemented the most significant aspects of its side of the bargain before the Implementation Day, and has remained in full and continuous compliance with all other requirements of the JCPOA as verified repeatedly by the IAEA as the sole authority to monitor Iran's performance — will never accept such illegal demands and expects other JCPOA Participants to do likewise.

In the meantime, and even before any further action is taken by the United States government or its instrumentalities, the United States is actively seeking – including through these statements – to deprive Iran of enjoying the benefits of American sanction-lifting obligations under JCPOA. As such they constitute grave breach of the very letter of Paragraphs 26, 28 and 29 of the JCPOA. These breaches are not just in words but in deliberate actions, with planned effects, against the JCPOA. Coupled with cases brought to your attention in the aforementioned letters, they constitute several cases of significant non-performance on the part of the United States. The Islamic Republic of Iran continues to carefully monitor the current situation and will take all appropriate measures to protect its rights and interests under the JCPOA.

I respectfully request you — in your capacity as the coordinator of the Joint Commission — to share this letter with other JCPOA Participants and to take all necessary measures to bring the United State back into compliance with its obligations under the JCPOA and ensure the full implementation of the JCPOA in good faith and in a constructive manner.

M. Javad Zarif

Letter of 1 February 2018 to JCPOA Coordinator, objecting to the ultimatum by President Trump on 12 January 2018, demanding other JCPOA participants to follow him in unlawfully altering the terms of the agreement

In the name of God, the Compassionate, the Merciful

1 February 2018

Her Excellency

Ms. Federica Mogherini

Vice President of the European Commission

High Representative for Foreign Affairs and Security policy,

Coordinator of the JCPOA Joint Commission

Excellency,

Pursuant to my previous letters and bearing in mind provisions of paragraph 36 of the Joint Comprehensive Plan of Action, I wish to bring the following critical issues to your attention and through you to the attention of JCPOA participants.

On 12 January 2018, the President of the United States extended waivers on U.S. statutory sanctions against Iran as required under the JCPOA. At the same time, he issued an ultimatum, demanding other JCPOA participants to follow him in unlawfully altering the terms of the deal – a move that is tantamount to destroying it in its entirety. The Trump Administration has never hidden its contempt for the JCPOA and its intention to kill the deal either directly, indirectly or through a thousand cuts. It has now adopted a deceitful scheme to play certain JCPOA participants against others in order to impose its extraneous unilateral wishes with the same ultimate objective of dismantling the JCPOA, which the President of the United States described in the UN General Assembly as “one of the worst transactions” and “an embarrassment to the United States.”

The Islamic Republic of Iran strongly rejects the bullying language used by the US President and his administration. The insistent attacks against the JCPOA by the United States throughout the past year together with its abject failure in fulfilling its obligations under the deal — especially those specified under paragraphs 26, 28 and 29 and those with respect to relevant licenses — have amounted to actively sabotaging “the normalization of trade and economic relations with Iran”, causing irreparable harm to Iran, its people and its legitimate interests. The Islamic Republic of Iran demands that these repeated violations of the JCPOA by the U.S. Government should be immediately ceased and rectified. Effective remedial measures must be taken, primarily by the United States, to compensate for the damages and lost opportunities incurred by Iran due to U.S. policy and practice — particularly over the last year — to maliciously and intentionally deprive Iran from its rightful benefits under the JCPOA.

It is also imperative for other JCPOA participants to remain cognizant of their shared responsibility to safeguard the deal by holding the United States accountable for its reckless and unlawful actions, refraining from any statement or action that may be interpreted as conceding or acquiescing to U.S. attempts to alter, amend or otherwise undermine the

JCPOA, and by taking effective remedial measures to ensure Iran's rightful benefits from the deal. Allow me to elaborate:

1. The ultimatum by the U.S. President, demanding unilaterally to alter the letter, spirit and intent of the JCPOA not only brazenly flouts it in its entirety, but also is an affront to the will of the entire international community and a severe blow to multilateralism and the rule of law. In a blatant disregard for the United States' commitments under the JCPOA, the U.S. President, while signaling his "strong inclination" to withdraw from the deal, has threatened to do so unless the E3 succumb to his diktat and become complicit in killing it under the guise of fixing its "disastrous flaws".

2. Before issuing the ultimatum, the U.S. resisted at each and every instance to uphold in good faith its commitments under paragraph 21 of the JCPOA, which clearly requires it to cease the application of the relevant sanctions and "to continue to do so". In the process, the U.S. has persistently violated paragraphs 26, 28 and 29 by displaying bad faith towards the deal on every occasion — particularly when it is ironically obliged under the JCPOA or U.S. domestic legislation to take statutory action to comply with the deal every 90, 120 and 180 days. Therefore, even when ostensibly complying, the U.S. has made sure to exacerbate uncertainty and create a detrimental atmosphere regarding the future of the JCPOA, thus effectively preventing its successful implementation.

3. Efforts by US officials aimed at exacerbating uncertainty over the JCPOA and preventing "the normalization of trade and economic relations with Iran" have been a staple of the US policy since January 2017. In one of the latest instances on 11 January 2018, the U.S. Treasury Secretary Steve Mnuchin openly discouraged business from engaging in Iran, threatening "more sanctions coming."

4. On the insistence of the President of the United States, attempts are being made in the US House and Senate to draft legislation aimed at unilaterally altering the content of the JCPOA — a move that constitutes another major violation of the deal. It must be underlined that a statutory requirement to violate the JCPOA in the future is a violation of the agreement now.

5. The US policy of ignoring and even negating the conclusions of the IAEA — as the only competent body mandated by the JCPOA to verify Iran's implementation of its commitments — which has continued unabated over the past one year, demonstrates U.S. bad faith and its malicious intent to undermine and eventually destroy the JCPOA.

6. In contravention of the explicitly restricted scope of the JCPOA, attempts have been made to link the JCPOA to or condition the fulfilment of the obligations of other participants upon extraneous issues — deliberately excluded by the JCPOA participants from the deal. This includes Iran's necessary and proportionate defensive missile program. Let me remind all JCPOA participants that the clearly-stated objective of the JCPOA is to ensure that Iran's nuclear program will remain exclusively peaceful, and as U.S. Under-Secretary Sherman testified before the US Senate on 3 December 2014 "if the peaceful nature of Iranian nuclear program was successfully assured then the question of delivery systems would become irrelevant."

7. For ethical and ideological reasons as well as sober strategic calculations, nuclear weapons are not a part of Iran's defense doctrine, and Iranian defensive missiles are thus "designed to be capable of delivering" exclusively conventional warheads and as such are not only explicitly extraneous to JCPOA but are even clearly and unambiguously outside the scope of Annex II of Security Council Resolution 2231.

8. Iran's defensive capabilities are thus "irrelevant" to JCPOA and SCR 2231 and hence exclusively fall within Iran's inherent sovereign right to self-defense recognized under Article 51 of the Charter of the United Nations. As such Iran's means to ensure proper defense of its people, territory and vital interests can never be the subject of any negotiations.

Any attempt to deny or limit this inherent right or arbitrarily curtail the means for its effective exercise would not only undermine the JCPOA, but in fact violate the purposes and principles of the UN Charter and preemptory norms of international law.

9. For over two centuries, Iran has never invaded any country, but has learned – particularly after the international community maintained an acquiescing silence and many even actively supported the aggressor during Saddam Hussein's carnage against Iranian civilians with AWACS aerial reconnaissance, Chieftain tanks, Super Étendard fighter jets and Karl Kolb chemical weapons — that it can only rely on its own means to defend its population against aggression and terrorism in a region where some of the same JCPOA participants are pouring hundreds of billions of dollars of sophisticated armaments every year.

10. There should be no illusion about the fact that the path prescribed by the President of the United States could only lead to the total collapse of the JCPOA; and that is in fact his stated intention. The Islamic Republic of Iran will not, under any circumstances whatsoever, accept any alteration, modification or addition to the JCPOA or linking the deal to extraneous issues.

11. The United States has not only failed to abide by its own commitments under the current deal but has also prevented some other JCPOA participants from complying with their obligations under the deal. As such there is no legal or moral ground to seek any alteration, nor is there any legal foundation for the establishment of any extraneous mechanism that could adversely affect Iran's full enjoyment of its rights and benefits under the deal. Whatever they are called and however they are formed and no matter who participates in them, such mechanisms — in and of themselves — constitute further bad faith and multiple violations of the JCPOA by those participating in them.

12. Violators of the deal need to be reprimanded and not rewarded. There should be no illusion that inaction, acquiescence or appeasement of the self-proclaimed enemy of the JCPOA would only aid and abet the ill-conceived plot of a President who has publicly promised in his speech before AIPAC on 21 March 2016 "My number-one priority is to dismantle the disastrous deal with Iran." The U.S. action has long passed the point of sounding the alarms for the future of the JCPOA. The recent move by the US President to extend the waivers purportedly "for a last time" only exacerbated the situation. Ignoring the facts does not make them cease to exist.

13. The Islamic Republic of Iran once again categorically rejects any attempt to renegotiate the JCPOA, alter, amend, extend, broaden, supplement, add-on — or however else the malicious intention to "dismantle the disastrous deal with Iran" is disguised and framed — as unwarranted, unacceptable, unlawful and impractical. It must be clear that the dangerous consequences of this course of action must be fully borne solely by the United States and anyone making the hazardous decision to join in such enterprise.

14. Reminding JCPOA participants of paragraphs 26 and 36 of the Joint Comprehensive Plan of Action and operative paragraph 13 of UNSC resolution 2231, I would like to stress that any move to '*fix'* the deal in whatsoever form, format or formula, re-impose sanctions or impose new restrictive measures by any JCPOA participant will constitute a material breach of the JCPOA which will entitle the Islamic Republic of Iran to reciprocate in a manner that would best protect its national interests.

Mindful of these fact, the Joint Commission should take all necessary measures to ensure that the United States Government would cease and desist from its policies and actions in contravention of its JCPOA commitments and rectify and remedy its past breaches and failures without further delay; and that the United States shall bear full responsibility for all consequences if it continues to persist on the current path.

I should be grateful if you would have the present letter brought to the attention of all JCPOA participants.

Please, Excellency, accept the assurance of my highest consideration.

M. Javad Zarif

Annex 4. Letters on U.S. Withdrawal

Letter dated 10 May 2018 to JCPOA Coordinator under Paragraph 36 of JCPOA on measures that need to be taken in response to U.S. unlawful withdrawal from the accord and the re-imposition of sanctions

In the name of God, the Compassionate, the Merciful

10 May 2018

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

As you are aware, on 8 May 2018, the United States President announced the U.S. Government's unlawful unilateral withdrawal from the JCPOA and issued a Presidential Memorandum, instructing relevant U.S. authorities "to cease the participation of the United States in the JCPOA" and "to re-impose all United States sanctions lifted or waived in connection with the JCPOA". The U.S., thus, committed a grave violation of the JCPOA's terms in brazen defiance of international law and established State practice with respect to multilateral agreements and in total disrespect to other JCPOA's participants. The United States' unwarranted exit from an internationally negotiated multilateral agreement endorsed by and annexed to United Nations Security Council Resolution 2231 and in spite of Iran's impeccable performance as certified by IAEA, is a blatant unlawful and unjustified wrongful act which entails international responsibility and constitutes an unprecedented blow to the rule of law, an affront to multilateralism and diplomacy, and a slap in the face of the United Nations and the IAEA.

In light of the above, I would like to bring the following to your attention:

1. The United States illegal withdrawal from the JCPOA is not an isolated act abruptly taken by the U.S. Government. The United States had been persistently violating the terms of the agreement almost from its inception, even preventing other Participants from fully performing their obligations.

Those violations included late, lackluster, defective, superficial and ineffective nominal implementation, failures, refusal to issue any OFAC license in the past 16 months, undue delays, new sanctions and designations, derogatory anti-JCPOA statements by senior officials in particular the President himself as well as concerted efforts by U.S. government's agencies and instrumentalities to actively dissuade businesses from engagement with Iran and have been documented *inter alia* through 11 correspondence I communicated to you from September 2016 to February 2018 (all attached to this letter for your ease of reference). They are a reminder that the United States lacked good faith to implement its undertakings from the very beginning.

2. The U.S unlawful act of unwarranted withdrawal from the JCPOA renders the U.S. responsible for gravest material breach of its obligations under the agreement. The U.S. has also flagrantly violated the UNSC resolution 2231 which was sponsored *inter alia* by the United States itself and adopted unanimously by the Council. The United States must, therefore, be held accountable for the consequences of its reckless wrongful act which go against the United Nations Charter and international law.

3. The prolonged and multiple cases of significance non-performance by the U.S. over the last three years, particularly in the last 16 months, its active obstruction of performance by other JCPOA Participants, its bad faith nominal implementation, and its unlawful and unwarranted cessation of implementation of its commitments under the JCPOA and the official re-imposition of unlawful sanctions have caused irreparable harm to Iran's economy and its international business relations. The United States should be held responsible for these damages and the Iranian nation must be compensated.

4. The JCPOA is a multi-party agreement based on reciprocity. Its scope, provisions and timeframes are based on a delicate, negotiated and multilaterally-accepted balance that cannot be altered, renegotiated or widened. Its benefits to the Iranian people cannot be subjected to any conditionality other than those nuclear-related voluntary measures specifically detailed solely in the JCPOA and its annexes. Some of the most significant economic benefits to Iran from the JCPOA drive from sanctions-lifting obligation of the United States. If JCPOA is to survive, the remaining JCPOA Participants need to provide objective guarantees that Iran is compensated unconditionally through appropriate national, regional and global measures.

5. It is Iran's unquestionable right — recognized also under the JCPOA and UNSCR 2231 — to take appropriate action in response to persistent numerous unlawful acts by the U.S., particularly its withdrawal and re-imposition of all sanctions. However, as President Rouhani announced in his televised response on 8 May and further elaborated in the Statement of the Government on 10 May 2018, the Islamic Republic of Iran will decide its next step in the course of few weeks following consultations with the remaining JCPOA Participants to see if and how the commitments collectively undertaken by EU/E3+3 vis-a-vis Iran could be fulfilled in the absence of a reneging party by EU/E3+2. Nothing in this period would affect Iran' right to react and protect its national interest as appropriate, a right which is manifestly recognized in the JCPOA and the UNSC resolution 2231(2015).

6. I urge the remaining JCPOA participants to keep the United States accountable — and not to reward it — for its unilateral and irresponsible conduct which will exert enduring detrimental impact on the rule of law, the stability of multilateral institutions and diplomacy.

7. Given the urgency of the situation created by U.S. unlawful action, I request you to convene an urgent meeting of the Joint Commission with the presence of the *remaining* JCPOA participants (EU/E3+2) in accordance with the procedure specified in Annex IV of the JCPOA.

I will also be grateful if this letter were distributed to the remaining JCPOA participants.

Please accept the assurances of my highest consideration.

M. Javad Zarif

Letter of 10 May 2018 to the U.N. Secretary-General on unlawful U.S. withdrawal and history of U.S non-performance and E3 failures (A/72/869-S/2018/453)

In the name of God, the Compassionate, the Merciful

10 May 2018

His Excellency

Mr. Antonio Guterres

Secretary-General

United Nations

Excellency,

As you are aware, on 8 May 2018, the President of the United States announced his unilateral and unlawful decision to withdraw from the Joint Comprehensive Plan of Action, in material breach of Security Council Resolution 2231 (2015) to which the JCPOA is annexed. Simultaneously, he signed a Presidential Memorandum instructing relevant U.S. authorities "to cease the participation of the United States in the JCPOA" and "to re-impose all United States sanctions lifted or waived in connection with the JCPOA", thus committing multiple cases of "significant non-performance" with the JCPOA, and in clear non-compliance with Security Council Resolution 2231. These acts constitute a complete disregard for international law and the United Nations Charter, undermine the principle of peaceful settlement of disputes, endanger multilateralism and its institutions, indicate a regress to the failed and disastrous era of unilateralism, and encourage intransigence and illegality.

Unlike the Islamic Republic of Iran, which has scrupulously fulfilled its undertakings under the JCPOA, as repeatedly and consistently verified by the IAEA, the United States has consistently failed – since "implementation day", and particularly after the assumption of office by President Trump – to abide by its commitments under the JCPOA. I have brought the most significant cases of U.S. non-performance to the attention of the Joint Commission inter alia through 12 official letters to the High Representative of the European Union for Foreign Affairs and Security Policy, in her capacity as Coordinator of the JCPOA Joint Commission.

In my letter of 2 September 2016, I registered Iran's complaints about U.S. failures to perform its obligations eight months after the "implementation day" by not issuing the necessary licenses for the sale or lease of passenger aircrafts, by hindering Iran's free access to its assets abroad, by obstructing reengagement of the non-American banking and financial community with Iran and by the re-introduction of certain sanctions under Executive Order 13645 that was supposed to be terminated in its totality. That letter also referred to the failure of U.S. President to use his constitutional authority to prevent "the US Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015" from violating U.S. obligations under JCPOA.

In my letter of 17 November 2016, I underlined the necessity of the use of U.S. President's constitutional authority to prevent the coming into force of "Iran Sanctions Extension Act", which constituted the re-imposition of the sanctions lifted under the JCPOA, which is clearly prohibited by JCPOA. The same letter underlined that "Iran has hitherto

exercised enormous restraint in the face of lackluster implementation of JCPOA by some participants, in particular the United States, especially with regard to banking and financial services as well as persistent public and private harassment of Iran's business partners by various US institutions, agencies and instrumentalities."

Subsequently, in my letter of 16 December 2016, I informed the JCPOA Joint Commission that as a result of the extension of "Iran Sanctions Act" on 14 December 2016, "the United States committed a significant breach of its obligations under the JCPOA by re-introducing the sanctions under ISA."

In my letter of 28 March 2017, I protested to the Joint Commission that "Since the assumption of office by the new US Administration, what used to be 'lackluster' implementation of the JCPOA by the previous administration has now turned into total and open hostility towards the deal, threatening to render the entire bargain meaningless, unbalanced and unsustainable." The letter underlined that the Trump Administration had "maliciously intended to prevent normalization of trade with Iran and to deprive Iran from the economic dividends clearly envisaged in the JCPOA, by ensuring continued — and even exacerbated — uncertainty about future of economic relations and cooperation with Iran" inter alia through the illegal "review process" and by "the pattern of provocative statements against the JCPOA by senior US administration officials".

In my letter of 28 May 2017, I brought several instances to the attention of the Joint Commission illustrating that even when the United States purported to comply by renewing the required waivers, "it aimed to reverse Iran's benefit from the JCPOA… and to 'call into question the U.S.'s long-term support for the nuclear accord' in order to increase uncertainty and dissuade engagement with Iran".

In my letter of 19 July 2017, I produced conclusive evidence which corroborated that the United States was following a systematic policy aimed at dissuading Iran's economic partners from engaging with Iran in clear contradiction of U.S. commitments under the JCPOA, in particular paragraphs 28 and 29. In this respect, I referred to an official statement by the White House Principal Deputy Press Secretary in which she officially acknowledged through a 'public statement' that President Trump "in his discussions with more than half a dozen foreign leaders … underscored the need … to stop doing business with … Iran."

In my letter of 13 August 2017, I warned the Joint Commission that United States was destroying the 'atmosphere' needed for JCPOA's 'successful implementation' in an exhibition of bad faith. Specifically, I referred to President Trump's rhetoric and his administration's distortions — in blatant violation of the letter, spirit and intent of the JCPOA — in order to allege non-compliance by Iran in spite of repeated verifications by the IAEA.

In my letter of 19 August 2017, I provided one example of how the United States sought to affect the professional work of the IAEA. While objecting to the U.S. Permanent Representative's travel to Vienna "to discuss the US government's concerns about the Iran nuclear deal with the International Atomic Energy Agency" and to "press IAEA on Iran deal compliance", I insisted that the publicly stated purpose of such visits raises several serious concerns over further violations of the letter and spirit of the JCPOA and the UNSC Resolution 2231, which could also undermine the credibility of the Agency—vital to the non-proliferation regime in general, and the JCPOA in particular.

In my letter of 18 September 2017, I informed the Joint Commission that the United States Government was manufacturing fabricated excuses either to get out of the JCPOA outright, or to make it impossible and irrational for Iran to continue its good faith, patient and scrupulous adherence with the agreement. Several facts at that time were indicating that the U.S. was concocting for "Decertification" of Iran's compliance, in spite of all IAEA reports and U.S. State Department repeated admissions. I underlined in that letter that the U.S. administration cannot hide behind such domestic procedure that it is maliciously initiating itself and will have to bear full responsibility for the aftermath in Congress. I indicated

that “while the Islamic Republic of Iran has a clear preference for the survival and continued scrupulous implementation of the JCPOA, and while it has proven its good faith and exercised maximum restraint in the face of continued and persistent U.S. violations and intransigence, the renowned patience of Iranian people is not limitless, and the options of the Iranian Government are not limited”.

In my letter of 16 October 2017, referring to the unlawful decertification within a U.S. domestic procedure on 13 October 2017, I underscored that the United States was actively seeking to deprive Iran of enjoying the benefits of American sanction-lifting obligations under JCPOA. As such they constituted a grave breach of the very letter and substance of Paragraphs 26, 28 and 29 of the JCPOA. In the same letter, I reiterated that the Islamic Republic of Iran will never accept illegal demands and expects other JCPOA Participants to do likewise.

In my letter of 1 February 2018, I officially objected to the ultimatum by President Trump on 12 January 2018, demanding other JCPOA participants to follow him in unlawfully altering the terms of the agreement. I urged other JCPOA Participants to remain cognizant of their shared responsibility to safeguard the agreement by holding the United States accountable for its reckless and unlawful actions, and refraining from any statement or action that may be interpreted as conceding or acquiescing to U.S. attempts to alter, amend or otherwise undermine the JCPOA.

In my letter dated today, I specified measures that need to be taken through the Joint Commission to address the wrongful acts by the United States against Iran and international law, including its unlawful withdrawal from the accord and the re-imposition of sanctions.

Excellency,

As you have seen from these correspondences, the United States had been persistently violating the terms of the agreement almost from its inception, even preventing other JCPOA Participants from fully performing their obligations. Those violations included systematic failures, late, lackluster, defective, superficial and ineffective nominal implementation, undue delays, new sanctions and designations, derogatory anti-JCPOA statements by senior officials—in particular the President himself, refusal to issue any OFAC license in the past 16 months, as well as concerted efforts by the U.S. government’s agencies and instrumentalities to actively dissuade businesses from engagement with Iran.

The unlawful U.S. act of unwarranted withdrawal from the JCPOA renders it responsible for the most blatant material breach of its obligations under the agreement. The U.S. has also flagrantly violated UNSC resolution 2231, which was sponsored *inter alia* by the United States itself and adopted unanimously by the Council. The United States must, therefore, be held accountable for the consequences of its reckless and wrongful act that flies in the face of the United Nations Charter and international law.

The prolonged and multiple cases of significance non-performance by the U.S. over the last three years—particularly in the last 16 months, its active obstruction of performance by other JCPOA participants, its bad faith nominal implementation, and its unlawful and unwarranted cessation of implementation of its commitments under the JCPOA and the official re-imposition of unlawful sanctions have caused irreparable harm to Iran and its international business relations. The United States should be held responsible for these damages, and the Iranian nation must be compensated.

The JCPOA is a multi-party agreement based on reciprocity. Its scope, provisions and timeframes are based on a delicate, negotiated and multilaterally-accepted balance that cannot be widened, altered or renegotiated. Its benefits to the Iranian people cannot be subjected to any conditionality other than those nuclear-related voluntary measures specifically stipulated solely in the JCPOA and its annexes. Some of the most significant economic benefits to Iran from the JCPOA drive from the sanctions-lifting obligation of the United States.

If JCPOA is to survive, the remaining JCPOA Participants and the international community need to fully ensure that Iran is compensated unconditionally through appropriate national, regional and global measures.

The Islamic Republic of Iran has been in full compliance with its commitments under the JCPOA. This fact has been repeatedly verified by the IAEA, as reflected in its Director-General's reports to the IAEA Board of Governors and the UN Security Council since "implementation day" in January of 2016. In line with Iran's commitment to legality and the peaceful resolution of international disputes, the Islamic Republic of Iran has decided to resort to the JCPOA mechanism in good faith to find solutions in order to rectify the United States' multiple cases of significant non-performance and its unlawful withdrawal, and to determine whether and how the remaining JCPOA Participants and other economic partners can ensure the full benefits that the Iranian people are entitled to derive from this global diplomatic achievement. If, after the exhaustion of available remedies, our people's rights and benefits are not fully compensated, it is Iran's unquestionable right — recognized also under the JCPOA and UNSCR 2231 — to take appropriate action in response to persistent, numerous unlawful acts by the U.S.; particularly its withdrawal and re-imposition of all sanctions.

I urge the United Nations to keep the United States accountable for its unilateral and irresponsible conduct which will detrimentally affect the rule of law, multilateralism, and the very foundations of diplomacy.

I will be grateful if this letter is circulated as a document of the General Assembly and of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 5. Commitments by EU/E3 and EU/E3+3 following U.S. withdrawal

Statement of the meeting between EU/E3 Minister with Minister of Foreign Affairs of the Islamic Republic of Iran, Brussels, 15 May 2018

The High Representative of the European Union for Foreign Affairs and Security Policy, and the Ministers of France, Germany, and the United Kingdom and of the Islamic Republic of Iran met in Brussels on 15 May 2018 following the announcement made by the United States of its withdrawal from the Joint Comprehensive Plan of Action (JCPOA). The participants:

Recalled their commitment to the continued full and effective implementation of the JCPOA, unanimously endorsed by UN Security Council Resolution 2231, as a key element of the global nuclear-non-proliferation architecture and a significant diplomatic achievement;

Regretted the withdrawal of the United States from the JCPOA and recognized that the lifting of nuclear-related sanctions and normalization of trade and economic relations with Iran constitute essential parts of the agreement. They stressed the commitment to ensure that this will continue to be delivered and agreed to this end to deepen their dialogue at all levels;

Undertook, in particular, to launch intensive expert discussions with Iran addressing the following issues, with a view to arriving at practical solutions:

– maintaining and deepening economic relations with Iran;

– the continued sale of Iran's oil, gas, condensate, petroleum products and petrochemicals and related transfers;

– effective banking transactions with Iran;

– continued sea, land, air and rail transportation relations with Iran;

– the further provision of export credit and development of special purpose vehicles in financial, banking, insurance and trade areas with the aim of facilitating economic and financial cooperation, including by offering practical support for trade and investment;

– the further development and implementation of Memoranda of Understandings and contracts between European companies and Iranian counterparts;

– further investment in Iran;

– the protection of EU economic operators and ensuring legal certainty;

– the further development of a transparent, rules-based business environment in Iran;

Reaffirmed their resolve to continue to implement the JCPOA in all its parts in good faith and in a constructive atmosphere and agreed to continue to consult intensively at all levels and with other remaining JCPOA participants.

Statement from the Joint Commission of the Joint Comprehensive Plan of Action

6 July 2018

1. Upon the request of the Islamic Republic of Iran, a meeting of the Joint Commission of the Joint Comprehensive Plan of Action (JCPOA) was held on 6 July in Vienna at ministerial level. The Joint Commission met to discuss the way forward to ensure the continued implementation of the nuclear deal in all its aspects and review unresolved issues arising from the unilateral withdrawal of the United States from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex II, which they deeply regret.

2. The Joint Commission is responsible for overseeing the implementation of the JCPOA.

3. The Joint Commission was chaired by EU High Representative Federica Mogherini and was attended by Foreign Minister and State Councilor of the People's Republic of China Wang Yi, Minister of Europe and Foreign Affairs of the French Republic Jean-Yves Le Drian, Minister of Foreign Affairs of the Federal Republic of Germany Heiko Maas, Minister of Foreign Affairs of the Russian Federation Sergey Lavrov, Minister of State for the Middle East at the Foreign and Commonwealth Office of the United Kingdom Alistair Burt, as well as Minister of Foreign Affairs of the Islamic Republic of Iran Mohammad Javad Zarif.

4. The participants in the JCPOA reconfirmed their commitment to the full and effective implementation of the nuclear deal. They recalled that the JCPOA is a key element of the global non-proliferation architecture and a significant achievement of multilateral diplomacy endorsed unanimously by the UN Security Council through Resolution 2231. The participants welcomed the 11th report by the International Atomic Energy Agency of 24 May confirming that Iran is abiding by its nuclear-related commitments.

5. All participants reiterated the need to continue the full and effective implementation of all nuclear related commitments. They welcomed steady progress made on the modernisation of the Arak research reactor and took note with satisfaction that the United Kingdom will take over the function of co-chair of the Arak Working Group. Participants will continue to support the modernisation of the Arak research reactor as part of the JCPOA and the conversion of the Fordow facility in a nuclear, physics and technology centre. Participants also welcomed the significant projects in the area of civil nuclear co-operation carried out on the basis of Annex III of the JCPOA.

6. The participants recognised that, in return for the implementation by Iran of its nuclear-related commitments, the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA. They also noted that economic operators pursuing legitimate business with Iran have been acting in good faith based on the commitments contained in the JCPOA and endorsed at the highest level by the UN Security Council.

7. The participants discussed their recent efforts aimed at providing practical solutions in order to maintain the normalisation of trade and economic relations with Iran. They welcomed the extensive work undertaken to-date, the intensification of technical dialogues and the mobilisation of considerable resources by all.

8. The participants affirmed their commitment regarding the following objectives in good faith and in a constructive atmosphere:

– the maintenance and promotion of wider economic and sectoral relations with Iran;

– the preservation and maintenance of effective financial channels with Iran;

– the continuation of Iran's export of oil and gas condensate, petroleum products and petrochemicals;

– the continuation of sea (including shipping and insurance), land, air and rail transportation relations; - the promotion of export credit cover;

– clear and effective support for economic operators trading with Iran, particularly small and medium sized enterprises which are the backbone of many economies;

– the encouragement of further investments in Iran; - the protection of economic operators for their investment and other commercial and financial activities in or in relation to Iran;

– the bringing together of private and public sector experts, including through the promotion of Business Councils;

– the practical support for trade with and investment in Iran;

– the protection of companies from the extraterritorial effects of US sanctions.

The participants noted that the EU is in the process of updating the EU "Blocking Statute" in order to protect EU Member States' companies and of updating the European Investment Bank's external lending mandate to cover Iran. The participants will work on the above issues through direct bilateral efforts and through engagement with international partners in order to encourage them to follow the same policies and to establish similar mechanisms in their economic relations with Iran.

9. The participants recalled that these initiatives are aimed at preserving the nuclear deal which is in the security interest of all. 10. Participants agreed to keep progress under close review and to reconvene the Joint Commission, including at Ministerial level, as appropriate in order to advance common efforts. The participants stressed their determination to effectively develop and implement practical solutions concerning the above.

Joint Ministerial Statement (24 September 2018)

1. A Ministerial Meeting of the E3/EU+2 (China, France, Germany, the Russian Federation and the United Kingdom, with the High Representative of the European Union for Foreign Affairs and Security Policy) and the Islamic Republic of Iran, the participants of the Joint Comprehensive Plan of Action, was held on 24 September 2018 in New York.

The participants considered ways forward to ensure the full and effective implementation of the JCPOA in all its aspects. They also took stock of the process of finding and operationalising practical solutions for issues arising from the unilateral withdrawal of the United States from the agreement and the re-imposition of sanctions lifted under the JCPOA and its Annex II, which they deeply regret.

2. The meeting was chaired by the EU High Representative Federica Mogherini and was attended by the E3+2 and Iran at the level of foreign ministers.

3. The JCPOA participants reconfirmed their commitment to its full and effective implementation in good faith and in a constructive atmosphere. They recalled that the JCPOA is a key element of the global non-proliferation architecture and a significant achievement of multilateral diplomacy endorsed unanimously by the UN Security Council through Resolution 2231.

4. The participants recognised that Iran has continued to fully and effectively implement its nuclear-related commitments, as confirmed by twelve consecutive reports by the International Atomic Energy Agency, and reiterated the need to continue to do so. Participants will continue to support the modernisation of the Arak research reactor as part of the JCPOA and the conversion of the Fordow facility in a nuclear, physics and technology centre. Participants also reaffirmed their support for projects in the area of civil nuclear cooperation on the basis of Annex III of the JCPOA.

5. The participants recognised that, alongside implementation by Iran of its nuclear-related commitments, the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA.

6. Participants underlined their determination to protect the freedom of their economic operators to pursue legitimate business with Iran, in full accordance with UN Security Council Resolution 2231.

7. The participants equally highlighted the extensive work and substantial progress undertaken to date, the intensification of technical dialogues, efforts to maintain and improve bilateral economic relations, and the mobilisation of considerable resources by all, including with third countries interested in supporting the JCPOA and in pursuing, in a timely and effective manner, the normalisation of trade and economic relations with Iran.

8. In this context, the participants welcomed the fact that updates to the EU's "Blocking Statute" and the European Investment Bank's external lending mandate to make Iran eligible entered into force on 7 August.

9. The participants re-affirmed their continued commitment to the objectives mentioned in the statement of the Ministerial Session of the Joint Commission of the JCPOA on 6 July 2018, in particular to pursue concrete and effective measures to secure payment channels with Iran, and the continuation of Iran's export of oil and gas condensate, petroleum products and petrochemicals.

10. Mindful of the urgency and the need for tangible results, the participants welcomed practical proposals to maintain and develop payment channels, notably the initiative to establish a Special Purpose Vehicle, to facilitate payments related to Iran's exports (including oil) and imports, which will assist and reassure economic operators pursuing legitimate business with Iran. The participants reaffirmed their strong will to support further work aimed

at the operationalisation of such a Special Purpose Vehicle as well as continued engagement with regional and international partners.

11. The participants stressed their determination to support practical solutions concerning the above and agreed to keep progress under close review and to convene the Joint Commission, including at Ministerial level, as appropriate in order to advance common efforts.

12. The participants recalled that these initiatives are aimed at preserving the JCPOA which is in the international interest.

Annex 6. Letters under paragraph 36 to register multiple cases of significant non-performance by U.S. and EU/E3

Letter of 17 June 2018 to JCPOA Coordinator requesting the convening of a ministerial meeting of the Joint Commission under Paragraph 36 procedures

In the name of God, the Compassionate, the Merciful

17 June 2018

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

I have been instructed by the Iranian leadership to write this letter pursuant to my letter of 10 May 2018, in which I requested the convening of an urgent meeting of the Joint Commission to consider the prolonged and multiple cases of significance non-performance by the U.S. over the last three years, particularly in the last 16 months, its active obstruction of performance by other JCPOA Participants, its bad faith nominal implementation, and its unlawful and unwarranted cessation of implementation of its commitments under the JCPOA and the official re-imposition of unlawful sanctions which have caused irreparable harm to Iran's economy and its international business relations. As you may recall, in that letter I underlined that some of the most significant economic benefits to Iran from the JCPOA derive from sanctions-lifting obligation of the United States. I further emphasized that if JCPOA is to survive, the remaining JCPOA Participants need to provide objective guarantees that Iran is compensated unconditionally through appropriate national, regional and global measures.

While I appreciate your convening of the Joint Commission, and your personal good-faith efforts — along with your colleagues in the EEAS, it is abundantly clear that the compliance issue has not been resolved. Therefore, I am obliged to refer the issue to the Ministers of Foreign Affairs, who will have 15 days to resolve the issue. I wish to request you to convene a Ministerial Meeting of EU/E3+2 within this period to consider the measures adopted to resolve the compliance issue. In this context, I invite you and the ministers to convene the meeting in Tehran.

I will be grateful if you bring this letter to the attention of the remaining JCPOA participants (EU/E3+2).

Please Accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 21 August 2018 to JCPOA Coordinator under Paragraph 36 on failure of EU/E3+2 to implement their commitments of 25 May and 6 July 2018

In the Name of God, the Compassionate, the Merciful

21 August 2018

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

It has been more than three months since the United States withdrew from the JCPOA, and as of 6 August 2018, the first batch of the unilateral and unlawful extra-territorial nuclear-related sanctions, that had been lifted pursuant to the JCPOA, has taken full effect. Apart from the fact that U.S. withdrawal is in and of itself a grave violation of the UNSCR 2231 (2015) and flouts the unanimous view of almost all UN Member States, the re-institution of the U.S. sanctions specifically contravenes paragraphs 21-33 of the main text of the JCPOA and paragraphs 7 and 8 of its Annex I, paragraphs 4-7 of Annex II, and the entirety of Annex III.

The unlawful actions by the U.S. have rendered many essential provisions of the JCPOA void of any effect and torpedoed the delicate balance of commitments between the two sides which had been struck through 12 years of painstakingly complicated negotiations. Following U.S withdrawal, the President of the Islamic Republic of Iran in response to the request of the Heads of State and Government of the remaining JCPOA participants, agreed to delay Iran's adoption of the measures envisaged under paragraph 36 of the JCPOA for a period of a few weeks to enable them to take necessary measures to remedy and redress the negative impact of U.S. withdrawal and restore balance to the deal. Pursuant to promises by you as well as the Heads of State and Government of the E3+2, the period of a few weeks has now been extended to more than three months.

During this period, the Islamic Republic of Iran invoked the dispute resolution mechanism under paragraph 36 of the JCPOA to which end the Joint Commission convened at the level of political directors and Ministers of Foreign Affairs on 25 May and 6 July 2018 respectively. In the statement from the Ministerial Joint Commission of 6 July 2018, the ministers expressly affirmed that "the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA" and underlined their commitment to seek "practical solutions in order to maintain the normalisation of trade and economic relations with Iran". In this context, the ministers of EU/E3+2 "affirmed their commitment regarding the following objectives in good faith and in a constructive atmosphere:

- the maintenance and promotion of wider economic and sectoral relations with Iran;
- the preservation and maintenance of effective financial channels with Iran;
- the continuation of Iran's export of oil and gas condensate, petroleum products and petrochemicals;

- ○ the continuation of sea (including shipping and insurance), land, air and rail transportation relations;
- ○ the promotion of export credit cover;
- ○ clear and effective support for economic operators trading with Iran, particularly small and medium sized enterprises which are the backbone of many economies;
- ○ the encouragement of further investments in Iran;
- ○ the protection of economic operators for their investment and other commercial and financial activities in or in relation to Iran;
- ○ the bringing together of private and public sector experts, including through the promotion of Business Councils;
- ○ the practical support for trade with and investment in Iran;
- ○ the protection of companies from the extraterritorial effects of US sanctions. committed to devise practical solutions to realize these objectives."

Regrettably, despite these commitments by the ministers in the Joint Commission, no operational mechanism has either been established or even clearly formulated. In fact, we have witnessed ever-increasing disengagement of foreign economic entities — particularly from EU/E3 — from Iran, even before the unlawful U.S. sanctions went into force, thus creating a psychological atmosphere of uncertainty causing irreparable economic damage to ordinary Iranian people — including in the procurement of medicine and medical equipment, due to failure of European banks to provide financial services for purchase of medicine, which were more readily available even before the JCPOA. Furthermore, the level of crude oil purchase orders from Iran for the month of September – two months before the entry into force of the second batch of unlawful U.S. sanctions – has dropped considerably and has reached a record low.

Thus, Iran is left with no choice but to re-establish some balance in the reciprocal commitments and benefits under the accord and "cease performing its commitments under JCPOA in part" in response to the full re-institution of the first batch of U.S. sanctions; a right that Iran was entitled to exercise immediately after U.S. unlawful withdrawal on May 8th. Unless remedial measures are taken swiftly by the remaining JCPOA participants, and proper mechanisms and practical economic solutions for meeting Iran's rightful expectations – specially in the oil and banking sectors – are established and operationalized, the Islamic Republic of Iran, acting within its rights recognized *inter alia* under paragraph 36 of the JCPOA, will gradually and based on a planned timetable "cease performing its commitments under the JCPOA in part". Details of the said timetable and its implementation plan will be shared with you in due course. Such partial cessation of performance may be ceased and reversed following restoration of the "the economic dividends arising [from JCPOA, which] constitutes an essential part of the JCPOA."

You may recall that in our bilateral meeting of 6 July 2018 in Vienna, I informed you that even during the partial cessation of performance, the Islamic Republic of Iran will remain committed to the continued transparency of its peaceful nuclear program and will continue complying with its safeguards obligations and voluntarily implementing the Additional Protocol, as long as the provisions of the old UN Security Council resolutions are not re-imposed, and there are no drastic reduction of Iranian oil exports or the transfer of their proceeds.

I would like to reaffirm that the government of the Islamic Republic of Iran has been determined to uphold the JCPOA as an outstanding achievement of diplomacy; and in so doing has incurred great cost and exercised exemplary restraint against unlawful and blatantly hostile provocations and wrongful pernicious measures by the United States. I trust you are aware of eleven consecutive IAEA reports all verifying Iran's full compliance with

its JCPOA commitments. Hence, let there be no doubt that all responsibility for the possible failure of the JCPOA and its consequences shall solely be borne by the United States.

I will be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this letter with the remaining JCPOA participants.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 6 November 2018 to JCPOA Coordinator on Iran's exhaustion of all DRM procedures and its initiation of remedial action under Paragraph 36

In the name of God, the Compassionate, the Merciful

6 November 2018

H.E. Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Defense Policy

Coordinator of JCPOA Joint Commission

Excellency,

Pursuant to my letters of 10 May 2018 and 21 August 2018, I am writing to you under paragraph 36 of the Joint Comprehensive Plan of Action (JCPOA) in order to preserve and ensure the rights of the Islamic Republic of Iran under the accord.

On 5 November 2018, the United States unlawfully re-imposed with full effect all sanctions lifted under the JCPOA and maliciously added 300 new designations, covering almost the entire Iranian financial, energy and transportation sectors. As described below, no practical remedial action–even in fulfilment of their own obligations under the accord to ensure normalization of Iran's economic relations —have been adopted by the remaining JCPOA Participants. Even SWIFT, a European company headquartered in the seat of the European Union, immediately suspended its relations with most Iranian banks.

The JCPOA participants in the ministerial meeting of the Joint Commission, convened on 6 July 2018 at the request of the Islamic Republic of Iran to "review unresolved issues arising from the unilateral withdrawal of the United States from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex II", confirmed that the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA."

The foreign ministers "affirmed their commitment regarding the following objectives in good faith and in a constructive atmosphere:

- the maintenance and promotion of wider economic and sectoral relations with Iran;
- the preservation and maintenance of effective financial channels with Iran;
- the continuation of Iran's export of oil and gas condensate, petroleum products and petrochemicals;
- the continuation of sea (including shipping and insurance), land, air and rail transportation relations;
- the promotion of export credit cover;
- clear and effective support for economic operators trading with Iran, particularly small and medium sized enterprises which are the backbone of many economies;
- the encouragement of further investments in Iran;

- the protection of economic operators for their investment and other commercial and financial activities in or in relation to Iran;
- the bringing together of private and public sector experts, including through the promotion of Business Councils;
- the practical support for trade with and investment in Iran;
- the protection of companies from the extraterritorial effects of US sanctions."

In the ministerial meeting of 24 September 2018 in New York, the remaining JCPOA participants "re-affirmed their continued commitment to the objectives mentioned in the statement of the Ministerial session of the Joint Commission of the JCPOA on 6 July 2018, in particular to pursue concrete and effective measures to secure payment channels with Iran, and the continuation of Iran's export of oil and gas condensate, petroleum products and petrochemicals."

It is a matter of grave concern and deep regret that over six months after the unlawful U.S. withdrawal and four months after the Ministerial Meeting of the Joint Commission, Iran's economic dividend from the JCPOA is absolutely naught. As a matter of fact, Iran's business with the rest of the world is today more restricted than it was in 2012. Thus, not only is Iran not benefiting from the JCPOA, it is in fact being punished for the full implementation of its commitments under the accord.

The sale of Iran's oil has dropped down to an unprecedented low – even lower than the 2012 level; some JCPOA members have terminated all oil purchases from Iran; Iran has practically lost access to and cannot benefit from its oil revenues and other assets in most foreign banks – including those in the overwhelming majority of JCPOA participants; Iranian shipping has almost come to a halt, insurance companies have stopped providing coverage to Iranian ships and or other ships providing service to Iran; European airlines have either stopped or reduced their flights to the country; Iranian airlines are having difficulties receiving necessary services including fuel in their destinations; Iranian companies (and even ordinary Iranian people residing abroad) are being asked to close their bank accounts; and to complete this remarkable scenario, even our diplomatic and consular missions are facing problems maintaining their bank accounts used solely for their official activities.

Of all the glamorous commitments made by the remaining participants in the JCPOA, none has resulted in practical solutions. For example, the so-called SPV, which was supposed to address some crucial but preliminary problems, has not yet even been introduced, let alone started working. And experts are already expressing doubt as to whether anyone will actually use the SPV, even if it were to be fully operational. It appears that economic operators will use the mechanism only if they are properly ensured by their respective governmental authorities of the safety of the channel and the support they will receive when they use it.

On July 6, the foreign ministers also "underlined their determination to protect the freedom of their economic operators to pursue legitimate business with Iran, in full accordance with UN Security Council resolution 2231." I should inform you that almost all economic operators of the majority of EU/E3+2 countries, and all major European companies, have already withdrawn from Iran, causing irreparable harm to the Iranian economy and the lives of ordinary Iranian citizens.

Even in the field of food and medicine and related financial transactions, which are ostensibly exempt from U.S. sanctions, European banks and banks from other JCPOA Participants are refusing to provide financial services for food and medicine, causing life-threatening medicine scarcity in Iran. It is important to note that this is taking place not only in breach of the commitments under the JCPOA and the two ministerial statements, but against the order the International Court of Justice that the United States must immediately remove

any impediments arising from its unlawful sanctions and to ensure related licenses and authorizations for food, medicine and airplane spare parts.

And while the ministers "welcomed the fact that updates to the EU's "Blocking Statute" and the European Investment Bank's external lending mandate to make Iran eligible entered into force on 7 August", the Statute did not prevent a French company from submitting to U.S. sanctions—erroneously calling them "international sanctions"—and prevent Iranian persons from even visiting a 'food exhibition' in France. Here is a reply received by an Iranian citizen requesting to simply visit SIAL Paris 2018:

> Nous vous informons qu'en raison des sanctions internationales contre l'lran et des conséquences graves en cas de violation de l'une d'elles, ii a été décide au niveau du Groupe Comexposium de suspendre toute transaction avec des entreprises, personnes ou groupes bases en Iran, et ce, jusqu'a nouvel ordre.
>
> Nous ne pouvons donc malheureusement pas accepter votre demande d'inscription au SIAL Paris 2018.

This outrageous discrimination against Iran and its citizens is taking place while the foreign ministers on 24 September 2018 promised "the mobilisation of considerable resources by all, including with third countries interested in supporting the JCPOA and in pursuing, in a timely and effective manner, the normalisation of trade and economic relations with Iran."

Excellency,

The JCPOA acknowledges Iran's discretionary right to "cease performing its commitments under the JCPOA in whole or in part", if the lifted sanctions under the deal are re-introduced or re-imposed. Paragraphs 26 and 36 reflect the common understanding, at the time of the negotiations, that any re-imposition of sanctions gives Iran the right to respond by wholly or partially ceasing performing its reciprocal measures under the accord.

It is noteworthy that even the U.S. legal team before the International Court of Justice corroborated the fact that "if a participant concludes that the issue is unresolved and amounts to significant non-performance, the JCPOA permits the participant to 'cease performing its commitments under this JCPOA in whole or in part' … this was the remedy that the participants contemplated if the dispute mechanism did not resolve the issue" (https://www.icj-cij.org/files/case-related/175/175-20180828-ORA-01-00-BI.pdf. Page 26, Para. 17).

The Islamic Republic of Iran made it very clear on 8 May 2018 and repeatedly thereafter that the re-imposition of sanctions was a "grave material breach" of the JCPOA. In this context, Iran called upon the remaining participants of the JCPOA to hold the United States "accountable for the consequences of its reckless wrongful act" and stated that in order to continue the implementation of JCPOA in its totality, "the remaining JCPOA participants need to provide objective guarantees that Iran is compensated unconditionally through appropriate national, regional and global measures."

My Government initiated the Dispute Resolution Mechanism under paragraph 36 of the JCPOA on 10 May 2018. But, acting in good faith, we refrained from applying the 'remedy' and did not immediately resort to "cease performing its commitments under the JCPOA", in order to enable the remaining JCPOA Participants to make good on their above-mentioned promises. However, as I specifically stated in my letter of 10 May 2018 "nothing in this period would affect Iran's right to react and protect its national interest as appropriate; a right which is manifestly recognized in the JCPOA and subsequent UNSC resolution 2231(2015)."

The United States has now re-imposed with full effect all sanctions specified in the JCPOA and its Annex II, and as elaborated above, no remedial measure has been

implemented by the remaining JCPOA Participants. Most have effectively joined the restrictive measures against Iran by denying even Iranian diplomatic missions, as well as food and medicine transactions, access to their financial institutions. One JCPOA Participant is even refusing to make payment on a long-standing debt to the Iranian government—ostensibly as a consequence of these restrictions.

I still do not buy the argument that this is nothing but a good cop/bad cop scenario between the United States and its European 'allies', designed to bring back all effects of brutal sanctions against Iran while tricking Iran into continued full compliance. I have witnessed the hard work and dedication of you personally, as well as your colleagues, in trying to come up with solutions. But for those who are suffering from the harsh consequences of the unlawful US sanctions, it makes no difference whether EU/E3+2 lack the will or the power to redress the negative effects of their teammate's withdrawal from the deal. For them the result in both cases remains the same: our administration is absurdly continuing to fully implement all nuclear commitments under a deal which has been relegated into irrelevance. The balance is long gone. And efforts to restore it have thus far failed.

Like any international accord, the survival of JCPOA—as a unique achievement of multilateral diplomacy—is dependent on the existence of a balance. Either EU/E3+2—who have repeatedly underlined the security and strategic ramifications of JCPOA—should ensure Iran's legitimate benefits by fulfilling their commitments made in their statements of 6 July and 24 September 2018 in real and practical terms without further delay, or Iran will have no option but to restore a semblance of balance—as "the remedy that the participants contemplated if the dispute mechanism did not resolve the issue"—with a view to prevent the total demise of the JCPOA.

In view of the above, I formally call for the convening of another ministerial meeting of the Joint Commission in Tehran within the next few days.

I will be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could urgently arrange for the convening of the meeting and share this letter with the remaining JCPOA Participants.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 7 April 2019 to JCPOA Coordinator under Paragraph 36 on EU/E3 significant non-performance emanating from G7 Foreign Ministers' Communique of 6 April 2019

In the name of God, the Compassionate, the Merciful

7 April 2019

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

I am writing to you to express our outrage over the recent G7 Foreign Ministers Communiqué dated 6 April 2019. In three of its paragraphs, the E3/EU have made entirely unacceptable and baseless allegations against the Islamic Republic of Iran. Most gravely, paragraph 52 is a fundamental departure by E3/EU—as 4 JCPOA participants—from the underlying object and purpose of the JCPOA, and if not resolved satisfactorily, could constitute significant non-performance of the obligations under the JCPOA and also contravene UNSCR 2231 (2015).

This compounds—to an untenable level—the previous significant non-performances by Western members of E3/EU+3, following the E3/EU's prolonged and utter failure to take any meaningful practical measure in performance of their JCPOA obligations as well as their repeated commitments following the U.S. unilateral and unlawful withdrawal from the JCPOA, including those undertaken *inter alia* on 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019.

It is absolutely unacceptable that instead of condemning persistent U.S. unlawful, provocative and dangerous behavior and seeking practical ways of bringing themselves into compliance with their own obligations under the JCPOA—let alone rectifying the irreparable harm inflicted on the Iranian people following the U.S. withdrawal from the JCPOA, the E3/EU—by their own admission—succumb to absurd U.S. wording about the Islamic Republic of Iran. This contradicts not only undisputable facts on the ground in our region, but even EU normal practice—not to mention E3/EU's JCPOA and Security Council obligations. Indeed, the Communiqué make outrageous demands from—and assume obligations for—Iran which are incompatible with the object and purpose of the JCPOA and totally beyond its scope. The paradigm shift in the Communiqué is a matter of grave concern. The E3/EU have also ignored the historic achievements gained through the conclusion of JCPOA and Iran's implementation of its voluntary measures under the JCPOA, as confirmed by 14 reports of the International Atomic Energy Agency. In fact, the Communiqué undermines the NPT and the non-proliferation regime.

While reaffirming that Iran never has nor will, ever seek, develop or acquire any nuclear weapons, the stated purpose of the JCPOA is to "enable Iran to fully enjoy its right to nuclear energy for peaceful purposes under the relevant articles of the nuclear Non-Proliferation Treaty (NPT) in line with its obligations therein, and the Iranian nuclear program will be treated in the same manner as that of any other non-nuclear-weapon state party to the

NPT.” Furthermore, contrary to connotations in the communiqué, the Islamic Republic of Iran does not have any commitment under the Additional Protocol. According to the JCPOA, Iran is implementing the Additional Protocol merely on a provisional and voluntary basis. Continued implementation of the Additional Protocol by the Islamic Republic of Iran and proceeding with its ratification within the timeframe as detailed in Annex V are absolutely and entirely dependent on the implementation of mutual commitments in good faith, particularly those listed in paragraphs 20 and 21 of Annex V of the JCPOA.

I must underline that the Communiqué reveals lack of courage and commitment to the JCPOA. In order to appease a single lawless regime, it fails to even mention “the JCPOA”, let alone reiterate what has been no more than verbal commitment of E3/EU to this historic achievement of diplomacy, which EU consistently proclaimed to be a security imperative for Europe. If a single law-breaking member of G-7 could prevent a simple reference to a valid international accord and a Security Council resolution, couldn’t 6 remaining members of the G7, including E3/EU, have prevented a verbatim rehashing of unlawful and groundless U.S. positions in the text? Nothing could embolden the United States more to continue its bullying lawlessness.

I urge the E3/EU to resolve this issue in a satisfactory manner within reasonable time. Iran reserves its right to pursue the matter in accordance with the mechanism set out in paragraph 36 of the JCPOA.

I would be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this letter with the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 3 October 2019 to JCPOA Coordinator on the joint statement of E3 leaders constituting a breach of JCPOA and UNSCR 2231

In the name of God, the Compassionate, the Merciful

3 October 2019

H.E. Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Defense Policy

Coordinator of JCPOA Joint Commission

Excellency,

Pursuant to my previous letters, in particular the letter dated 7 April 2019, I am writing to express to you our outrage at the E3 Heads of State Joint Statement of 23 September 2019. Unfounded and baseless allegations aside, the Joint Statement expressly reveals the E3's dramatic shift on the intent and the underlying objective of the JCPOA. In this vein, the Statement is furthermore in blatant contravention to the provisions of UNSCR 2231 (2015).

Worsening the situation, on the same day as the Joint Statement was released, in a televised interview that would only embolden the U.S. President in his long-held aggressive stance on the JCPOA, the Prime Minister of the United Kingdom succumbed to Mr. Trump's portrayal of the JCPOA as a "bad deal" and went so far as to ask for a "better deal" to be made by the "one guy who can do a better deal". The Joint Statement and the remarks by E3 Heads of State, most notably that of the UK Prime Minister, are in explicit contravention of Paragraph 28 of the JCPOA and a telling sign of a European reversal of attitudes towards the landmark accord. Quite predictably, the abject failure of the E3/EU in fulfilling their undertakings to rectify the ruinous consequences of the U.S. unlawful and unilateral withdrawal from the JCPOA on the effects of its sanctions-lifting commitments was only a prelude to the current state of apparent total submission to the whims of this U.S. administration. The U.S. has clearly been treating the EU/E3 as its vassal and it seems that the EU/E3 are unwilling and/or unable to behave otherwise; whichever the case, this situation cannot continue at the sole expense of Iran.

The Joint Statement and other remarks by E3 leaders indicate their self-inflicted and deep state of paralysis; in lieu of devising creative initiatives to, first and foremost, fulfill their obligations under the JCPOA and UNSCR 2231 aimed at ensuring the survival of the deal, they have rather opted for an already tried and failed approach of appeasing the U.S. in futile hopes of obtaining waivers to enable them to perform their obligations under the JCPOA.

In principle, the E3 assertion in the Joint Statement that "the time has come for Iran to accept negotiation on a long-term framework for its nuclear programme as well as on issues related to regional security, including its missile programme and other means of delivery" is a matter of grave concern, runs afoul of the non-proliferation regime and negates all the hard-won achievements of the JCPOA.

The JCPOA, as manifest in its name, is a "comprehensive" plan of action negotiated and concluded as a final solution for the entirely artificial crisis fomented over Iran's

peaceful nuclear program. The exact and clear durations in the JCPOA are another evidence to that account. The participants in the JCPOA, which was unanimously endorsed by UNSCR 2231, have made it clear that after the time frames envisaged in the accord, the Iranian nuclear program will be treated in the same manner as that of any other non-nuclear weapon state party to the NPT. Against this backdrop, the Islamic Republic of Iran will accept nothing further to that.

The Islamic Republic of Iran reaffirms that its defensive missile program, based on indigenous capabilities, is aimed at deterrence and is proportionate to real and existing threats against the Iranian nation. In this vein, Iran's measures towards developing such capabilities are perfectly responsible and in line with international norms and regulations. The matter of Iran's testing of ballistic missiles is already settled in the framework of the UNSCR 2231 and this fact has been admitted by senior officials of the negotiating parties; including most recently by the current U.S. President who – of course, while criticizing the JCPOA – explicitly admitted that Iran is under the accord "allowed" to test ballistic missiles. As such, the Islamic Republic of Iran refrains from renegotiating this – and other - already addressed and resolved matters.

The Islamic Republic of Iran categorically rejects the unsubstantiated accusations levelled against it in the Joint Statement. We strongly urge the E3/EU to revisit the apparent approach embedded within the Statement. Furthermore, we request that the Joint Commission of the JCPOA address and take appropriate measures to resolve this issue in a satisfactory manner within a reasonable time frame. As a responsible regional power, the Islamic Republic of Iran has repeatedly echoed the necessity of maintaining a region-inclusive dialogue to promote peace and security in the Persian Gulf region – and to put an end to the war against Yemen. The Hormuz Peace Endeavor (HOPE) proposed by the President of the Islamic Republic of Iran in his address before the 74th United Nations General Assembly, is but the latest in Iran's longstanding efforts since 1985 to secure a sustainable regional security architecture, as acknowledged in UNSC 598 (1987). The Joint Statement clearly undermines the prospects of peace and dialogue in the region, for which the E3 will be squarely responsible.

I would be grateful if you, in your capacity as Coordinator of the Joint Commission of the JCPOA, would share this letter with the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 18 June 2020 to JCPOA Coordinator on implications of U.S. decision to stop nuclear waivers

In the name of God, the Compassionate, the Merciful

18 June 2020

His Excellency,

Mr. Josep Borrell Fontelles

High Representative of the European Union for Foreign Affairs and Security Policy

Coordinator of the JCPOA Joint Commission

Excellency,

I am writing under paragraph 36 of the JCPOA, to bring to your attention yet another unlawful action by the United States against civil nuclear cooperation and activities mandated by the Joint Comprehensive Plan of Action (JCPOA) and UNSCR 2231 (2015). This constitutes a further grave violation of the UN Charter, and further obstructs the full implementation of the JCPOA by Iran and the remaining JCPOA participants. It is imperative that immediate measures are taken to ensure the execution of obligations and keep the US accountable for this international wrongful act and its consequences.

On 27 May 2020, the United States announced that it would impose unilateral coercive measures against "all remaining JCPOA-originating nuclear projects in Iran—the Arak reactor conversion, the provision of enriched uranium for the Tehran Research Reactor, and the export of Iran's research reactor fuel". This action, together with previous malign policies and conducts of the United States against nuclear cooperation and activities mandated by the JCPOA and UNSCR 2231 (2015)—in particular designation of the Atomic Energy Organization of Iran and its head, Dr. Ali Akbar Salehi (31 January 2020), as well as penalizing cooperation and activities between Iran and other countries regarding natural uranium and heavy water (3 May 2019) and also Fordow (18 November 2019)—are intended to substantially prevent Iran, other JCPOA Participants and the international community, from enjoying their rights and privileges and implementing their commitments and obligations under the JCPOA as well as UNSCR 2231 (2015).

The aforementioned unlawful unilateral coercive measure targets another important pillar of the JCPOA as well as Resolution 2231 (2015), and follows the same pattern of previous illegal acts of the United States against the effects of sanction-lifting under the JCPOA, in pursuit of its inhuman "Maximum Pressure" policy. This dangerous attitude towards the will of the international community is aimed at totally destroying the JCPOA—which will undoubtedly have grave and far-reaching consequences beyond the JCPOA that the US should be held responsible for.

The UNSCR 2231 (2015) mandates specified nuclear cooperation between JCPOA members and encourages other Member States to cooperate with Iran in the framework of the JCPOA in the field of peaceful uses of nuclear energy, and to engage in mutually agreed civil nuclear cooperation. According to this resolution, States are authorized to supply, sale, or transfer of items, materials, equipment, goods and technology, and the provision of any related technical assistance, training, financial assistance, investment, brokering or other services, that is directly related to the modification of two cascades at the Fordow facility

for stable isotope production; the export of Iran's enriched uranium in excess of 300 kilograms in return for natural uranium; and the modernization of the Arak reactor. The resolution endorses that these activities continue to be in effect even if the provisions of previous resolutions are applied. Moreover, the supply of a quantity of 19.75% enriched uranium oxide (U3O8), exclusively for the purpose of fabrication in Iran of fuel for the Tehran Research Reactor and enriched uranium targets for the lifetime of the reactor is guaranteed in UNSCR 2231 (2015).

The latest unlawful US measures are not necessarily restricted to above-mentioned areas, but also extend to the humanitarian applications of nuclear science and technology by imposing unilateral coercive measures on a radiopharmaceutical production company (Pars Isotopes Co.), and Iran's Nuclear Regulatory Authority (INRA), and even intimidating and threatening Iranian nuclear experts in clear contravention of the letter and spirit of the IAEA Statute. Such irresponsible and inhuman behavior by the US is not only endangering the lives of hundreds of thousands of patients in dire need of those radiopharmaceuticals, but is also posing a serious threat to nuclear scientists. The US will be held accountable for any action or omission emanating from this unlawful threat.

These unlawful actions technically and practically further impede the full implementation of the JCPOA by the remaining Participants and the rest of international community. In this regard, it will adversely affect international civil nuclear cooperation and activities as specified in Annex I and Annex III to the JCPOA. This development, if not addressed duly, will negatively affect the ongoing cooperation and activities—in particular the redesigning and rebuilding a modernized heavy water research reactor in Arak—as I noted in my letter of 7 July 2019. Iran will lawfully take appropriate remedial measures and full responsibility must be borne by the US and those succumbing to its unlawful diktats.

While noting the statements expressed in the UN Security Council Meeting on 28 May 2020, and appreciating the rejection of these unlawful measures by the remaining Participants of the JCPOA, I request the Joint Commission of the JCPOA to swiftly address the issue and take all appropriate measures to resolve this issue through providing objective and firm assurances for the normal continuation of the civil nuclear cooperation and activities as specified in Annex I and Annex III to the JCPOA.

As I echoed in my letter of 8 May 2020 addressed to the UN Secretary General, the time has come for the international community to stand together against the US' unlawful and unilateral acts in clear violation of its obligations under international law and UN Charter. and to end its absolute impunity.

I would be grateful if you, in your capacity as the Coordinator of the Joint Commission of the JCPOA, would circulate this letter to the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 2 July 2020 to JCPOA Coordinator under Paragraph 36 on cases of significant non-Performance by E3

In the name of God, the Compassionate, the Merciful

2 July 2020

His Excellency

Mr. Josep Borrell Fontelles

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

In accordance with Paragraph 36 of the JCPOA, and pursuant to my numerous previous letters since September 2016, in particular my letters dated 29 January 2020 and 10 March 2020, and while recalling and reserving the already referred unresolved issues by Iran,[54] I would like to refer to the Joint Commission some other significant non-performance issues. These issues, as fully elaborated in this letter, are related to implementation of the JCPOA by the E3 (France, Germany and the United Kingdom), individually and collectively. As I will fully submit, the E3 during the past two years, through actions and omissions, have not complied with their commitments under the JCPOA. Therefore, I request that the Joint Commission of the JCPOA address and take appropriate measures to resolve the referred issues to the satisfaction of Iran within the framework of the procedure specified in Paragraph 36 of the JCPOA. Iran reserves its rights under this paragraph and other relevant provisions.

I. Submission of a Draft Resolution to the IAEA Board of Governors by E3

The E3's recent malicious submission of a draft resolution to the IAEA Board of Governors (BoG) on 17 June 2020[55] constitutes a material breach of the letter, spirit and intent of the JCPOA, in particular Paragraph 14 of the JCPOA, which specified that the "E3+3, in their capacity as members of the Board of Governors, will submit a resolution to the Board of Governors for taking necessary action, with a view to closing the issue".[56] This irresponsible action—fully ignoring all ongoing

[54] As referred through my letters dated 10 May 2018 and 6 November 2018.

[55] IAEA, "*NPT Safeguard Agreement with the Islamic Republic of Iran: Draft Resolution submitted by France, Germany, and the United kingdom*", 17 June 2020, GOV/2020/33

[56] Paragraph 14 of the JCPOA: "*Iran will fully implement the "Roadmap for Clarification of Past and Present Outstanding Issues" agreed with the IAEA, containing arrangements to address past and present issues of concern relating to its nuclear programme as raised in the annex to the IAEA report of 8 November 2011 (GOV/2011/65). Full implementation of activities undertaken under the Roadmap by Iran will be completed by 15 October 2015, and subsequently the Director General will provide by 15 December 2015 the final assessment on the resolution of all past and present outstanding issues to the Board of Governors, and the E3+3, in their capacity as members of the Board of Governors, will submit a resolution to the Board of*

monitoring cooperation mainly routed in the JCPOA—actively contributes to the re-opening of issues permanently closed by the JCPOA and related processes within the Agency. It must be underlined that the stated intention of those who presented these forged documents was to destroy the JCPOA. By submitting the draft resolution to the IAEA BoG and imposing intensive diplomatic pressure on BoG Member-States, the E3 proved, once again, their blatant disregard for the letter, intent and sprit of the JCPOA. This action has endangered a foundation of the JCPOA, in line with the United States' unlawful policies and conducts aiming at destroying the accord. On 19 June 2020, Brian H. Hook, United States Special Representative for Iran, stated that "we are pleased that the IAEA Board of Governors passed a resolution today … I want to especially thank our European partners, including the United Kingdom, France, and Germany for the leadership role they played in getting this resolution passed".[57]

Pursuant to Paragraph 14 of the JCPOA, Participants are under an obligation to condition adoption of any resolution in the BoG "with a view to *closing the [PMD] issue.*" The E3's contribution and active role in this regard is required to be formulated with respect to the aforementioned paragraph. However, the E3 have conveniently hidden behind the 'institutional veil' of IAEA and BoG's procedures. The E3 had lobbied intensively other members in Vienna and capitals of BoG Member-States to push the adoption of the Resolution while it was clearly announced by the IAEA that there is no non-proliferation concern, and that the dispute between Iran and the IAEA was close to be resolved. The E3 must be held responsible for their penholder role in the adoption of the resolution. Accordingly, their responsibility is invoked for their individual conduct, not for the Decision of the BoG. Hence, the act of the E3 was more than mere submission of a draft resolution—in itself a significant non-performance of paragraph 14; their act presupposes the occurrence of material breaches and is therefore a case of non-performance within the scope of Paragraph 36 of the JCPOA.

Based on aforementioned submissions, the JCPOA Participants are legally bound to consider the elements enshrined in Paragraph 14 of the JCPOA in order to adjust their behavior regarding Iran's Nuclear Program in international organizations, *inter alia*, the IAEA. In other words, Paragraph 14 of the JCPOA entails both positive and negative commitments and clearly conditions Participants' behavior in providing and proposing draft resolutions dealing with the closed issues. Political gestures and justification cannot preclude the responsibility.

The E3 has claimed that they submitted the draft in order to ensure the credibility of the IAEA while it is evident that active contribution to reopen closed issues runs counter to this statement. The Agency published the "Final Assessment on Past and Present Outstanding Issues regarding Iran's Nuclear Programme"[58] in December 2015. At that time, the late IAEA Director General expressed "the Agency has found no credible indications of the diversion of nuclear material in connection with

Governors for taking necessary action, with a view to closing the issue, without prejudice to the competence of the Board of Governors"

[57] Brian H. Hook, Special Representative for Iran, Special Briefing, 19 June 2020. Available at: https://www.state.gov/briefing-with-special-representative-for-iran-brian-hook-u-s-ambassador-to-unvie-jackie-wolcott-and-assistant-secretary-for-international-security-and-nonproliferation-dr-christopher-a-ford-on-ia/

[58] IAEA, Board of Governors, Report by the Director General, "*Final Assessment on Past and Present Outstanding Issues regarding Iran's Nuclear Programme*", 2 December 2015, GOV/2015/68. Available at: https://www.iaea.org/sites/default/files/gov-2015-68.pdf

the possible military dimensions to Iran's nuclear programme". Subsequent to this report, the IAEA BoG adopted a resolution[59] in which it was stated that "all the activities in the Road-map for the clarification of past and present outstanding issues regarding Iran's nuclear programme were implemented in accordance with the agreed schedule" and also recognized "the long-term nature of the provisions of the JCPOA*".* The E3, fully ignoring the conclusion of this report and the adopted resolution in 2015, actively acted to re-open the closed file of the so-called PMD fully serving the stated policy Benjamin Netanyahu—the most hateful opponent of JCPOA—who has resorted to lies, fabrications and—to take his claim at face value—unlawful armed intrusion, murder and theft in order to pave the way for Trump's unlawful withdrawal from the JCPOA on May 8, 2018.[60] Such desperate efforts not only reflect their complicity in the openly stated efforts to destroy the JCPOA, but also participation in malicious maneuvers to undermine the IAEA's credibility and endanger the normal ongoing safeguards cooperation.

By concluding the JCPOA and with a constructive approach, Iran is voluntarily implementing the Additional Protocol provisionally and provided unprecedented access to the IAEA as a confidence building measure to give enough authority and access to ensure the exclusively peaceful nature of its nuclear material and activities.[61] If the JCPOA Participants—who are obliged not to reopen the resolved issues before the Agency—try to force Iran to comply with their unfounded request, Iran will come to the conclusion that our voluntary extensive transparency measures has gone in the wrong path and no longer serves our national security interests. In this regard, unless the JCPOA Participants take corrective measures, Iran's cooperation framework might be subject to review and revision, in line with our rights under Paragraph 36 of the JCPOA and the NPT.

One of the well-established principles governing the creation and performance of legal obligations is good faith. Good faith is an inseparable part of international cooperation, especially when this cooperation is the basis for the implementation of the JCPOA. The actions and positions of the E3 have proven that they have not acted in good faith, and, along with the United States, have taken steps to undermine the JCPOA. The submission of the draft Resolution in conjunction with the E3 Statement on 19 June 2020 demonstrates the E3's bad faith in implementation of their commitments under the JCPOA and UNSC Resolution 2231 and amounts to material breach of Paragraph 14 of the JCPOA. By doing so, they also disrupted the unity among the JCPOA Participants. Russia and China voted against their draft and, as we were informed, even the EU has expressed its reservations regarding the E3 approach in this regard.

[59] IAEA, Resolution adopted by the Board of Governors, "*Joint Comprehensive Plan of Action implementation and verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231 (2015)*", 15 December 2015, GOV/2015/72. Available at: https://www.iaea.org/sites/default/files/gov-2015-72-derestricted.pdf

[60] The Whitehouse, Remarks by President Trump on the Joint Comprehensive Plan of Action, 8 May 2018: "*Today, we have definitive proof that this Iranian promise was a lie. Last week, Israel published intelligence documents — long concealed by Iran — conclusively showing the Iranian regime and its history of pursuing nuclear weapons*". Available at: https://www.whitehouse.gov/briefings-statements/remarks-president-trump-joint-comprehensive-plan-action/

[61] IAEA, "*Verification and Monitoring in Iran*", Available at: https://www.iaea.org/newscenter/focus/iran

II. Proposing review of termination of United Nations Arms Restrictions

The E3—effectively collaborating with the United States—have publicly contemplated engaging in attempts to undermine the very clear provisions of the UNSC Resolution 2231, which endorsed the JCPOA, and incorporated time-lines painstakingly negotiated as an integral part of the JCPOA process. On 19 June 2020, the E3 stated that "we believe that the planned lifting of the UN conventional arms embargo established by Resolution 2231 next October would have major implications for regional security and stability. We recall that the EU embargoes on conventional arms exports and missile technology will remain in force until 2023. We wish to address the issue in close coordination *with Russia and China as remaining participants to the JCPOA*, as well as with all other Security Council Members, as well as other key stakeholders".[62]

In the Security Council meeting on 30 June 2020 under its 2231 format, the E3 once again reiterated their illegal position towards provisions of UNSCR 2231 by stating that "France, together with Germany and the United Kingdom, understands and shares the concerns regarding the implications of the upcoming expiration of the embargo on conventional arms provided for in resolution 2231. We have expressed our readiness to explore constructive options to address our common concerns".[63]

First, the arrogance in not naming Iran as one of the remaining Participants in the JCPOA—limiting the group to themselves, Russia and China—is wholly abhorrent and reflective of the attitude that has led to the current catastrophe.

Second, the fact that the EU will lift its own autonomous arms restrictions by 2023 is an entirely irrelevant issue. All members of the United Nations must adhere to their obligations in accordance with article 25 of the Charter of the United Nations and as UNSCR 2231 urged all States to give due regards to the termination of the provisions of previous resolutions and other measures foreseen in UNSCR 2231.

The E3 proposed Annex B to the Security Council (S/2015/545[64]) and have communicated a large number of letters to the UN Secretariat and Security Council with regard to the implementation of Annex B to the UNSCR 2231. They have repeatedly committed themselves to the provisions of the Statement in Annex B, including the timetable termination.[65] The E3 letters in relation to the Annex B imply obligation on them; the E3 by the Paragraph 5 of Annex B have chosen to take up a certain position on the lifting of arms restrictions with the intention of being bound to Paragraph 2 of the UNSCR 2231.[66]

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[62] E3-Statement on Iran, 19 June 2020. Available at: https://www.auswaertiges-amt.de/en/newsroom/news/-/2354554

[63] Statement by Nicolas De Riviere Permanent Representative of France to the United Nations, 30 June 2020. Available at: https://onu.delegfrance.org/Our-priority-remains-to-ensure-that-Iran-does-not-acquire-nuclear-weapons

[64] As a part of the outcome of negotiations.

[65] Annex B to the UNSCR 2231 (2015): *This paragraph shall apply until the date five years after the JCPOA Adoption Day or until the date on which the IAEA submits a report confirming the Broader Conclusion, whichever is earlier*.

[66] It is worth noting that Islamic Republic of Iran strongly believes that this Statement only reflects the views of the 5+1, but paragraph 5 of Annex B is endorsed in paragraph 2 of the UNSCR.

Having pointed out in my letter to the UN Secretary General on the occasion of the second anniversary of the unlawful withdrawal of the United States form JCPOA on 8 May 2020 (A/74/850-S/2020/380), I recalled that under Article 25 of the Charter of the United Nations all UN Member States are obliged to comply with the Security Council decisions if adopted in accordance with the UN Charter. To behave otherwise would be to deprive this principal organ of its essential functions and powers under the Charter. For this reason, the Security Council cited Article 25 of the Charter in the fourteenth preambular Paragraph of UNSCR 2231 (2015), and the Council underscored that "Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Security Council's decisions."

Here it is worth mentioning that UNSCR 2231 must be read within the context of the provisions set out in the JCPOA too (Annex A to UNSCR 2231). Indeed, in a sense, the Resolution is tied to the JCPOA as if by an umbilical cord. Per UNSCR 2231 (2015), the Council: "endorse[d] the JCPOA, and urge[d] its full implementation on the timetable established in the JCPOA." These provisions in the JCPOA sought to provide a "comprehensive" plan of action and also concluded a definitive and final solution to the entirely manufactured crisis over Iran's peaceful nuclear energy program.

On 27 May 2020, Brian Hook confessed that "we are working methodically to build support in the Council to extend the embargo. We have drafted a resolution; we certainly hope it will pass … I don't have anything to say about confidential bilateral discussions with our European allies other than to say that they continue".[67]

The E3 statement of 19 June 2020 and the admitted efforts of some E3 members to present so-called "compromise solutions" which would in one way or another undermine "*the timetable* established in the JCPOA" constitute a grave significant non-performance by E3, that if not abandoned and remedied immediately, would totally and finally destroy the accord. The United States, accompanied by the E3, will have to accept full responsibility for the consequences - including those referred to in the letter of 8 May 2019 of the President of the Islamic Republic of Iran addressed to his E3+2 counterparts.

III. E3 Officials' Contradictory Statements

The officials of the E3 have persistently challenged the finality and the conclusiveness of the JCPOA as the final solution reached on 14 July 2015. These statements are in clear defiance of Paragraph 28 of the JCPOA, which states that "senior government officials of E3/EU+3 will make every effort to support the successful implementation of this JCPOA including in their public statements".

As I warned the Joint Commission in my letter of 29 January 2020, such statements are in explicit contravention of Paragraph 28 of the JCPOA and a telling sign of a European reversal of attitudes towards the landmark accord, illustrating the apparent total E3 submission to the whims of the United States. In their totality, the recent E3 statements and actions contribute to the unlawful and unilateral policy of the United States against Iran.

[67] Brian H. Hook, Special Representative for Iran, Special Briefing, 27 May 2020. Available at: https://www.state.gov/briefing-with-special-representative-for-iran-and-senior-advisor-to-the-secretary-brian-hook-and-assistant-secretary-for-international-security-and-nonproliferation-dr-christopher-a-ford-o/

Former British Prime Minister Tony Blair, speaking of the hypocrisy of E3 officials, indicated "I think there's a bit of a difference between what Europeans will say in their formal position and what the European leaders I've spoken to will say privately. Their formal position is, look, we were part of the JCPOA … We're going to hold to it".[68] But these days, E3 officials have even set aside etiquette and openly admit to their commonality of interest with the U.S. in destruction of the JCPOA. On 30 January 2020, United Kingdom Foreign Secretary, Dominic Raab, pointed to the coordination between Europe and the United States and stated "I don't think there is a huge difference between Europeans and the Americans on wanting to see Iran accept those responsibilities and come to a broader reproach more and a broader deal".[69] On 14 January 2020, the UK prime minister in a televised interview went a step further and publicly aligned and associated his country with the party that seeks to kill the JCPOA: "Let's replace it with the Trump deal, President Trump is a great dealmaker. Let's work together to *replace* the JCPOA and get the *'Trump deal'* instead".[70]

E3 Foreign Ministers, in total disregard for the letter of the JCPOA and destroying any confidence about the future of the JCPOA, in their recent Statement pointed out that "we are convinced that we must address shared concerns about *Iran's nuclear program*, its ballistic missile program and its destabilizing regional activities in the long term".[71] This is exactly the path that the United States took before its unlawful withdrawal from the JCPOA. These measures could only be interpreted as aiming to fully destroy the foundations of the bargain reached after painstaking negotiations, and to totally obliterate Iran's benefit from the JCPOA.

It is regretted that the E3 do not even adhere to their self-declared positions at the time of adoption of UNSCR 2231. The Germany representative stated, "the Joint Comprehensive Plan of Action … is an important, and possibly historic, step towards ending the decade-long conflict concerning Iran's nuclear programme".[72] France's representative also specified that "the agreement charts a demanding path towards establishing trust in the exclusively peaceful nature of Iran's nuclear programme".[73] Additionally, the UK representative indicated that "today's adoption is an important milestone in the history of the Council, the culmination of negotiations that have taken place over more than a decade".[74]

Beside this, former High Representative of the European Union (EU) for Foreign Affairs and Security Policy, Ms. Federica Mogherini, in her message to the Security Council on 20 July 2015, stipulated "The agreement, once implemented, marks a conclusion to the long-running diplomatic efforts to reach a comprehensive, long-lasting and peaceful solution to the Iranian nuclear issue that will provide the

[68] The Council on Foreign Relations, "*The Road Ahead With Iran: A Conversation With Tony Blair*", 4 February, 2020, Available at: https://www.cfr.org/event/road-ahead-iran-conversation-tony-blair-0

[69] Policy Exchange "*The Future of the Special Relationship*", 30 January, 2020, Available at: https://policyexchange.org.uk/pxevents/the-future-of-the-special-relationship/

[70] British Prime Minister, Boris Johnson's interview with "BBC News", 14 January 2020. Available at: https://www.bbc.com/news/uk-politics-51104386

[71] E3-Statement on Iran, 19 June 2020. Available at: https://www.auswaertiges-amt.de/en/newsroom/news/-/2354554

[72] Remarks of Mr. Braun (Germany), Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

[73] Remarks of Mr. Delattre (France), Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

[74] Remarks of Mr. Rycroft (United Kingdom), Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

necessary assurances on the exclusively peaceful nature of Iran's nuclear programme, on the one hand, and the lifting of sanctions, on the other."[75]

The long-term nature of the provisions of the JCPOA was acknowledged also by the IAEA on 15 December 2015.[76]

These statements support the conclusion that the E3 do not believe in the finality and conclusiveness of the JCPOA. Even before the unlawful U.S. withdrawal from the accord, they openly expressed their intention to undermine the JCPOA and UNSCR 2231. The President of France indicated "the JCPOA will most likely need to be supplemented".[77] Furthermore, the E3 leaders expressed "[we] agreed that there were important elements that the deal does not cover, but which we need to address … [we] committed to continue working closely together and with the US on how to tackle the range of challenges that Iran poses – including those issues that a new deal might cover".[78] On the same day that the U.S. unlawfully withdrew from the JCPOA, E3 Heads of State declared "we also agree that other major issues of concern need to be addressed. A *long-term framework for Iran's nuclear programme after some of the provisions of the JCPOA expires, after 2025, will have to be defined*".[79]

At present, the most satisfied party is the U.S., who unlawfully violated the JCPOA and UNSCR 2231 and carefully observes the compromised positions and actions of the E3 in this regard and has repeatedly endorsed the approach of the E3 towards the JCPOA—while always asking for more, as is the practice of any bully. The United States Special Representative for Iran, Brian Hook, expressed his satisfaction on 17 January 2020 that "We were pleased to see the United Kingdom, France, and Germany initiate the Iran nuclear deal dispute resolution mechanism earlier this week. Prime Minister Johnson called to replace the Iran nuclear deal with a new deal, which we very much support."[80]

In line with the U.S. destructive policies toward the JCPOA, such contradictory statements by the E3, which are in grave contravention of Paragraph 28 of the JCPOA, have negatively affected the effectiveness of the lifting of sanctions under the JCPOA, and have even prevented other EU Member States from fulfilling their commitments, and have substantially endangered the stability and integrity of the entire agreement.

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[75] High Representative of the European Union (EU) for Foreign Affairs and Security Policy, Ms. Federica Mogherini indicated, in her message to the Security Council, Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

[76] IAEA, Resolution adopted by the Board of Governors, "*Joint Comprehensive Plan of Action implementation and verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council Resolution 2231 (2015)*", 15 December 2015, GOV/2015/72. Available at: https://www.iaea.org/sites/default/files/gov-2015-72-derestricted.pdf

[77] New Year greetings by M. Emmanuel Macron, President of the Republic, to the diplomatic corps, 4 January 2018. Available at: https://www.diplomatie.gouv.fr/en/the-ministry-and-its-network/news/2017/article/president-emmanuel-macron-new-year-greetings-to-the-diplomatic-corps-04-01-18

[78] Prime Minister Theresa May spoke with French President Emmanuel Macron and German Chancellor Angela Merkel about the Iran nuclear deal, 29 April 2018. Available at: https://www.gov.uk/government/news/pm-calls-with-president-macron-and-chancellor-merkel-29-april-2018

[79] Joint Statement by France, the United Kingdom and Germany, 8 May 2018. Available at: https://www.diplomatie.gouv.fr/en/french-foreign-policy/security-disarmament-and-non-proliferation/news/news-about-disarmament-and-non-proliferation/article/jcpoa-joint-statement-by-france-the-united-kingdom-and-germany-08-05-18

[80] Brian H. Hook, Special Representative for Iran, Special Briefing, 17 January 2020. Available at: https://www.state.gov/special-representative-for-iran-brian-hook/

The E3 must finally come to the realization that the JCPOA was finalized and that they, along with the United States, made irrevocable commitments with full knowledge of our disagreement on other issues. These issues had not been neglected in the course of negotiations, but in fact all sides reached an agreement not to address them. The bargain would have been wholly different had we reached an agreement on those extraneous issues, and the E3 and the US would have had to account for their own behavior and to reverse some of their other policies vis-à-vis Iran and the region. We thus jointly made the decision to limit the scope and by the same token limit the benefits for Iran. Having failed miserably to provide a modicum of assured benefits within this limited bargain to Iran, the insinuations by the E3 that there is a need for a bigger deal for Iran to even enjoy the benefits of the current accord is bad faith in the extreme.

IV. Sanction-Lifting Commitments

a. EU Sanctions Listing Updates

The new statement of reasons specified in Council Implementing Regulation (EU) 2020/847 (18 June 2020)[81] is a matter of grave concern. We have noted that the statements of reasons specified in the recently published Regulation related to certain persons have been updated. As it is stated in the document, all of these amendments were based on the "proposal from the High Representative of the Union for Foreign Affairs and Security Policy". While we took note of the explanation provided by the EU, we continue to believe that the effects of this action could be considered as expansion and extension of the scope of application of sanctions against Iranian persons and entities under the pretext of "renewing statement of reasons" and could have negative economic and financial effect even on non-listed persons. The way that the EU has updated its sanctions listings is a matter of grave concern and needs to be addressed swiftly. I have already elaborated in detail in my letter of 17 July 2019 how these updates could negatively affect implementation of the JCPOA.

The Secretary General of the European External Action Service, in her correspondence with the Iranian Deputy Foreign Minister on 22 June 2020 acknowledged that the "Council's decision to update certain statements of reason did not involve any extension of existing sanctions. Statement of reasons contains factual supporting information only and do not impose new restrictions on any individual or entity". However, based on what I clarified, the firm assurance by the EU is expected in this respect.

b. Blocking Statute

Notwithstanding the relative ineffectiveness of the Blocking Statute, some of the U.S. unilateral sanctions, which have exterritorial and significant negative effects on Iran's trade and economic relations, are not even included in the Annex of the Blocking Statute, *inter alia*, sanctions with respect to the automotive sector. Therefore, European automakers left Iran after the US withdrawal from the JCPOA without even any fear of nominal punishment under the so-called Blocking Statute.

[81] Council Implementing Regulation (EU) 2020/847 of 18 June 2020 implementing Regulation (EU) No 267/2012 concerning restrictive measures against Iran. Available at: https://eur-lex.europa.eu/eli/reg_impl/2020/847/oj

This mechanism has proven its inefficiency and Iran's business with European operators is now even more restricted than it was before the JCPOA.

Contrary to what they claim, the E3 have not even used their sovereign authorities for full implementation of their own Blocking Statute in order to protect EU operators from the extra-territorial application of US unlawful sanctions. They ignored Iran's pragmatic advice to facilitate the implementation of the Blocking Statute to encourage and protect the European SMEs who were eager to cooperate with Iran.[82] The E3 used structural and bureaucratic formalities as an excuse for their inaction in this regard. Indeed, in practice, the E3 has facilitated the extra-territorial application of unlawful U.S. sanctions in the European territories, which is in violation of their commitments under the JCPOA.

From the legal standpoint, any form of complicity is prohibited in international law. The E3, by its measures and omissions, provided means to enable or facilitate the commission of U.S. unlawful acts on their territories in clear violation of the JCPOA and UNSCR 2231. The E3's omissions do assist the commission of the U.S. wrongdoings. They failed to take the preventive or repressive measures to prohibit application of U.S. extra-territorial sanctions on their territory to the detriment of Iran and their own JCPOA commitments. Through such a failure, the E3 have breached international obligations incumbent on them with respect to UNSCR 2231, and have committed—from the early days of implementation of JCPOA—multiple cases of significant non-performance of their JCPOA duties, about which Iran has repeatedly invoked Paragraph 36 of the JCPOA.

c. INSTEX

The E3 repeatedly claim that they have fully implemented their JCPOA commitments, including sanction-lifting as specified under the terms of the agreement. They also claim—with unfathomable arrogance—that "In addition we have gone beyond the commitments required by the agreement to support legitimate trade with Iran, including through INSTEX, which is fully operational and facilitating transactions."[83]

INSTEX has proved to be a useless, inefficient and unstable mechanism without a clear horizon, due to a lack of financial resources. It has been a year and a half since the announcement of this mechanism, and it has only delivered a transaction of several hundred thousand euros. It is ironic that the E3 stated that it "is fully operational and facilitating Transactions",[84] while they themselves consider it an unreliable mechanism. INSTEX has fallen into a state of lamentable inefficiency. This inefficiency along with some pertinent facts give some indications that the mechanism has subjected itself to U.S. unilateral sanctions and will only conduct humanitarian trade. INSTEX was born out of the commitments on 6 July 2018 that the Europeans had to make to counter U.S. illegal sanctions. Yet, this channel is not even trusted by its main shareholders. *The United Kingdom recently refused to settle its debt to Iran—amounting to several hundred million pounds—through INSTEX, due to "technical issues" and instead preferred to use the "Swiss Channel" established within the U.S. sanction regime.* European correspondent banks refused to

[82] Iran's practical proposals in the different meetings of the JCPOA Working Group on Implementation of Sanctions Lifting on September and December 2019 were neglected by the E3.

[83] E3-Statement on Iran, 19 June 2020. Available at: https://www.auswaertiges-amt.de/en/newsroom/news/-/2354554

[84] Ibid.

accept deposits, process documentation and serve as transfer agents for INSTEX funds. The E3 themselves have a somewhat abject attitude towards the channel. Against this backdrop, they have ridiculously proposed to deposit € 15 million in INSTEX, making even that insulting amount contingent upon certain conditions. Nevertheless, Iran - acting in good faith - responded to the so-called interim package which was introduced on 2 April 2020. The E3 rejected that and countless other Iranian initiatives to finance the mechanism with unfounded excuses.

The expansion of INSTEX to third countries and membership of European States in the mechanism is also merely an empty gesture. We have come to know that some new shareholders in the EU have joined the channel with very little financial contributions - around a few thousand euros.

Despite the full cooperation of Iranian institutions and entities with the mechanism to operationalize the channel, we have faced weak European justifications that are unacceptable. Now, this mechanism is promulgated by the E3 for two purposes: firstly, to take advantage of it for political purposes and misuse of it in the alleged activation of their groundless DRM process; and secondly, to cite it in international documents and to have justifications that they have tried their best in good faith to preserve the agreement. An apparent instance of this attitude is the pushing for citing INSTEX and DRM in the ninth report of the Secretary General on the implementation of UNSC Resolution 2231 (2015).[85] Furthermore, the E3 Permanent Representatives to the UN in the Security Council Meeting on 30 June 2020 immodestly stated "we continue to uphold our commitments as the E3, and even go beyond our commitments when it comes to the INSTEX mechanism."[86]

The E3 need to make a choice and avoid rhetoric; they are either on the side of the rule of law in the international community or against those norms which E3 have been ostensibly touting for decades. While the crushing impact of unlawful sanctions on Iranian people is increasing, the alarm for the credibility of international community will also be sounded.

We urge the E3 to fulfill their own obligations under UNSC Resolution 2231, the JCPOA and the Joint Commission decisions and respect rule of *pacta sunt servanda* which is based on good faith.

Let me conclude by stating that the proposed ministerial meeting by the E3 on 19 June 2020[87] can in no way be construed to deal with their unfounded DRM request. Iran long ago invoked and exhausted DRM procedures—without any challenge from the E3/EU—and the related actions by Iran were in implementation of its rights as outlined under Paragraphs 26 and 36. It is then no surprise that the supremacist approach that is so viciously and insultingly illustrated in the statement of 19 June 2020, which excludes Iran from the remaining JCPOA Participants, made

[85] The ninth report of the Secretary General on the implementation of UNSC resolution 2231 (2015) on 11 June 2020 (paragraph 6 of the Report): "I encouraged by the positive developments in the Instrument in Support of Trade Exchanges (INSTEX), which started to process its first transactions. It is important that initiatives in support of trade and economic relations with the Islamic Republic of Iran continue and be given full effect as a matter of urgency, especially during the current economic and health challenges posed by the COVID-19 pandemic. I also stress the important contribution of other Member States to preserve the Plan and continue to encourage them to work effectively with the participants in the Plan towards creating the conditions necessary for their economic operators to engage in trade with the Islamic Republic of Iran in accordance with resolution 2231 (2015)."

[86] Statement by Permanent Representative of Germany to the United Nations, 30 June 2020.

[87] E3-Statement on Iran, 19 June 2020. Available at: https://www.auswaertiges-amt.de/en/newsroom/news/-/2354554

repeated Iranian invocations of Paragraph 36 unworthy of E3/EU attention or indeed a written response. Therefore, I wish to underline our total rejection of that proposal on procedural and factual grounds already enunciated in my previous letters and in the meetings of the JCPOA Joint Commission. Reaching the shared goal of upholding the JCPOA requires complying with the basic norm and rules of good faith, which the E3 have been regrettably lacking.

Acting in good faith, I ask you to notify the remaining Participants of the JCPOA that the issues raised in this letter have been referred to the Joint Commission under Paragraph 36. I would like to emphasize that today's action is separate from those issues already referred to the Joint Commission under Paragraph 36 of the JCPOA by Iran since 2016, while reserving the rights emanating from the previous referrals.

In light of the above, I request that you, in your capacity as the Coordinator of the JCPOA Joint Commission, take the necessary measures in accordance with Paragraph 36 of the JCPOA to address and resolve the recent non-performance instances by the E3.

I would be grateful if you, in your capacity as Coordinator of the Joint Commission of the JCPOA, would share this letter with the remaining JCPOA Participants.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 7. Letters on Iran taking remedial measures

Separate Letters of 8 May 2019 from President Rouhani to E3+2 leaders on the exhaustion of procedures under Paragraph 36 and beginning of remedial measures by Iran

In the name of God, the Compassionate, the Merciful

8 May 2019

His Excellency Vladimir Putin, President of the Russian Federation

His Excellency Xi Jinping, President of the People's Republic of China

His Excellency Emanuel Macron, President of France

Her Excellency Angela Merkel, Chancellor of Germany

His Excellency Boris Jonson, Prime Minister of the United Kingdom

Excellency,

It is now a year since the United States announced its withdrawal from the JCPOA. Today, not only has it re-imposed all of its unlawful and unilateral nuclear sanctions, it is officially and publicly pursuing the policy of 'maximum pressure' and 'zero oil sales' for Iran. The US withdrawal from the JCPOA constitutes a clear violation of UNSCR 2231, and is an afront to the will of the international community. Yet unfortunately it did not receive the appropriate and required reaction by the Security Council, or the remaining participants of the JCPOA.

This action by the United States has rendered a significant part of the JCPOA ineffective, and substantially destroyed the balance between the gives-and-takes in the accord, which were attained after almost twelve years of complicated and difficult negotiations. After the US withdrawal, and upon your request, I offered a window of a few weeks for the remaining JCPOA participants to compensate for the effects and consequences of the U.S. withdrawal and to restore the lost balance to the accord. The 'few weeks' window was extended upon your request, and now has reached a full year.

During this time, the Islamic Republic of Iran invoked the mechanism envisioned in Paragraph 36 of the JCPOA, and the Joint Commission of the JCPOA met twice at the level of political directors and twice at the ministerial level. In these meetings, the remaining JCPOA participants explicitly acknowledged that the lifting of sanctions—and the economic dividends arising from it for Iran—constitutes an essential part of the JCPOA. The foreign ministers of your countries committed to design "practical solutions" aimed at normalizing and even enhancing economic cooperation with Iran, including through establishing effective banking channels, continuation in the export of oil, gas and petrochemical products, continuation of cooperation in transportation, export credits, support for economic actors involved in trade, financial and investment cooperation with Iran (and protecting them against the U.S.' extraterritorial sanctions), and encouraging further investment in Iran.

But, unfortunately, apart from issuing numerous political statements, no operational mechanism to counter U.S. sanctions and to compensate for them have been put in place. In the meantime, almost all foreign economic interests—including all from European JCPOA

participants—have left Iran; foreign contracts and agreements—even with entities from JCPOA participants—have been annulled, transportation and shipping have been disrupted, Iranian flights to the territories of most of the JCPOA participants have been stopped or limited, and flights to Iran are mostly cancelled. Furthermore, banking relations are almost entirely blocked, and Iran's oil export has decreased significantly. After a year, no prospect has been presented for Iran's benefit from the dividends of sanctions lifting. After a year, even the European special financial channel, INSTEX, which is merely one of more than ten commitments undertaken by the foreign ministers, has not been operationalized and there is not much hope in its efficacy in ensuring financial transactions between Iran and other countries.

As you are aware, on 4 May 2019, the government of the United States hit the JCPOA with yet another strike and refrained from extending its arbitrary exemptions for even the continuation of some of the nuclear projects enshrined in the JCPOA, making it impossible for Iran to sell or exchange its enriched uranium and heavy water. This manifests that the clear policy of the United States is to directly prevent the implementation of the JCPOA, and undoubtedly all consequences will be solely borne that government.

Excellency,

During the past one year, with exceptional self-restraint, the Islamic Republic of Iran created many opportunities and possibilities for diplomacy, but unfortunately no good use of these opportunities was made. In my letter dated 6 June 2018, I made it clear to some of you that "there shall be no doubt that concurrent continuation of the JCPOA and sanctions is impossible." Also, stating that "for the time-being" Iran's actions will remain in the framework of the JCPOA, I warned that "the next step which will not be too far away, is to cease performing Iran's commitments in whole or in part, which is among Iran's rights under paragraph 36 of the JCPOA."

Now, after elapse of a year, the Islamic Republic of Iran, considers "ceasing performing some of its commitments under the JCPOA" inevitable—in order to preserve the JCPOA by restoring its balance. Therefore, I would like to bring the following to your attention:

1. In response to the US withdrawal from the JCPOA and the re-imposition of its unlawful sanctions, the Islamic Republic of Iran, in accordance with its rights under paragraphs 26 and 36 of the JCPOA, will "cease performing its commitments under the JCPOA in part". Details will be notified by the Foreign Minister to the distinguished coordinator of the JCPOA.

2. If mechanisms related to meeting Iran's rightful demands are operationalized within 60 days—particularly if the level of Iran's oil exports return to the level existing in April 2018 and the undisturbed return of its revenues is guaranteed—the above-mentioned decision will be reversed. Otherwise, in line with paragraphs 26 and 36 of the JCPOA, the Islamic Republic of Iran will further reduce its voluntary measures and will continue this trend in the next stages.

3. The Islamic Republic of Iran stands ready, at any time, to resume implementing its voluntary commitments if, and to the same extent as, its rightful demands from the JCPOA are met.

4. If, sixty days from now, the project of Modernization of Arak Heavy Water Reactor is not returned to its completion process based on the agreed upon time-table, the Islamic Republic of Iran will abandon the joint project of completing this reactor and will return to the original design, the knowledge and technology of which are available to Iran.

My country has so far been vigilant in maintaining the JCPOA as a valuable achievement of diplomacy, and to this end has endeavored unilaterally to preserve it against the destructive attempts of the United States. You are well aware that despite being deprived of

the dividends of sanctions lifting, the Islamic Republic of Iran has been fully compliant with all its commitments in the JCPOA, as certified by now fourteen consecutive reports of the IAEA. The above-mentioned measures have only been adopted after one year since the unlawful withdrawal by the U.S., and are solely meant to restore balance in the implementation of the JCPOA. But if Iran, under whatever pretext, is subjected to any resolution of the Security Council, not only will the process of implementation of the JCPOA come to an absolute end, but Iran will also trigger the process of withdrawing from the NPT, in accordance with paragraph 1 of Article X therein.

We stand ready to continue our consultations with the remaining JCPOA participants at all levels.

Excellency,

I would like to take this opportunity to bring another issue to your attention. During past four decades, the Islamic Republic of Iran has been hosting millions of immigrants and refugees from Afghanistan, and as its humanitarian responsibility has shown them excellent hospitality. Now, near three million Afghans live in Iran and enjoy all the advantages of Iranian nationals, including health and education. Considering costs such as job opportunity removal, education, outflow of foreign currency, and using subsidies by the government for food, medicine, health and fuel, municipal services and transportation, the annual cost of Afghan nationals residing in Iran is estimated to be around eight billion euros annually. On the other hand, for the past several decades, the Islamic Republic of Iran has been fighting a difficult and unremitting fight against narcotics produced in Afghanistan and trafficked through Iran to other destinations, especially to Europe, by international drug traffickers. This fight has taken a heavy human and financial toll on us; more than 4000 members of our law enforcement forces and our border patrol have lost their lives, and annually an amount of more than 150 million euros is being spent. Unfortunately, US sanctions have resulted in a considerable decrease in our financial resources, and therefore the government is obliged to limit both these expenses and expenses arising from other international services.

It is evident that full responsibility for all consequences of the current situation lies fully on the shoulders of the U.S. government.

Best Regards,
Hassan ROUHANI

Letter of 8 May 2019 to JCPOA Coordinator informing them of remedial measures by Iran following the exhaustion of procedures under Paragraph 36

In the name of God, the Compassionate, the Merciful

8 May 2019

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

As you and the JCPOA Participants are well-aware, the Islamic Republic of Iran has repeatedly—including *inter alia* in some of my 16 letters to you and other JCPOA Participants from 2 September 2016 to 7 April 2019, and in my letter of 10 May 2018 to the Secretary-General of the United Nations (S/2018/453)—invoked paragraph 36 of the JCPOA in response to primarily U.S. grave violations and failures to comply with its undertakings under the agreement, most notably after the unlawful unilateral withdrawal from the JCPOA. Following several meetings of the JCPOA Joint Commission, the overwhelming majority of the cases of "significant non-performance" remained unresolved, as solid "grounds to cease performing its commitments under this JCPOA in whole or in part" by Iran.

Additionally, ever since the re-introduction and re-imposition by the U.S. of the sanctions specified in Annex II that it had ceased applying under the JCPOA, Iran has been entitled to cease performing its commitments under the JCPOA in whole or in part in accordance with paragraph 26 of the JCPOA, *while remaining fully within the terms of the agreement.*

Yet, while officially reserving the above-mentioned rights under the JCPOA, Iran decided to exercise maximum restraint and honor the request of the remaining JCPOA Participants to give them a "few weeks" to deliver the commitments made by them on May 15, May 25, 6 July and 24 September of 2018. As fourteen IAEA reports—including four reports following the U.S.' withdrawal—substantiate, Iran continued to fully implement all its commitments under the JCPOA.

Now a year has passed since the announcement of the unlawful withdrawal from the JCPOA by the United States. And it is almost a year since the EU/E3+2 made firm political commitments to restore the lost balance of the deal following the US withdrawal. Regrettably, and in spite of repeated promises and declarations, to this day absolutely no effective practical measure has been put in place in terms of the lifting of sanctions—and their effects as specified in Annex II—that allows for the normalization of trade and economic relations with Iran.

Hence, and in implementation of the first provision of the attached letter dated today from H.E. Dr. Hassan Rouhani, President of the Islamic Republic of Iran and addressed to his E3+2 counterparts, I have been instructed by the highest authorities of the Islamic Republic of Iran to officially notify you in your capacity as Coordinator of the JCPOA Joint Commission—and through you all the JCPOA participants—that the Islamic Republic of

Iran, in exercise of its rights under paragraphs 26 and 36 of the JCPOA, has decided "to cease performing its commitments in part" as of today. These voluntary measures are:

1. Keeping its uranium stockpile under 300 kg of up to 3.67% enriched uranium hexafluoride (UF6) contained in paragraph 7 of JCPOA and paragraph 56 of Annex I;

2. Making available heavy water, in excess of 130 metric tons, for export to the international market, contained in paragraph 14 of Annex I.

In fact, the latest decision of the United States—in contravention of the JCPOA as well as Security Council Resolution 2231—regarding international nuclear cooperation, has prevented the implementation of these provisions by impeding the sale, transfer or exchange of enriched uranium and heavy water produced by Iran.

Furthermore, in the implementation of the second provision of the aforesaid letter, the Islamic Republic of Iran will "cease performing its commitments in part" with regard to the following voluntary measures in 60 days:

1. Keeping its level of uranium enrichment at up to 3.67 percent;

2. Redesigning and rebuilding a modernized heavy water research reactor in Arak based on an agreed conceptual design, unless agreed timetable is respected.

The Islamic Republic of Iran—in implementation of the fourth provision of the aforesaid letter of President Rouhani—is prepared to engage in expeditious and extensive negotiation with the "Arak Working Group" co-chaired by China and United Kingdom.

As and when needed, the IAEA will be informed of the exact timing and other details of the measures to be taken.

Iran's decision is fully consistent with the JCPOA and within the terms foreseen by it. We reaffirm our resolve to continue to support the JCPOA in good faith and in a constructive atmosphere.

The Islamic Republic of Iran remains prepared to engage in good faith dialogue with the E3+2 at all levels, and to resume implementation of all the above provisions commensurate with the realization of the objectives set out in the JCPOA and commitments made by the Joint Commission since May 8, 2018.

I would be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this letter with the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 7 July 2019 to JCPOA Coordinator on Iran's second remedial step under Paragraph 36

In the name of God, the Compassionate, the Merciful

7 July 2019

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

Pursuant to my previous letters, and in particular my letter of 8 May 2019, I would like to inform you, in your capacity as the Coordinator of the JCPOA Joint Commission, that (while noting the positive discussions that took place in the recent session of the JCPOA Joint Commission) the issues arising from the withdrawal of the United States from the JCPOA and the re-imposition of its sanctions—as well as E3 failures to implement their commitments under the JCPOA and the statements of 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019—have remained unresolved. Therefore, consistent with the letter of the President of the Islamic Republic of Iran to his E3+2 counterparts dated 8 May 2019, and in the exercise of its right under paragraph 36 of the JCPOA, the Islamic Republic of Iran as of today will no longer be committed to keeping its level of uranium enrichment at "up to 3.67 percent" under Paragraph 5 of the JCPOA and the corresponding paragraphs in Annex I.

With regard to ceasing to perform its commitments on "redesigning and rebuilding a modernized heavy water research reactor in Arak", the Islamic Republic of Iran, taking into account the recent promising developments within the Arak Working Group and the Joint Commission, has decided to closely monitor progress in the project and will decide to exercise its right under paragraph 36 if and when necessary. The IAEA will be informed of the exact timing and other details of the measures to be taken.

I would like to reaffirm that Iran's decision is fully consistent with the JCPOA and within the terms foreseen by it. We reaffirm our resolve to continue to support the JCPOA in good faith and in a constructive atmosphere, as long as the remaining participants fully observe their commitments. I wish to reiterate that all these measures can be reversed and the Islamic Republic of Iran remains prepared to engage in good faith dialogue at all levels, and to resume full implementation commensurate with the implementation of the commitments by the remaining participants in the JCPOA and those made by the Joint Commission since 8 May 2018.

Having failed to take any meaningful step to implement their commitments under the JCPOA and those made after the U.S.' unlawful withdrawal and its launching of an economic war against the Iranian people, the minimum immediate expectation from the EU/E3—while taking the necessary practical measures to fulfil their economic obligations—is to politically support Iran's remedial measures under paragraph 36 and to not provide a convenient cover for the American violators to continue their "maximum pressure" policy, which is in actuality nothing short of economic terrorism against the Iranian people.

This is a pure governmental decision, and no pretext such as the independence of the private sector, can be used to avoid taking a resolute political stance to preserve the JCPOA by respecting all its provisions including its paragraph 36—including at the forthcoming U.S. driven emergency meeting of the IAEA Board of Governors.

I would be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this notification with the remaining participants.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 5 September 2019 on third remedial step by Iran under Paragraph 36

In the name of God, the Compassionate, the Merciful

5 September 2019

H.E. Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Defense Policy

Coordinator of JCPOA Joint Commission

Excellency,

Pursuant to my previous letters, and in particular my letters of 6 November 2018, 8 May 2019 and 7 July 2019, I would like to inform you, in your capacity as the Coordinator of the JCPOA Joint Commission, that the issues arising from the withdrawal of the United States from the JCPOA and the re-imposition of its sanctions—as well as E3 failures to implement their commitments under the JCPOA and those enumerated in the statements of 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018, 6 March 2019, 28 June 2019 and 28 July 2019—still remain unresolved. Indeed, the effects of sanctions-lifting commitments by the EU/E3 as described in Annex II of the JCPOA are now down to the lowest level ever. Moreover, the difficulties and obstacles imposed on Iran's public and private sectors in all areas of trade, finance, banking, insurance and transportation—even in the territories of most of the remaining participants of the JCPOA and even in areas directly related to humanitarian needs—are now worse than even before conclusion of the accord.

Therefore, consistent with the letter of the President of the Islamic Republic of Iran to his E3+2 counterparts dated 8 May 2019, the Islamic Republic of Iran—in the exercise of its rights and the remedies foreseen under paragraph 36 of the JCPOA—as of today ceases implementation of its voluntary commitments under the JCPOA in the field of nuclear research and development, including those voluntary R&D commitments specified in paragraphs 1 to 7 of the JCPOA and the corresponding paragraphs in Annex I. The IAEA will be informed of the exact timing and other details of the measures to be taken, as appropriate and necessary.

I would like to reiterate that Iran's decision is fully consistent with the JCPOA and within the terms foreseen by it. Having triggered paragraph 36 following the unlawful U.S. withdrawal from the JCPOA, and having provided ample opportunity for the E3/EU to implement their own independent obligations under the JCPOA—while explicitly reserving our remedial rights—I formally explained the exhaustion of the procedures of paragraph 36 in my letters of 6 November 2018 and 8 May 2019. The Islamic Republic of Iran thus began applying limited and gradual remedial measures—as foreseen in paragraph 36—in response to multiple cases of unresolved significant non-performance by several JCPOA participants, particularly over the last 16 months.

Mindful of certain initiatives at the highest levels by some JCPOA participants and in order to manifest our good faith and serious desire to protect the JCPOA, even at this third phase of partial cessation of implementation of our voluntary commitments, all measures taken will be perfectly and swiftly reversible, and the Islamic Republic of Iran remains prepared to continue dialogue at all levels, and to resume full implementation commensurate

with the implementation of the commitments by the remaining participants of the JCPOA and those made by the Joint Commission since 8 May 2018.

I would be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this notification with the remaining participants.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 8. Letters on inadmissibility of E3 resort to Dispute Resolution Mechanism

Letter of 25 June 2019 to JCPOA Coordinator responding to the 21 June demarche of E3 ambassadors in Iran concerning Iran's actions under Paragraph 36

In the name of God, the Compassionate, the Merciful

25 June 2019

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

I would like to inform you, in your capacity as the Coordinator of the JCPOA Joint Commission, that on 21 June 2019 the ambassadors of the E3 in Tehran presented a demarche containing accusations, misinterpretations, misrepresentations, threats and ultimatums that manifest a lack of good faith and mutual respect, and constitute multiple grave breaches of the letter, spirit and intent of the JCPOA. They made a further breach of good faith by publicizing their demarche. In this regard, I wish to bring the following to the attention of the members of the Joint Commission:

- The Islamic Republic of Iran categorically rejects the intolerable threats contained in said demarche, particularly coming from those who have failed to redress their own record of providing "absolutely nothing" in response to Iran's repeatedly verified "full compliance" with the JCPOA.
- The demarche represents unlawful "sanction blackmail" which the U.S. and its partners have been habitually engaged in, abusing the Security Council and their temporary financial status to advance their illegitimate political agenda. These shortsighted policies have driven our region and the rest of the world into chaos and despair.
- Resorting to the threat of renewed Security Council sanctions to blackmail Iran is not only without a shred of foundation in the JCPOA, Security Council resolution 2231, or in general principles of law among civilized nations, but also an immoral act of bad faith.
- It is now crystal clear that such illusions about their ability to abuse JCPOA mechanisms has prompted the E3 to procrastinate for the past 4 years, and particularly since U.S.' unlawful withdrawal, causing irreparable harm to the Iranian economy, as well as aiding and abetting the United States in carrying out its economic terrorism against the Iranian people.
- Ever since the Implementation Day, the E3 have been in significant non-performance of their own obligations, particularly under paragraph 3 of Annex 2 of the JCPOA—obligations that are "effects-based" and independent from those of the United States. E3's material breach of their obligations has reached its gravest level following the

U.S.' unlawful withdrawal from the JCPOA. The Islamic Republic of Iran has repeatedly protested against E3 non-performances officially in Joint Commission meetings, as well as in official communications.

- After over 13 months, the E3 have not implemented even a single of the 11 commitments they undertook on 6 July and 24 September 2018 following Joint Commission Ministerial Meetings convened upon Iran's request under paragraph 36 of JCPOA. They have also continued significant non-performance of their own independent obligations, particularly those under paragraph 3 of Annex 2. As such they are in no position to make any demand from the Islamic Republic of Iran, which—even after invoking paragraph 36—has remained in full compliance as verified by 5 IAEA reports.
- The ignorant assertion in the demarche that "Paragraph 36 has not been triggered by Iran" is nothing but absurd:
    - Iran first referred to multiple cases of significant non-performance by the United States and even the E3/EU in its letter of 2 September 2016, and officially invoked paragraph 36 of the JCPOA for the first time in its letter of 16 December 2016 in response to the enactment of ISA. Since then, Iran has repeatedly referred to paragraph 36 in many letters.
    - Following the unlawful U.S. withdrawal, Iran officially triggered paragraph 36 of JCPOA in its letter of 10 May 2018, leading to Joint Commission meetings at official and ministerial levels.
    - In its letter of 21 August 2018, Iran clearly stated:

      The Islamic Republic of Iran invoked the dispute resolution mechanism under paragraph 36 of the JCPOA, to which end the Joint Commission convened at the level of political directors and Ministers of Foreign Affairs on 25 May and 6 July 2018 respectively. In the statement from the Ministerial Joint Commission of 6 July 2018, the ministers expressly affirmed that 'the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA' and underlined their commitment to seek 'practical solutions in order to maintain the normalisation of trade and economic relations with Iran'… Regrettably, despite these commitments by the ministers in the Joint Commission, no operational mechanism has either been established or even clearly formulated… Thus, *Iran is left with no choice but to* re-establish some balance in the reciprocal commitments and benefits under the accord and *'cease performing its commitments under JCPOA in part' in response to the full re-institution of the first batch of U.S. sanctions; a right that Iran was entitled to exercise immediately after U.S. unlawful withdrawal on May 8th.*
    - In its letter of 6 November 2018, Iran stated:

      Iran's economic dividend from the JCPOA is absolutely naught. As a matter of fact, Iran's business with the rest of the world is today more restricted than it was in 2012… *European banks and banks from other JCPOA Participants are refusing to provide financial services for food and medicine, causing life-threatening medicine scarcity in Iran.* It is important to note that this is taking place not only in breach of the commitments under the JCPOA and the two ministerial statements, but against the order of the International Court of Justice…

      Iran underlined in this letter:

      My Government initiated the Dispute Resolution Mechanism under paragraph 36 of the JCPOA on 10 May 2018. But, acting in good faith, we refrained from applying the 'remedy' and did not immediately resort to 'cease performing its commitments under the JCPOA', in order to enable the remaining JCPOA

participants to make good on their above-mentioned promises. However, as I specifically stated in my letter of 10 May 2018 'nothing in this period would affect Iran's right to react and protect its national interest as appropriate; a right which is manifestly recognized in the JCPOA and subsequent UNSC resolution 2231(2015).

Iran formally called for another ministerial meeting to address the compliance problem, which never took place.

- In its letter of 7 April 2019, Iran objected to consent of E3/EU to G-7 communique stating that

paragraph 52 is a fundamental departure by E3/EU—as 4 JCPOA participants—from the underlying object and purpose of the JCPOA, and if not resolved satisfactorily, could constitute significant non-performance of the obligations under the JCPOA and also contravene UNSCR 2231 (2015). This compounds—to an untenable level—the previous significant non-performances by Western members of E3/EU+3, following the E3/EU's prolonged and utter failure to take any meaningful practical measure in performance of their JCPOA obligations as well as their repeated commitments following the U.S. unilateral and unlawful withdrawal from the JCPOA, including those undertaken *inter alia* on 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019.

- The E3—or the Commission—never responded to those letters, let alone object to the invoking of paragraph 36, or contesting Iran's open assertions about significant non-performance by the U.S. and independently by E3.

- No one ever "request[ed] that the issue be considered by an Advisory Board."

- Therefore, it is crystal clear that Iran has not only triggered paragraph 36 several times in good faith, but exhausted beyond any reasonable expectation all the avenues for seeking redress before taking the prescribed remedy in that paragraph.

- The E3, following their dismal performance, are in no position—legally or morally—to threaten Iran with a snapback of Security Council resolutions in response to Iran's restrained application of the remedy explicitly provided for in the JCPOA.

  - Paragraphs 36 and 37 of the JCPOA are clearly designed and explicitly worded to provide both Iran and the E3+3 with legal remedy in case of initial non-performance by the other side.

  - As pointed out by an international law scholar, "This means that the US withdrawal—and the remaining parties' inability to compensate it and normalise economic relations with Iran as per their obligations—has effectively rendered the 'snapback' provision irrelevant and inoperative for all remaining parties. In other words, the 'snapback' was not a mechanism meant to deter Iran from taking lawful measures within the framework of the deal in view of assuring the other parties' compliance; it was meant to deter Iran from initiating a significant violation."[88]

  - The E3 cannot deprive Iran of its legal remedy through blackmail.

- The E3 record vis-a-vis nuclear disarmament and Israel's nuclear arsenal deprives them of any ground to question Iran's nuclear intentions with or without NPT. Iran—

[88] https://www.euronews.com/2019/06/14/europe-should-recall-its-commitment-to-the-iran-deal-instead-of-enabling-us-hawks-view

based on its own strategic calculations and religious principles codified in the Fatwa of Ayatollah Khamenei—will never seek to develop or acquire nuclear weapons.

- Instead of making illegal threats, the E3 can reverse the current trend by implementing their own commitments under JCPOA—with special attention to paragraph 3 of Annex 2, as well as their commitments following the U.S. withdrawal *inter alia* on statements of 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019.

As I pointed out in my letter of 8 May 2019, "We reaffirm our resolve to continue to support the JCPOA in good faith and in a constructive atmosphere. The Islamic Republic of Iran remains prepared to engage in good faith dialogue with the E3+2 at all levels, and to resume implementation of all the above provisions commensurate with the realization of the objectives set out in the JCPOA and commitments made by the Joint Commission since May 8, 2018."

I wish to request that this letter be brought to the attention of the members of Joint Commission.

Please accept the assurances of my highest consideration.

M. Javad Zarif

Letter of 17 July 2019 to JCPOA Coordinator on cases of significant non-performance by EU/E3 under Paragraph 36

In the name of God, the Compassionate, the Merciful

17 July 2019

Her Excellency

Ms. Federica Mogherini

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

Pursuant to my previous letters to you on the implementation of the sanction-lifting pillar of the JCPOA, most notably on 2 September 2016, 21 August 2018, 6 November 2018 and 7 April 2019, I would like to bring to the attention of the Joint Commission—through you in your capacity as the coordinator of the Commission— multiple compliance issues related to the EU/E3 that are inconsistent with the letter, spirit and intent of the JCPOA, as well as the Joint Commission statements adopted fallowing the United States' unilateral and unlawful withdrawal from the Joint Comprehensive Plan of Action on 8 May 2018.

– **Para. 3 of Annex II of the JCPOA and Para. 8 of Joint Statement of 6 July 2018:** E3/EU have failed to preserve the effects of the EU sanction-lifting as specified in Annex II of the JCPOA. Para. 3 of Annex II of the JCPOA clearly defines the effects of the lifting of EU economic and financial sanctions. It is an established fact that, regrettably, Iran's benefits from the defined effects of the sanction lifting have been affected dramatically after 8 May 2018. For instance, contrary to the provision of Para. 19(iv) of the JCPOA, SWIFT has now suspended the provision of financial messaging services to several Iranian persons that are listed in Attachment 1 to Annex II. Iranian persons also have been prevented from receiving certain services within EU territories. Moreover, Iran's business with European operators is now even more restricted than it was before the JCPOA.

– **Para 30 of the JCPOA and Paras. 4-5 of Annex II:** Contrary to Para. 30 of the JCPOA, EU Member States, including the E3, have supported the process of the extradition of Iranian nationals to the United States for politically motivated cases related to alleged breaches of the unlawful and unilateral US sanctions regime. The EU and its member states have failed to take appropriate measures in preventing such unlawful extraditions. The finalization of the extradition processes will most certainly adversely affect the normalization of trade and economic relations with Iran, in direct contravention of the JCPOA.

  The content of the relevant dossiers indicates that these cases, in particular those pertaining to Behzad Pourghannad and Ahmad Khalili in Germany, Jalal Rohollahnejad in France and Seyed Sajad Shahidian in United Kingdom, are in part or in whole related to alleged violations of US unilateral sanctions which are covered by the sanction-lifting specified in the JCPOA. Many legal experts believe that the US has misused the relevant judicial systems through modifying the charges or the alleged conducts. It is regrettable that concerned EU member states have done nothing to prevent

such misuse. Indeed, it is bizarre that on the one hand the EU is ostensibly requesting that European operators refrain from complying with the extraterritorial sanctions of the United States, while on the other, EU member states through their official organs give effect to those very sanctions.

– **Paras. 1.3 and 4.3 of Annex II of the JCPOA:** On Thursday 4 July 2019 British Marines in the Strait of Gibraltar detained Grace 1, a Panamanian supertanker that was carrying Iranian crude oil. The United Kingdom has argued that this tanker was carrying Iranian oil to Syria in alleged contravention of EU sanctions. However, this action is not only in breach of international freedom of navigation rules, but is also inconsistent with the letter and spirit of the relevant provisions of the JCPOA. Of particular concern, it has been reported that the oil tanker was unlawfully seized following a request from the United States to the United Kingdom. As such, in effect the United Kingdom—as a State—is an accessory to US unilateral oil sanctions against Iran.

– **Para 28 of the JCPOA and Para. 5 of Annex II of the JCPOA:** After 8 May 2018, there has been a general attempt by the EU/E3 to harmonize their policies and sanction regime in line with United States policies and its sanctions regime. For example, the decision by Germany on 21 January 2019 and by France on 31 March 2019 to prevent Mahan Air from landing in their territories is contrary to Para 28 of the JCPOA, under which the E3/EU+3 explicitly commit to refraining from imposing exceptional or discriminatory requirements in lieu of the sanctions. These developments alongside the re-imposition of US sanctions against Iran's Civil Aviation after 8 May 2018 (contrary to Para. 5 of Annex II of the JCPOA), suspension of the execution of commercial contracts to sell civilian passenger aircraft to Iran as well as non-provision of services to Iranian airliners at European airports, have prevented Iran from benefiting from the effects of the sanction-lifting provisions under the JCPOA. This also amounts to non-compliance with the ICJ provisional order.

– **Paras. 28 and 30 of the JCPOA:** It is additionally a matter of grave concern that the recent modifications in the sanction listing of the European Union ignore the developments that have taken place following the JCPOA. For instance, the EU has updated the justification of the listing of a company for "contribut[ing] to financing the strategic interests of the regime" or of an organization for "concerns over possible military dimensions (PMD) to Iran's nuclear programme". The E3/EU are committed under Para. 30 of the JCPOA to not apply sanctions "for engaging in activities covered by the lifting of sanctions". Furthermore, we have received concerning reports indicating that the EU has invoked the JCPOA as a ground to reject the applications of Iranian entities to be delisted. The JCPOA and its Annex V (implementation plan) must in no way be misused as pretexts for depriving Iranian persons from their rights, and in treating them in a discriminatory manner.

– **Para 27 of the JCPOA and Para. 8 of the Joint Statement of 6 July 2018:** The E3/EU have failed to take adequate steps to encourage EU operators to continue their commercial relations with Iran after 8 May 2018; rather, the precise opposite has occurred. For instance, in a Q&A (Guidance note 2018/C 277 I/03) on 7 August 2018, the EU declared that EU operators "are free to choose whether to start working, continue, or cease operations in Iran." This has led to a situation in which almost all major European companies have decided to leave Iran. In accordance with Para. 27 of the JCPOA, the E3/EU is committed to "take adequate administrative and regulatory measures to ensure the clarity and effectiveness of with respect to the lifting of sanctions". Iran has repeatedly requested that the EU update its Information Note in light of the re-imposition of US unilateral sanctions—the EU/E3 have failed to do so. Additionally, under the same, "the EU and its Member States commit to consult with Iran regarding the content of the guidelines and statements on the sanction-lifting". EU member States, including the E3, have regrettably failed to do so.

These multiple and clear cases of significant non-performance of E3/EU commitments under the JCPOA have significantly jeopardized normalization of economic relations with Iran and need to be addressed in a timely and appropriate manner. The Islamic Republic of Iran expresses its concern over these issues, which could be considered as cases of significant non-performance qualified in the JCPOA dispute settlement mechanism, and requests that they be addressed urgently in the coming session of the Joint Commission.

I would be grateful if you, in your capacity as the coordinator of the Joint Commission of the JCPOA, could share this letter with the remaining participants of the JCPOA and take all necessary measures in accordance with Para. 3.1 of Annex IV of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter of 29 January 2020 to new JCPOA Coordinator, rejecting his letter of 14 January purporting to activation of DRM by E3 under Paragraph 36

In the name of God, the Compassionate, the Merciful

29 January 2020

His Excellency

Mr. Josep Borrell

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

I am writing to express our grave concern regarding your letter of 14 January 2020, attaching letter of the foreign ministers of France, Germany, and the United Kingdom, purporting the "*Activation of the JCPOA Dispute Resolution Mechanism*". The recent move expressly reveals the E3's dramatic shift on the intent and the underlying objectives of the JCPOA. In this vein, the letter is in blatant contravention of the provisions of JCPOA and is disparaging to the will of the international community as expressed in UNSC Resolution 2231. In response to the unfounded claims in the E3's letter, I would like to raise the following issue for consideration and appropriate rectification by the remaining JCPOA Participants, including the Coordinator, as well as for immediate action by the Coordinator to correct the discriminatory approach—as elaborated in item IV below—in notification of correspondence from JCPOA Participants.

I. Exhaustion of DRM by the Islamic Republic of Iran

With respect to the genuine unresolved issues, namely the significant non-performance as the result of continuous unlawful conduct of the United States and ongoing failures of the E3/EU—fully elaborated in my pervious communications—the Islamic Republic of Iran has expressly and formally, on several occasions, communicated to the Coordinator of JCPOA Joint Commission—and through her to all other JCPOA participants—that it had triggered DRM under paragraph 36 of the JCPOA.[89]

The unresolved issues are: 1) the unlawful US withdrawal and re-imposition of sanctions; 2) the significant non-performance by E3/EU in fulfilling their commitments under the JCPOA; and 3) the utter failure to implement commitments adopted unanimously by the Joint Commission at ministerial level on 6 July 2018 and 24 September 2018—each following meetings at the level of Deputy Foreign Minister/Political Director as foreseen by Paragraph 36, and convened "Upon the request of the Islamic Republic of Iran" to "review unresolved issues arising from the unilateral withdrawal of the United States from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex

[89] Paragraph 36 of the JCPOA: "*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*"

II", which confirmed that "the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA."

Following the unlawful withdrawal of the United States and the re-imposition of its nuclear related sanctions already lifted in accordance with the JCPOA, Iran, while reserving its immediate right under paragraph 26[90], officially triggered paragraph 36 of JCPOA in its letter of 10 May 2018, leading to the holding of Joint Commission meetings at official and ministerial levels. As clarified in detail in my letter of 21 August 2018, Iran clearly invoked the DRM under paragraph 36 of the JCPOA, in response to which the Joint Commission—as prescribed by paragraph 36 of the JCPOA—convened at the level of political directors and Ministers of Foreign Affairs on 25 May[91] and 6 July 2018 respectively[92].

On 6 July 2018, at the ministerial Level, the JCPOA Joint Commission recognized that "*the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA*". In fact, that was self-evident as reflected in paragraph 26 of the JCPOA. Unilateral withdrawal of one Participant and re-imposition of sanctions lifted under the JCPOA had such dramatic negative effects that it even prevented other participants from fulfilling their commitments, and has substantially endangered the stability and integrity of the entire agreement. For this reason, t*he Joint Commission met to review "unresolved issues arising from the unilateral withdrawal of the United States from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex II.*"

Fully recognizing the fact that the US withdrawal and the re-imposition of its sanctions would greatly affect the full implementation of the JCPOA, the remaining Participants made 11 complementary commitments to redress the unlawful withdrawal of the US, without which the continuation of full implementation by Iran would have been irrelevant. Regrettably, none of the commitments made by the E3/EU have been implemented or have resulted in practical solutions. As specified in my letter dated 7 April 2019, the E3/EU did not take any meaningful practical measure in performance of their own JCPOA obligations as well as their repeated commitments following the U.S. unilateral and unlawful withdrawal from the JCPOA.

Furthermore, there have been multiple significant performance issues related to the E3/EU that are inconsistent with the letter, spirit and intent of the JCPOA, as well as the Joint Commission statements adopted following the US withdrawal. I have duly registered these significant non-performance issues in several letters to the Coordinator of JCPOA Joint Commission and elaborated them in my letter of 17 July 2019.

The E3—or the Joint Commission—never questioned the unresolved issues which have been raised by Iran through different letters, let alone objected to the invoking of paragraph 36, or contested Iran's open assertions about the US' and E3's significant non-performance. Late submitted challenges by the E3 cannot change the facts, and would certainly not deprive Iran from exercising its rights under paragraphs 26 and 36.

Due to the fact that the issues arising from the withdrawal of the United States from the JCPOA and the re-imposition of its sanctions—as well as E3 failures to implement their commitments under the JCPOA and the statements of 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019—have remained unresolved, Iran decided to

[90] *Paragraph 26 of the JCPOA: "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."*

[91] *The Chair's statement following the meeting states that meeting was held "upon the request of the Islamic republic of Iran in order to review the implications of the withdrawals of the United States from the JCPOA."*

[92] *The Joint Statement states that "the Joint Commission met to discuss the way forward to ensure the continued implementation of the nuclear deal in all aspects and review unresolved issues arising from the unilateral withdrawal of the United States from the agreement."*

exercise its right under paragraph 36 of the JCPOA to cease its commitments in part beginning from 8 May 2019.

ii. Inadmissibility of Invoking of Paragraph 36 of the JCPOA by E3

After one year of Iran's restraint with good faith following the US withdrawal, and following exhaustion of all recourses foreseen in Paragraph 36 by Iran, any attempt by the E3 to initiate the DRM—without regard to settlement of the unresolved issues raised by Iran—is inconsistent with "good faith" that underpins any international agreement and has been explicitly underlined in many paragraphs of the JCPOA. This view is shared by the Russian Federation Foreign Minister in his letter of 15 January 2020.

Therefore, any DRM initiation disregarding these facts and without preliminary settlement of issues arising from the multiple cases of already-substantiated—and even admitted—significant non-performance by the US and E3 of their obligations under the JCPOA as well E3/EU's abject failure to fulfil their commitments after the unlawful US withdrawal—hence failing to create conditions ensuring "essential" economic benefits for Iran from the lifting of the EU sanctions—is without any base and thus inadmissible.

Through different formal letters to the Coordinator of the JCPOA Joint Commission, Iran has exhausted the DRM under Paragraph 36. Following the re-imposition with full effect of all lifted sanctions by the United States on 5 November 2018, Iran—in its letter of 6 November 2018 to the Coordinator of JCPOA Joint Commission under Paragraph 36—clearly stated that it had "initiated the Dispute Resolution Mechanism under paragraph 36 of the JCPOA on 10 May 2018. But, acting in good faith, we refrained from applying the 'remedy' and did not immediately resort to 'cease performing its commitments under the JCPOA', in order to enable the remaining JCPOA Participants to make good on their above-mentioned promises." The letter provided a full chronology of events following the unlawful U.S. withdrawal and the multiple cases of significant non-performance of E3/EU's own obligations under the JCPOA, Iran clearly articulated that it had exhausted the procedures under paragraph 36 and had no option but to resort to the remedies provided under said paragraph. In another good-faith effort to preserve the JCPOA, Iran requested the convening of *another* ministerial meeting of the Joint Commission, which was never convened.

In another manifestation of good faith, Iran only started to cease performing its commitments in part on 8 May 2019—over six months after the letter of 6 November 2018—while informing the Coordinator of the Joint Commission that "Following several meetings of the JCPOA Joint Commission, the overwhelming majority of the cases of 'significant non-performance' remained unresolved, as solid 'grounds to cease performing its commitments under this JCPOA in whole or in part' by Iran'." Iran received no formal response even at this stage.

The first official reaction from the E3 came on 21 June 2019 in form of a publicized demarche. Within 4 days, in a letter dated 25 June 2019, Iran provided a fully-documented rebuttal to "accusations, misinterpretations, misrepresentations, threats and ultimatums that manifest a lack of good faith and mutual respect, and constitute multiple grave breaches of the letter, spirit and intent of the JCPOA" and elaborated in detail how Iran had triggered the DRM.[93]

[93] Iran triggered the DRM through as expressed in my letters: 10 May 2018, 21 August 2018, 6 November 2018, and 7 April 2019. For better clarification, see the attached Diagram (How Iran Exhausted the Procedure of Dispute Resolution Mechanism) which I tweeted on 10 July 2019 (https://twitter.com/JZarif/status/1148917515256500225) .

Therefore, the E3 are not in a legal or moral position to trigger the DRM in response to Iran's restrained application of the lawful remedy explicitly recognized in the same paragraph of JCPOA. The E3 cannot pursue the same legal course of action vis-à-vis Iran. This is against the object of the DRM in the JCPOA and of a general principle of law among civilized nations.

Considering the above-mentioned facts and bearing in mind that the E3 request is not aimed at promoting the goals and purposes of the JCPOA and UNSC Resolution 2231, resorting to the DRM and any pointless follow-up attempts are groundless in fact or law, unjust and unlawful, and shall be strongly rejected.

iii. Irresponsible Statements of E3 Officials

On 23 September 2019, in a televised interview that would only embolden the U.S. president in his long-held aggressive stance on the JCPOA, the prime minister of the United Kingdom portrayed the JCPOA as a "*bad deal*" and went so far as to ask for a "*better deal*" to be made by the "*one guy who can do a better deal.*"[94]

Two days later and on 25 September 2019, the UK foreign secretary in an Oral Statement to Parliament stated, "*as both President Trump and President Macron have said, we can improve upon the JCPOA. Ultimately, we need a longer-term framework that provides greater certainty over Iran's nuclear programme.*"[95]

The E3 assertion in the Heads of States' Joint Statement of 12 January 2020 that "we will also need to define a long-term framework for Iran's nuclear programme"[96] represents a grave breach of the JCPOA and Security Council Resolution 2231, in a clear manifestation of "bad faith" questioning of the already negotiated time-lines firmly established without any qualification in the JCPOA and Security Council Resolution 2231.

On 14 January 2020 the UK prime minister in a televised interview went a step further and publicly aligned and associated his country with the party killing the JCPOA: "Let's replace it with the Trump deal, President Trump is a great dealmaker. Let's work together to replace the JCPOA and get the 'Trump deal' instead."[97]

Such statements are in grave contravention of Paragraph 28 of the JCPOA[98] and a telling sign of a European reversal of attitudes towards the landmark accord and illustrate the apparent total E3 submission to the whims of this U.S. administration.

[94] British Prime Minister, Boris Johnson's interview with "NBC Nightly News", 23 September 2019. Available at: https://www.nbcnews.com/news/world/boris-johnson-calls-new-iran-nuclear-deal-says-trump-one-n1057541

[95] UK Foreign Secretary, Oral Statement to the Parliament, 25 September 2019. Available at: https://hansard.parliament.uk/Commons/2019-09-25/debates/95159D35-0C2F-4137-9553-5711477D8CBE/Iran

[96] Statement from the heads of state and government of France, Germany and the United Kingdom: 12 January 2020. Available at: https://www.gov.uk/government/news/e3-statement-on-the-jcpoa-12-january-2020

[97] British Prime Minister, Boris Johnson's interview with "BBC News", 14 January 2020. Available at: https://www.bbc.com/news/uk-politics-51104386

[98] Paragraph 28 of the JCPOA: "*The E3/EU+3 and Iran commit to implement this JCPOA in good faith and in a constructive atmosphere, based on mutual respect, and to refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation. Senior Government officials of the E3/EU+3 and Iran will make every effort to support the successful implementation of this JCPOA including in their public statements*"

In its totality, the E3 recent statements and actions do contribute to the unlawful and unilateral policy of "*Maximum Pressure*" against Iran. The United States Special Representative for Iran, Brian Hook, stated on 17 January 2020 that "*We were pleased to see the United Kingdom, France, and Germany initiate the Iran nuclear deal dispute resolution mechanism earlier this week. Prime Minister Johnson called to replace the Iran nuclear deal with a new deal, which we very much support.*"[99]

Finalization of the JCPOA on 14 July 2015 was a momentous step to resolve, through negotiations and based on mutual respect, a manufactured and unnecessary crisis. The JCPOA is the final solution and there is no alternative for it, and any statements against this fact are inconsistent with good faith in the implementation of the JCPOA.

As mentioned in my later dated 3 October 2019, the JCPOA, as manifest in its name, is a "*comprehensive*" plan of action negotiated and concluded as a final solution for the entirely artificial crisis fomented over Iran's peaceful nuclear program. The exact and clear durations in the JCPOA are additional evidence to that account. The participants in the JCPOA—unanimously endorsed as an inseparable part of UNSCR 2231—have made it clear that after the time frames envisaged in the accord, the Iranian nuclear program will be treated in the same manner as that of any other non-nuclear weapon state party to the NPT. The E3 have conveniently—and indeed arrogantly—disregarded the hard bargaining—from the very first day of informal bilateral and multilateral negotiations to the very last day of announcing the conclusion of JCPOA on 14 July 2015—and many important and substantive irreversible flexibilities that were shown by Iran until the very last day in order to nail these dates. With all due respect, this is nothing less than the old colonialist mantra of "*what's mine is mine and what's yours is negotiable"*. The Islamic Republic of Iran strongly rejects this approach, and furthermore, will never accept it.

We strongly urge the E3 to reverse this approach embedded in the Statement and their contradictory propositions vis-à-vis the JCPOA. Furthermore, we request that the Joint Commission of the JCPOA address and take appropriate measures to resolve these issues in a satisfactory manner within the next meeting of the Joint Commission.

iv. Discriminatory Approach with respect to Iran's Communications

The letter and statement dated 14 January 2020 of the distinguished Coordinator of the Joint Commission—acknowledging the purported activation of the Dispute Resolution Mechanism by the E3—are unacceptable, and discriminatory vis-à-vis correspondences by the Islamic Republic of Iran invoking—in good faith and with full global acceptance, unlike that of E3—the DRM under paragraph 36 of the JCPOA.

The unfortunate discriminatory approach of the EU High Representative, as the Coordinator of the Joint Commission, has no legal and/or procedural effect on the level of validity and legitimacy of the process. Rather, this would only challenge the impartiality of

[99] Brian H. Hook, Special Representative for Iran, Special Briefing, 17 January 2020. Available at: https://www.state.gov/special-representative-for-iran-brian-hook/

the Coordinator, which in turn would lead to further undermining of the efforts to preserve the JCPOA.

More specifically, we object to the reference to the purported "triggering the Dispute Resolution Mechanism" in the statement dated 24 January 2020 issued following intense and extensive bilateral and informal collective consultations, in which Iran participated with utmost good faith and constructiveness. I would like to reaffirm that these references do not, and cannot, change the facts. Indeed, they amount to utter disrespect for Iran, hence torpedoing the stated 'overarching goal' of maintaining the JCPOA in this highly sensitive situation surrounding the deal.

With respect to the statement dated 24 January 2020 following the informal consultations on 22 January 2020[100], I would like to put on the record that nothing from that statement shall mean that the Islamic Republic of Iran has accepted or acquiesced to the admissibility of the request by the E3 and as fully elaborated above, Iran continues to believe that their request is against the object and purpose of the JCPOA.

The Islamic Republic of Iran strongly rejects this approach, regards it devoid of any procedural and substantial impact, and expects this issue to be duly addressed and rectified without further delay. At the very least, the Islamic Republic of Iran expects the distinguished Coordinator to acknowledge—both in a letter as well as a similar public statement—that Iran triggered—and exhausted in good faith—the Dispute Resolution Mechanism as of 10 May 2018.

Excellency,

In order to manifest our good faith and serious desire to protect the JCPOA, even at this fifth and last phase of partial cessation of implementation of our voluntary commitments, I wish to underline once again that all measures taken can be reversible, and the Islamic Republic of Iran will continue its full and effective cooperation with IAEA.

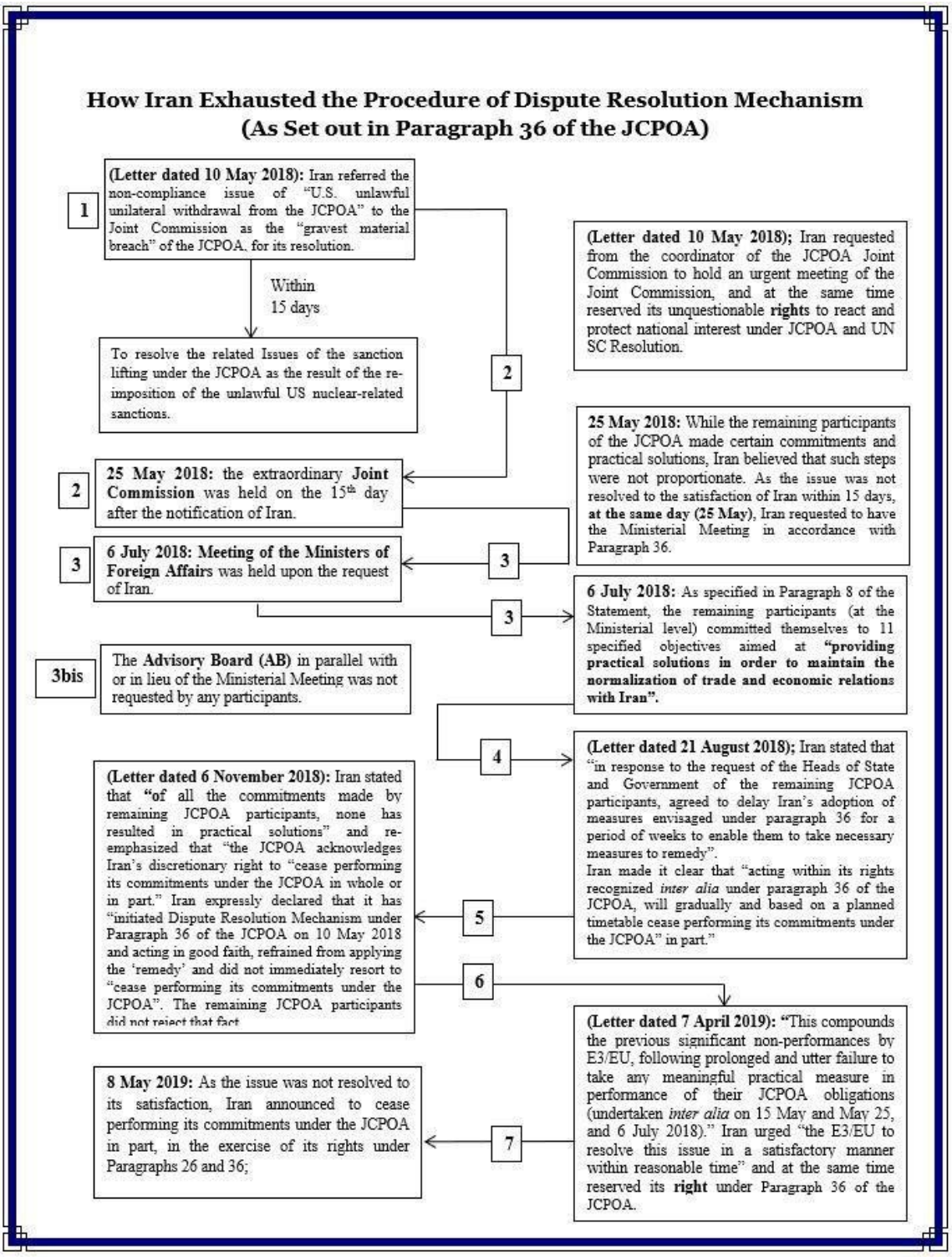
The Islamic Republic of Iran remains prepared to continue dialogue at all levels, and to resume full implementation, commensurate with the implementation of the commitments by the remaining participants of the JCPOA particularly by E3/EU who have specific obligations under the JCPOA as well as obligations undertaken by all remaining JCPOA participants following Joint Commission Ministerial Meetings of 6 July and 24 September 2018, convened upon the request of the Islamic Republic of Iran within the Dispute Resolution Mechanism under paragraph 36 of JCPOA.

I would be grateful if you, in your capacity as Coordinator of the Joint Commission of the JCPOA, would circulate this letter with the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

[100] https://eeas.europa.eu/headquarters/headquarters-homepage/73436/statement-high-representative-josep-borrell-following-consultations-jcpoa-participants_en


How Iran Exhausted the Procedure of Dispute Resolution Mechanism
(As Set out in Paragraph 36 of the JCPOA)
1
(Letter dated 10 May 2018): Iran referred the non-compliance issue of "U.S. unlawful unilateral withdrawal from the JCPOA" to the Joint Commission as the "gravest material breach" of the JCPOA, for its resolution.
Within 15 days
To resolve the related Issues of the sanction lifting under the JCPOA as the result of the re-imposition of the unlawful US nuclear-related sanctions.
2
(Letter dated 10 May 2018); Iran requested from the coordinator of the JCPOA Joint Commission to hold an urgent meeting of the Joint Commission, and at the same time reserved its unquestionable rights to react and protect national interest under JCPOA and UN SC Resolution.
2
25 May 2018: the extraordinary Joint Commission was held on the 15th day after the notification of Iran.
25 May 2018: While the remaining participants of the JCPOA made certain commitments and practical solutions, Iran believed that such steps were not proportionate. As the issue was not resolved to the satisfaction of Iran within 15 days, at the same day (25 May), Iran requested to have the Ministerial Meeting in accordance with Paragraph 36.
3
6 July 2018: Meeting of the Ministers of Foreign Affairs was held upon the request of Iran.
3
3
6 July 2018: As specified in Paragraph 8 of the Statement, the remaining participants (at the Ministerial level) committed themselves to 11 specified objectives aimed at "providing practical solutions in order to maintain the normalization of trade and economic relations with Iran".
3bis
The Advisory Board (AB) in parallel with or in lieu of the Ministerial Meeting was not requested by any participants.
4
(Letter dated 21 August 2018); Iran stated that "in response to the request of the Heads of State and Government of the remaining JCPOA participants, agreed to delay Iran's adoption of measures envisaged under paragraph 36 for a period of weeks to enable them to take necessary measures to remedy".
Iran made it clear that "acting within its rights recognized inter alia under paragraph 36 of the JCPOA, will gradually and based on a planned timetable cease performing its commitments under the JCPOA" in part."
5
(Letter dated 6 November 2018): Iran stated that "of all the commitments made by remaining JCPOA participants, none has resulted in practical solutions" and re-emphasized that "the JCPOA acknowledges Iran's discretionary right to "cease performing its commitments under the JCPOA in whole or in part." Iran expressly declared that it has "initiated Dispute Resolution Mechanism under Paragraph 36 of the JCPOA on 10 May 2018 and acting in good faith, refrained from applying the 'remedy' and did not immediately resort to "cease performing its commitments under the JCPOA". The remaining JCPOA participants did not reject that fact
6
(Letter dated 7 April 2019): "This compounds the previous significant non-performances by E3/EU, following prolonged and utter failure to take any meaningful practical measure in performance of their JCPOA obligations (undertaken inter alia on 15 May and May 25, and 6 July 2018)." Iran urged "the E3/EU to resolve this issue in a satisfactory manner within reasonable time" and at the same time reserved its right under Paragraph 36 of the JCPOA.
7
8 May 2019: As the issue was not resolved to its satisfaction, Iran announced to cease performing its commitments under the JCPOA in part, in the exercise of its rights under Paragraphs 26 and 36;

Letter of 10 March 2020 to JCPOA Coordinator illustrating Iranian exhaustion of DRM procedures under Paragraph 36 and inadmissibility of E3 recourse to DRM

In the name of God, the Compassionate, the Merciful

10 March 2020

His Excellency

Mr. Josep Borrell Fontelles

High Representative of the European Union for Foreign Affairs and Security Policy,

Coordinator of the JCPOA Joint Commission

Excellency,

I am writing in response to your letter of 24 February 2020 and pursuant to my previous letters, and in particular my letter of 29 January 2020, I would like to raise the following issues for your consideration:

In your letter, we took note that you have expressed that the Coordinator only has limited functions bestowed upon him by the provisions enshrined in the Annex IV. With regard to the role of the Coordinator of the Joint Commission, I would like to reemphasize that nowhere in the JCPOA unconditional "overseeing the work of the Joint Commission" is supported.

In your letter and during the Joint Commission meetings, you or your representative have dealt with the substantive aspects of how Iran has exhausted the procedures under paragraph 36 of the JCPOA. This is *ultra vires.* We strongly believe that the Coordinator does not possess the competence to determine about invoking the procedures provided in Paragraph 36 by the Participants of the JCPOA, unless decided otherwise by the Joint Commission. The power to make such determination has never been delegated to the Coordinator neither in the JCPOA, nor in Joint Commission decisions in our case. According to paragraphs 4.1 and 4.4 of Annex IV, decisions related to substance are to be made by consensus. Contrary to what has been claimed in your letter, the Joint Commission in its joint Statement of 6 July 2018 at the ministerial level has recognized issues referred by Iran to the Joint Commission as "unresolved issues" and accordingly adopted a series of commitments in this regard. If that was not the case, Iran would have ceased the implementation of its commitments immediately, as expressed officially on different occasions. That was the maximum good faith by Iran which deserves admiration and acknowledgement, not negligence and mistreatment.

The faulty approach in the line of reasoning expressed in your letter is arising from the fact that not only self-proclaimed standards of form are given self-serving priority over substance, but also that the letter ignores the importance and the gravity of the substance of the unresolved issues which have been referred by Iran under paragraph 36. Moreover, a selective approach vis-à-vis Iran's many unanswered communications—fully ignoring, *inter alia,* my letter of 6 November 2018—has been adopted. The logic behind the procedure of paragraph 36 and the context and circumstances surrounding the communications of Iran are clear. Retroactive and late submitted challenges cannot change the logic and the context.

I have to put on record that, months after Iran's letters dated 10 May, 21 August and 6 November 2018, we received the first objection—through a demarche by the E3 ambassadors in Tehran—on 21 June 2019—which I comprehensively rebutted in my letter of 25 June 2019 to which we received no answer. During all this period, invoking paragraphs 26 and 36 by Iran had never been challenged. In fact, our case was so clear that any objection would have been absolutely absurd and self-destructive. Under such circumstance, silence should be interpreted as manifest acquiescence in Iran's rights under Paragraphs 26 and 36 to cease performing of its commitments under the JCPOA.

On the issue of relationship between Paragraph 36 and Joint Commission Meetings, there is a link between paragraph 36 and convening urgent Joint Commission meeting in accordance with the procedures of the Annex IV of the JCPOA. All powers concerning convening of Joint Commission meetings flow from Annex IV, whether it's a regular meeting, an urgent meeting or a meeting under procedures of paragraph 36. The text and the context of Iran's communications were manifest. Iran in two steps invoked paragraph 36 to resolve the relevant unresolved issues:

First unresolved issue involving significant non-performance by the U.S. was raised on 10 May 2018: The request to convene urgent Joint Commission meeting in accordance with Paragraph 3.1 of the Annex IV to the JCPOA, is fully in line with Paragraph 36. Iran on 10 May 2018, with regard to the urgency of the situation created by significant non-performance of the United States, requested an urgent meeting of the Joint Commission. Iran's request for convening that meeting falls perfectly within the scope of Paragraph 36 and addressing the first unresolved issue raised by Iran: the US unlawful and unilateral withdrawal from the JCPOA.

The second unresolved issue concerning significant non-performance by E3/EU was elaborated on 6 November 2018: After agreement on certain commitments on 6 July 2018, and the subsequent EU/E3 failure to comply with their commitments—both under JCPOA as well as those of July and September 2018—Iran had no option but to again request urgent Joint Commission meeting under paragraph 36.

On how Iran substantially and formally exhausted Paragraph 36, I would like to remind you that my letter dated 10 May 2018 was not silent about the JCPOA Dispute Resolution Mechanism. In fact, Iran officially and clearly triggered the mechanism. Following the unlawful withdrawal of the United States and the (re)imposition of its nuclear related sanctions already lifted in accordance with the JCPOA, while reserving its immediate right under paragraph 26[101], my Government initiated the Dispute Resolution Mechanism under paragraph 36 of the JCPOA on 10 May 2018. But, acting in good faith, Iran simply refrained from applying the '*remedy*' and did not immediately resort to "*cease performing its commitments under the JCPOA*", in order to enable the remaining JCPOA Participants to make good on their promises. However, as I specifically stated in my letter of 10 May 2018 "*nothing in this period would affect Iran's right to react and protect its national interest as appropriate; a right which is manifestly recognized in the JCPOA and subsequent UNSC resolution 2231(2015)*." This was further crystalized in my letter of 21 August 2018.

From a procedural point of view, Iran referred the unresolved issue to the Joint Commission for resolution on 10 May 2018. Under Paragraph 36, Joint Commission had 15 days to resolve the issue, and accordingly convened on 25 May 2018 and immediately proceeded to meet on the ministerial level.[102] This is fully in line with the procedure set out by paragraph 36.

[101] *Paragraph 26 of the JCPOA: "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."*

[102] According to the statement following the 25 May 2018 meeting of the Joint Commission, Iran referred the issue to Ministers of Foreign Affairs as the next step.

During the Joint Commission on 25 May 2018 and subsequent meetings, Iran clearly articulated its case under paragraph 36 and other Participants agreed that the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA. No one at that time or even today denies the fact that this essential part of the JCPOA has been totally absent for a long time and this is nothing but a "significant non-performance" by other participants under paragraph 36, regardless of who the wrongdoer(s) is or are. The Joint Commission never questioned the unresolved issues which have been raised by Iran through different letters, let alone objecting to the invoking of Paragraph 36, or contesting Iran's open assertions about the US' and E3's multiple cases of significant non-performance. Late submitted challenges by the coordinator's representative during the Joint Commission meetings from June 2019 afterward cannot change the fact.[103]

Excellency,

Fully recognizing the fact that the US withdrawal and the re-imposition of its sanctions would greatly affect the full implementation of the JCPOA, the remaining Participants made 11 complementary commitments to redress the unlawful withdrawal of the US, without which the continuation of full implementation by Iran would have been irrelevant. Regrettably, none of the commitments made by the E3/EU have been implemented or have resulted in practical solutions. As specified in my letter dated 7 April 2019, the E3/EU did not take any meaningful practical measure in performance of their own JCPOA obligations as well as their repeated commitments following the U.S. unilateral and unlawful withdrawal from the JCPOA including those agreed to in the statements of 15 May 2018, 25 May 2018, 6 July 2018, 24 September 2018 and 6 March 2019.

The apparent policy of ignoring Iran's clear assertion of its rights under Paragraphs 26 and 36 is not an appropriate policy and is contrary to the aim of preserving the JCPOA. It regrettably augments the malicious intent of the United States to undermine and eventually destroy the JCPOA. This policy seems to be an extension—possibly unintended—of the maximum pressure policy by the United States and regrettably indicate the lack of political will or the inability of the EU/E3 Participants to comply with their commitments under the JCPOA as well as those enumerated in the chair's statements following the meetings of the Joint Commission.

In order to manifest our good faith and serious desire to protect the JCPOA, I wish to underline once again that the Islamic Republic of Iran remains prepared to continue dialogue at all levels to ensure the full implementation of the JCPOA by all Participants. However, with respect to the statement dated 24 January 2020 following the informal consultations on 22 January 2020, I would like to put on the record that the Islamic Republic of Iran has never accepted or acquiesced in the admissibility of the request by the E3. Furthermore, nothing in the statement changes the fact that Iran continues to insist that E3/EU have been in significance non-performance of their own obligations under paragraphs 19, 20, 27, 28, 29 and 30of JCPOA and paragraphs 1-3 of its annex II, as submitted in my pervious letters.[104] Iran continues to believe that their request is against the object and purpose of the JCPOA. We have also great concern about the Chair's statement following the 26 February 2020 Joint Commission meeting. I want to put on the record that it does not reflect Iran's positions.[105]

[103] As was reflected in the Joint Statement of the Joint Commission on 6 July 2018, the Joint Commission was convened "*Upon the request of the Islamic Republic of Iran*" to "*review unresolved issues arising from the unilateral withdrawal of the United States from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex II*", which confirmed that "*the lifting of sanctions, including the economic dividends arising from it, constitutes an essential part of the JCPOA.*"

[104] Most Notably my letters of 6 November 2018 and 17 July 2019.

[105] The statement that is published by the Coordinator or his/her representatives as "*Chair Statement*" as manifest in its name, only reflects the views and understanding of the Coordinator itself and lacks the legal effect of "Joint Statement". Chair statements are never negotiated and only consulted by the Participants and do not necessarily reflect the views and positions of the Participants

I would be grateful if you, in your capacity as Coordinator of the Joint Commission of the JCPOA, would circulate this letter with the remaining participants of the JCPOA.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 9. Letter of 10 April 2019 to UN Secretary-General on the unlawful designation of IRGC by the United States

In the name of God, the Compassionate, the Merciful

10 April 2019

H.E. Mr. Antonio Guterres

Secretary-General

United Nations

New York

Excellency,

I wish to bring to your attention the unprecedented, unlawful and dangerous designation of the Islamic Revolutionary Guard Corps (IRGC)—an official branch of the Armed Forces of the Islamic Republic of Iran—as a so-called "Foreign Terrorist Organization" by the current lawless administration of the United States of America. The Islamic Republic of Iran strongly condemns this baseless and provocative move; and deems this a hostile act against the Islamic Republic of Iran as well as a grave threat to the regional and international peace and security. This action which is without precedent—even for this U.S. regime, which has engaged in many illegal unilateral measures and designations—constitutes a breach of generally recognized principles of international law and of the Charter of the United Nations, including the principle of sovereign equality of states.

This provocative move will increase tensions to an uncontrollable and confrontational level and increases the danger of accidents and incidents in a region already facing numerous challenges. It is self-evident that the U.S. regime—along with those who have publicly acknowledged agitating this designation, as well as the two or three client regimes that have supported this—shall bear full responsibility for all consequences of this adventurism.

Unlike the U.S. and its regional clients which have always supported extremist groups and terrorists in the West Asia region—as manifestly admitted, including by the current U.S. president during his election campaign—Iranian armed forces, including and especially the IRGC, have consistently been at the forefront of the fight against terrorism and extremism in the region. The role of the IRGC in the battles against Security Council-designated terrorist groups such as Al-Qaeda, ISIS, the al-Nusra Front and other terrorist groups in the region, has always been noted and praised by the affected people and governments.

In a reciprocal response to the unlawful and unwise move by the U.S., the Islamic Republic of Iran announced that it designates the U.S. regime a "State Sponsor of Terrorism" and the US Central Command or "CENTCOM" and all its affiliated forces a "terrorist group". CENTCOM is responsible for implementing the terrorist policies of the U.S. administration against the West Asia region by willfully targeting civilians in order to advance hostile U.S. policies. CENTCOM has endangered the national security of the Islamic Republic of Iran and the lives of innocent Iranians and non-Iranians, including with its brutal and intentional attack on an Iranian passenger plane in 1988, as well as its complicity in the slaughter of Yemeni people and other civilians in West Asia.

The Islamic Republic of Iran would also like to make clear that despite numerous examples of acts with a terrorist nature implemented directly or indirectly by CENTCOM, designation of this government body as a terrorist organization by Iran is solely based on reciprocity; and shall not be construed as a shift in Iran's legal position with regard to the principle of sovereign equality of states, and the definition of terrorism.

It would be highly appreciated if this letter were circulated as a document of the General Assembly and of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 10. Letter of 12 March 2020 to UN Secretary-General on U.S. unlawful prevention of Iranian access to medicine and supplies to deal with COVID-19

In the name of God, the Compassionate, the Merciful

12 March 2020

His Excellency

Mr. António Guterres

Secretary General

United Nations

Excellency,

I am writing to you concerning a matter of the greatest urgency. As you—and my counterparts across the world—are painfully aware, we are now officially amid a pandemic. Most of us have been affected by the spread of the highly contagious Covid-19 viral disease, with my country among the worst impacted so far.

While the virus ravages our cities and towns, our population—unlike those of other countries affected—suffer under the most severe and indiscriminate campaign of economic terrorism in history, imposed illegally and extra-territorially by the Government of the United States since it reneged on its commitments under Security Council Resolution 2231 in May 2018.

Although our medical facilities, doctors, nurses and other health practitioners are among the very finest in the world, we are stymied in our efforts to identify and treat our patients; in combatting the spread of the virus; and, ultimately, in defeating it, by the campaign of economic terrorism perpetrated by the Government of the United States.

Beyond targeting our lawful trade with others, the illegal U.S. sanctions regime has impacted every sector of our economy, all while our people are told by the U.S. Secretary of State that their government must submit to outrageous outside diktat "if they want to eat". Now, the same shameless U.S. official has gone as far as publicly holding medicine for Iranians to ransom, conditioning such trade on extraneous and extra-judicial demands.

The Government of the United States' general collective punishment of the Iranian people—including by depriving them from humanitarian trade, in contravention of repeated sloganeering to the contrary—is clear. What has hitherto, and unfortunately, been less clear to the international community is how U.S. economic terrorism is specifically–and directly—undermining our efforts to fight the Covid-19 epidemic in Iran, including as follows:

— Illegal U.S. secondary sanctions have made it increasingly difficult for Iran to export its oil as well as manufactured items, thereby targeting not only the public sector—which must provide subsidized food, medicine and other necessities for the Iranian people, and particularly the most vulnerable segments of the population—but our entire private sector which provides goods, services and employment for the Iranian people. Through the disgraced and failed policy of "maximum pressure"—i.e. bullying others to refrain from engaging in legitimate trade with Iran sanctioned by UNSCR 2231—the U.S. is trying to drain and deplete

our public as well private sector resources necessary for the very survival of the Iranian people.

— Illegal U.S. secondary sanctions make it virtually impossible for Iranians and other Iran-based individuals and entities to import medicine and medical equipment; even if foreign suppliers are found and required items can be purchased with our assets abroad, myriad U.S. shipping, insurance, financial and banking sanctions make such trade nonviable. This is not only a violation of UNSCR 2231, but of both general international humanitarian law—amounting to a crime against humanity—as well as the order issued by the International Court of Justice on 3 October 2018.

— Illegal U.S. secondary sanctions have left thousands of our citizens either stranded abroad or otherwise impacted by severe disruptions to air links with Europe. Indeed, the recent closure of European airports to Iran Air was wholly unrelated to Covid-19 and rather directly due to U.S. sanctions preventing the purchase and installation of up-to-date flight-planning software. Such cruel measures have left thousands of Iranian families in additional and severe distress at a time of crisis. This again—in addition to multiple violations of UNSCR 2231, ICAO regulations and international humanitarian law—violates the above-mentioned order issued by the International Court of Justice on 3 October 2018.

— Beyond targeting the livelihoods, access to healthcare and medicine as well as travel of the Iranian people, illegal U.S. secondary sanctions even rob many of our citizens from accessing information from their own Government about how to deal with Covid-19. Google's immoral censoring of AC 19—the new Iranian app designed to help our citizens identify potential virus symptoms—is due to U.S. economic terrorism, which does not spare Iranian developer accounts —whatever their purpose.

Excellency,

How does the world benefit from the Iranian people being deprived from medicine and access to information about treatment for Covid-19?

Sadly, the outrageous status quo is partly the outcome of inaction on the part of some members of the international community. For instance—and even prior to the Covid-19 pandemic—whether it came to medical disinfectants, syringes or breathing appliances– in fact, all pharmaceutical goods—our imports from Europe, both in value and quantity, are today less than what they were before we implemented the JCPOA in good faith in 2016. Imports of medical sterilizers from the European Union alone has dropped by 75 percent. The same unfortunate trend is apparent in other aspects of our trade with Europe.

It is unconscionable that the Government of the United States has not only increased what it shamefully calls "maximum pressure" on our people—just as the virus has spread and is killing our most vulnerable citizens—but that it additionally has the audacity to lecture us on containing the coronavirus as it itself is evidently incapable of containing its onslaught.

While other nations debate how to control the spread of the virus—and while their economies suffer and fear takes hold among their populations—our people not only suffer from its effects without the full benefits of adequate medical equipment and supplies, but also the many other ways in which U.S. economic terrorism had devastated many households prior to the inception of Covid-19, and only made worse since its arrival in Iran. This should be manifestly evident as economic and other effects are multiplying even in countries less afflicted with the virus.

As such it is imperative that the Government of the United States immediately halt its campaign of economic terrorism against the Iranian people and lift all sanctions it has illegally imposed on my country in contravention of UNSCR 2231. To this end, it is imperative that the United Nations and its Member-States join the Iranian people in demanding that the Government of the United States abandon its malign and fruitless approach against Iran.

I should be grateful if you would have this letter circulated as a document of the General Assembly and of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 11. Letter of 8 May 2020 to UN Secretary-General on U.S. persistent violations of international law and UN Charter

In the name of God, the Compassionate, the Merciful

8 May 2020

His Excellency

Mr. Antonio Guterres

Secretary-General of the United Nations

Excellency,

Further to my letter of 10 May 2018 (A/72/869-S/2018/453), I would like to bring to your attention several matters related to the unlawful withdrawal of the United States of America from the Joint Comprehensive Plan of Action (JCPOA) and the unlawful imposition of its unilateral sanctions against the people and Government of the Islamic Republic of Iran in clear violation of its obligations under international law. Most notably, I would like to bring to the attention of the Security Council—through you, in your capacity as the Secretary-General—matters related to the multiple, continuous and grave cases of violations of the United Nations Charter, in particular Article 25 thereof, thereby jeopardizing the credibility and the integrity of the United Nations and threatening the maintenance of international peace and security.

I. U.S. Unilateral and Unlawful Withdrawal from the JCPOA

As you are well aware, on 8 May 2018, the President of the United States officially announced the unilateral withdrawal of the United States from the Joint Comprehensive Plan of Action (JCPOA), in material breach of Security Council Resolution 2231 (2015) to which the JCPOA is annexed. Accordingly, the U.S. administration terminated the participation of the United States in the JCPOA and re-imposed all U.S. sanctions lifted in connection with the JCPOA, thus committing multiple cases of "significant non-performance" under the JCPOA, and in flagrant contravention of UNSCR 2231 (2015).

The unlawful U.S. act of unwarranted withdrawal from the JCPOA and the re-imposition of its sanctions entail the U.S. responsibility under the UN Charter and international law. The U.S. has violated UNSCR 2231 (2015) which was in fact submitted by the United States itself and was adopted unanimously by the Security Council on 20 July 2015. The United Nations needs to address swiftly the U.S. responsibility and hold it accountable for the consequences of its wrongful acts that fly in the face of the United Nations Charter and international law. Allowing impunity for the United States in this and other instances would greatly impair the credibility of the United Nations.

Indeed, it is now clear to all that the unlawful conducts of the United States constitute a complete disregard for international law and the Charter of the United Nations; undermine the principle of peaceful settlement of disputes; endanger multilateralism and its institutions; indicate a regression to the failed and disastrous era of unilateralism; and, encourage intransigence and illegality: all of which represent a clear threat to international peace and security.

II. U.S. Malpractices to Undermine the Provisions of UNSCR 2231 (2015)

Resolution 2231 (2015) emphasizes that "*the JCPOA is conducive to promoting and facilitating the development of normal economic and trade contacts and cooperation with Iran*" and urges "*its full implementation on the timetable established in the JCPOA*" and calls upon all Member States "*to take such actions as may be appropriate to support the implementation of the JCPOA*, *including by taking actions commensurate with the implementation plan set out in the JCPOA and this resolution and by refraining from actions that undermine implementation of commitments under the JCPOA*".

Not only has the United States failed to honor its own commitments under the JCPOA, but it has also substantively obstructed the implementation of commitments by the remaining JCPOA participants and other Member States. Since Donald Trump's assumption of office, the U.S. has once again resorted to the practice of Unilateral Coercive Measures and has imposed 129 sanctions against Iran inflicting irreparable harm to Iran's economy and its international business relations. These actions bear a direct effect on Iran's private sector, cutting the revenues of ordinary Iranians and reducing the private sector's capacity for production and employment. Today, the economic situation is far worse as compared to the JCPOA status quo ante. The full list of these sanctions is enclosed with this letter for further clarification.

The U.S. withdrawal from the JCPOA and its subsequent re-imposition of a draconian, comprehensive and unilateral sanctions regime on Iran must raise the alarm for international peace and security. Indeed, it is the first time in UN history that a permanent member of the Security Council punishes UN members for complying with a Security Council Resolution.

It is high time for the Security Council and its members to guarantee the full implementation of the JCPOA by all sides. Rather than passively observing as the U.S. repeats such abusive patterns with full impunity, the Council must strongly condemn the U.S. for (re)imposing its illegal sanctions targeting the Iranian people in violation of the UN Charter, UNSCR 2231 (2015) and international law. The United States must be held responsible for these damages, and the Iranian nation must be compensated fully. The international community must ensure the implementation of and compliance with the JCPOA.

III. Iran's Efforts in Good Faith to Preserve the JCPOA

Following the unlawful withdrawal of the United States and the (re)imposition of its sanctions that had been lifted in accordance with the JCPOA, while reserving its immediate right under Paragraph 26[106], my Government initiated the Dispute Resolution Mechanism under Paragraph 36 of the JCPOA on 10 May 2018. Acting in good faith, the Government of the Islamic Republic of Iran refrained from applying the '*remedy*' and did not immediately resort to "*cease performing its commitments under the JCPOA*", in order to enable the remaining JCPOA participants to make good on their promises.

[106] Paragraph 26 of the JCPOA*: "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."*

Excellency,

As you asserted in your statement following the U.S. withdrawal from the JCPOA: "*It is essential that all concerns regarding the implementation of the Plan be addressed through the mechanisms established in the JCPOA*"[107]. Upon the request of remaining JCPOA participants, and the international community, while Iran was entitled to exercise its rights immediately after the U.S. unlawful withdrawal on May 8 2018, my Government decided to pursue its rights within the framework of the JCPOA Joint Commission and continued the full implementation of the JCPOA. I trust you are aware of 15 consecutive IAEA reports all verifying Iran's full compliance with its JCPOA commitments.[108]

As the official Statement of the Islamic Republic of Iran (S/2015/550) issued following the adoption of UNSCR 2231 (2015) on 20 July 2015 clearly states:

> "*Removal of nuclear-related sanctions and restrictive measures by the European Union and the United States would mean that transactions and activities referred to under the JCPOA could be carried out with Iran and its entities anywhere in the world without fear of retribution from extraterritorial harassment, and all persons would be able to freely choose to engage in commercial and financial transactions with Iran. It is clearly spelled out in the JCPOA that both the European Union and the United States will refrain from reintroducing or re-imposing the sanctions and restrictive measures lifted under the JCPOA*".[109]

Regrettably, as the result of the re-imposition of U.S. sanctions since May 2018, Iran has been deprived of the benefits of sanction-lifting under the JCPOA. Indeed, it was from the outset clear that "*reintroduction or re-imposition, including through extension, of the sanctions and restrictive measures will constitute significant non-performance which would relieve Iran from its commitments in part or in whole*"[110], which is also stipulated in Paragraph 26 of the JCPOA.

Iran exercised restraint in good faith and exhausted all recourses under Paragraph 36 for one full year after the U.S. unilateral withdrawal from the JCPOA. However, in the destructive atmosphere in the wake of Donald Trump's action on May 8 2018, the E3/EU utterly failed to honor their commitments and Iran was left with no recourse but to exercise its rights under Paragraphs 26 and 36 of the JCPOA to cease performing its commitments in part on 8 May 2019. This action followed a full year of relentless efforts on the part of the Government of the Islamic Republic of Iran to exhaust the Dispute Resolution Mechanism—which it officially and unequivocally initiated on 10 May 2018—without having to resort to remedial measures under Paragraph 36.

In order to manifest our good faith and serious desire to protect the JCPOA, I wish to underline once again that the Islamic Republic of Iran remains prepared to continue dialogue at all levels to ensure the full implementation of the JCPOA and will continue its full and effective cooperation with the IAEA.

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[107] "Statement by the Secretary-General on the Joint Comprehensive Plan of Action (JCPOA)", 08 May 2018, Available at: https://www.un.org/sg/en/content/sg/statement/2018-05-08/statement-secretary-general-joint-comprehensive-plan-action-jcpoa

[108] IAEA Reports to the Security Council: S/2016/57 (19 January 2016), S/2016/250 (15 March 2016), S/2016/535 (13 June 2016), S/2016/808 (22 September 2016), S/2016/983 (21 November 2016), S/2017/234 (20 March 2017), S/2017/502 (14 June 2017), S/2017/777 (13 September 2017), S/2017/994 (28 November 2017), S/2018/205 (8 March 2018), S/2018/540 (6 June 2018), S/2018/835 (12 September 2018), S/2018/1048 (26 November 2018), S/2019/212 (6 March 2019), S/2019/496 (14 June 2019)

[109] S/2015/550, Letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council.

[110] S/2015/550, Letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council.

It is of substantive importance to note that Iran's peaceful nuclear energy program is continuously scrutinized by the IAEA's "most robust" monitoring and verification, thereby making perceived non-proliferation risks materially irrelevant. Indeed, even the recent report by the Director General of the IAEA on 3 March 2020 states that "*The Agency continues to verify the non-diversion of declared nuclear material at the nuclear facilities and locations outside facilities where nuclear material is customarily used (LOFs) declared by Iran under its Safeguards Agreement*".[111]

I would like to reaffirm that if the Iranian people's rights and benefits under the JCPOA are not fully compensated, it is Iran's unquestionable right—recognized under the JCPOA and UNSCR 2231 (2015)—to take appropriate action in response to the persistent unlawful actions of the United States.

IV. U.S. Ill-Defined Interpretations of UNSCR 2231

UN Member States are obliged to comply with Security Council decisions adopted under Article 25. To behave otherwise would be to deprive this principal organ of its essential functions and powers under the Charter. For this reason, the Security Council referred in the 14th preambular Paragraph of UNSCR 2231 (2015) to Article 25 of the Charter and underscored that "*Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Security Council's decisions*".

Drafting, adoption, interpretation and fulfillment of the Security Council Resolutions have a particular framework and should be subjected to the principles and rules of international law. No State can place itself above the law (*legibus solutus*) by blocking all paths of implementation of UNSCR 2231 (2015) and by violating it through unacceptable illegal acts and arbitrary interpretations. The interpretation of Security Council Resolutions also requires that other factors be taken into consideration. UNSCR 2231 (2015) is the product of a voting process as provided for in Article 27 of the Charter, and the final text of that resolution, *inter alia* Annex A (JCPOA), represents the view of the Security Council in its totality.

Moreover, UNSCR 2231 (2015) is binding on all Member States, irrespective of their active or passive association with its formulation and adoption, or whether they have undermined or gravely violated its provisions by taking unilateral steps. It is ironic that the State that was involved in drafting and negotiating UNSCR 2231 (2015) has now turned into its main antagonist by gravely violating it and seeking to bully other States into adopting such reckless behavior, too.

Statements by the representatives of the Security Council Members on the occasion of adopting resolutions set the substantive context for their interpretation. The U.S. representative in the Security Council meeting of 20 July 2015 stated that "*our work is far from finished. The international community must apply the same rigour to ensuring compliance with the Joint Comprehensive Plan of Action as we did to drafting and negotiating it. Implementation is everything*".[112] France's representative also specified that "*It is now up to the Security Council to endorse the Vienna agreement and act as guarantor of its implementation*".[113] The essence of such a guarantee is not to enhance the powers of the Security

[111] IAEA, Report by the Director General, "*Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 2231 (2015)*", March 2020. Available at: https://www.iaea.org/sites/default/files/20/03/gov2020-5.pdf

[112] Remarks of Ms. Power (United States of America), Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

[113] Remarks of Mr. Delattre (France), Security Council, 71st year: 7488 meeting, Monday, 20 July 2015, New York. Available at: https://undocs.org/S/PV.7488

Council, but to uphold the dignity and integrity of the Council and to preserve the objectives enshrined in UNSCR 2231 (2015) and its annex A, i.e. the JCPOA.

Here it is worth noting that UNSCR 2231 (2015) must be read within the context of the provisions set out in the JCPOA too (Annex A to UNSCR 2231). Indeed, in a sense, the Resolution is tied to the JCPOA as if by an umbilical cord. Per UNSCR 2231 (2015), the Council: "*Endorse[d] the JCPOA, and urge[d] its full implementation on the timetable established in the JCPOA*." These provisions in the JCPOA sought to provide a "comprehensive" plan of action and also concluded a definitive and final solution to the entirely manufactured crisis over Iran's peaceful nuclear energy program.

Further, it bears recalling that the second operative paragraph of UNSCR 2231 (2015) in which the Security Council "*Calls upon all Member States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA and this resolution and by refraining from actions that undermine implementation of commitments under the JCPOA*" obviously obliges States to refrain from applying the sanctions lifted under the JCPOA.

Having outlined the principal characteristics of Security Council Resolution 2231 above, three distinct features of that resolution relevant to discerning its object and purpose must be observed:

First, UNSCR 2231 (2015) marks a "fundamental shift" in Security Council's consideration of this issue and will contribute to building confidence in the exclusively peaceful nature of Iran's nuclear energy program. Second, the solution embodied in UNSCR 2231 (2015) is conducive to promoting and facilitating the development of normal economic and trade contacts and cooperation with Iran. Third, with respect to the 12th preambular paragraph of UNSCR 2231 (2015), the termination of provisions of previous Resolutions and other measures are foreseen in this Resolution, and Member States are asked to give due regard to these changes.

Statements by U.S. officials indicating an intention to take action against UNSCR 2231 (2015) are of grave concern and may lead the situation to enter uncontrollable circumstances. It is an acknowledged and well-documented fact that the ongoing efforts by the United States to unilaterally bring about substantial changes to the UNSCR 2231 (2015) is not the first of its kind; the failed U.S. scheme in November 2019 to update the 2231 List was the last overt example. UNSCR 2231 (2015) was adopted to terminate sanctions: not to extend those that had been imposed by previous and defunct Resolutions. UNSCR 2231 (2015) was explicitly designed and written not to be a sanctions resolution. Any initiation of action against UNSCR 2231 (2015) against this background will have serious consequences for the durability and sustainability of the agreed conditions.

Not only is the United States in grave violation of UNSCR 2231 (2015), but it is blatantly attempting illegal paths to reverse the resolution in absolute contempt for well-established principles of international law. A fundamental principle governing the international relations thus established is that a State which does not fulfill its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship. In this case, solely by withdrawing from the JCPOA, the U.S. has lost any right therein.

Therefore, I call upon the international community, and in particular the Security Council and the Secretary-General, to take all appropriate measures in order to counter these malicious endeavors by the U.S. Government which greatly undermine the provisions of UNSCR 2231 (2015). The United Nations should uphold its responsibility against the recent provocative actions of the United States.

As specified in the letter of the President of the Islamic Republic of Iran to his 4+1 counterparts on 8 May 2019, any new sanction or restriction by the Security Council

is against the fundamental commitments made to the Iranian people. In such a scenario, Iran's options, as already notified to the remaining participants of the JCPOA, will be firm and the United States and any entity which may assist the U.S. —or acquiesce in its illegal behavior—would bear all responsibility.

As I stated almost 14 years ago before the Security Council, "*The people and the Government of the Islamic Republic of Iran are not seeking confrontation and have always shown their readiness to engage in serious and result oriented negotiations based on mutual respect and on an equal footing. They have also shown, time and again, their resilience in the face of pressure, threat, injustice and imposition*".[114] My nation has already shown its good faith and full responsibility. Now, it is the turn of the international community to reciprocate. Accordingly, I urge the United Nations to hold the Government of the United States accountable for its unilateral and irresponsible conduct which will detrimentally challenge the credibility of UN Security Council and undermine the integrity of the UN Charter.

I should be grateful if you would have this letter circulated as a document of the General Assembly and of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

[114] Security Council, 61st year: 5500th meeting, Monday, 31 July 2006, New York. Available at: https://digitallibrary.un.org/record/580129?ln=en

Annex 12. Letters rejecting U.S. abuse of Security Council process

Letter dated 20 August 2020 to the President of the Security Council on the inadmissibility of U.S. "notification"

In the name of God, the Compassionate, the Merciful

20 August 2020

H.E. Ambassador Dian Triansyah Djani

President of the Security Council,

With reference to the intended inadmissible submission of a "notification" by the United States in relation to UN Security Council Resolution 2231 (2015), and further to my letters of 10 May 2018 (S/2018/453), and of 8 May 2020 (S/2020/380), I would like to bring the following—concerning the unlawful attempt by the United States of America to abuse the Security Council in submitting such Notification to the Council—to your attention.

The reckless and unlawful U.S. position disregards well-established rules of international law and practices that have been formed over the course of centuries to save our world from anarchy.

U.S. justifications for its self-arrogated right to the "reapplication of the provisions of terminated resolutions"[115] on Iran have no credibility or legitimacy, and need to be rejected by the Council. It is imperative for the international community to be vigilant about such abuse of Security Council procedures. Iran urges the Council to halt this abuse of process—one that will have serious consequences for international peace and security.

Based on the following clear and compelling reasonings, the government of the Islamic Republic of Iran is strongly of the view that the U.S. has no right to recourse to the reapplication of the provisions of the terminated resolutions. In this respect, a set of factual and legal observations is brought to your kind attention:

Termination of U.S. Participation in the JCPOA

The president of the United States officially announced the unilateral termination of U.S. participation in the Joint Comprehensive Plan of Action (JCPOA)[116], in material breach of UNSCR 2231—which endorses the JCPOA annexed to it. Accordingly, the U.S. administration took extensive unlawful measures to terminate

[115] The word "snapback" is never used in JCPOA or UNSCR 2231. The United States has used this word to connote rapidity and automaticity, which has never been the intention or the procedure in the JCPOA and UNSCR 2231. Instead they both set out an elaborate time-consuming process, intended to preserve the JCPOA and not to destroy it. The wording in paragraph 37 0f JCPOA is re-imposition of provisions of old resolutions. The wording in Paragraphs 12-13 of UNSCR 2231 is "reapplication of the provisions of terminated resolutions 1696 (2006), 1737 (2006), 1747 (2007), 1803 (2008), 1835 (2008), and 1929 (2010)."

[116] The White House, Presidential Actions, "Ceasing U.S. Participation in the JCPOA", 8 May 2018. Available at: https://www.whitehouse.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action- counter-irans-malign-influence-deny-iran-paths-nuclear-weapon/

U.S. participation in the JCPOA and to re-impose all U.S. sanctions lifted in connection with the JCPOA, thus committing multiple cases of "significant non-performance" under the JCPOA, and in flagrant contravention of UNSCR 2231.

U.S. officials themselves have repeatedly acknowledged that they have terminated their participation in the JCPOA. The U.S. president, in his Executive Order issued to re-impose the nuclear-related sanctions against Iran noted that, "I, DONALD J. TRUMP, President of the United States of America, in light of my decision on May 8, 2018, to cease the participation of the United States in the Joint Comprehensive Plan of Action of July 14, 2015 (JCPOA)[117]" Secretary of State Mike Pompeo expressed that, "President Trump terminated the United States participation in the Joint Comprehensive Plan of Action[118]". On 11 May 2018, the U.S. Government agent—in a formal communication—officially informed all JCPOA Participants that the U.S. would no longer participate in JPOCA–related meetings and activities, stressing, "on May 8, 2018, President Trump announced that the United States is ending its participation in the Joint Comprehensive Plan of Action. This includes all activities... Effective immediately, the U.S. will no longer participate in JCPOA–related activities." One example of such non-participation is that the Security Council has continued to approve proposals recommended by the Joint Commission regarding the nuclear related activities set forth in the Procurement Channel. But in the past two years, the United States has not participated in the Procurement Working Group, and has not been part of the JCPOA Joint Commission.

From a legal standpoint, the term "participant" is not a simple honorific title, rather, it requires taking part in an activity or event in compliance with an agreed upon and specifically defined description of duties, rights and obligations. With respect to UNSCR 2231, being a 'JCPOA Participant' involves contribution to JCPOA-related events and activities as well as compliance with respective obligations and responsibilities. The U.S. has not taken part in even a single meeting of the Joint Commission or JCPOA-related bodies since its official decision to "cease participation". This fact has been underscored by the remaining JCPOA Participants inter alia, and the EU, as the Coordinator of the JCPOA Joint Commission. The EU Representative to the UN pointed out that since the announcement of its withdrawal, "the US has not participated in any meetings or activities within the framework of the agreement".

U.S. Officially Abrogated Any Right to Dispute Resolution Mechanism

On several occasions, U.S. officials have confessed that they no longer have the right to utilize the Dispute Resolution Mechanism specified in paragraphs 10 to 13 of UNSCR 2231. On 8 May 2018, then-U.S. National Security Advisor John Bolton, in briefing the White House press corps on the decision of the U.S. president to re-impose sanctions, stated clearly that the United States will not be seeking the reapplication of provisions of the terminated resolutions[119] through recourse to, as he said, "provisions of Resolution 2231, which we're not using because we're out of the deal."[120] And on 16 August 2020, John Bolton reiterated

[117] Federal Register, Presidential Document, "Reimposing Certain Sanctions with Respect to Iran", 6 August 2018. Available at: https://www.federalregister.gov/documents/2018/08/07/2018-17068/reimposing- certain-sanctions-with-respect-to-iran

[118] Remarks of Secretary of State Mike Pompeo at Heritage Foundation, 21 May 2018. Available at: https://www.heritage.org/defense/event/after-the-deal-new-iran-strategy

[119] Available at: https://www.theguardian.com/world/2018/may/08/iran-deal-trump-withdraw-us-latest- news-nuclear-agreement
Also see https://carnegieendowment.org/2020/05/09/can-pompeo-trap-future-president-biden-in-trump- s-self-imposed-iran-crisis-pub-81760

[120] "Q In terms of the hundred—what happens in 180 days, what ultimately is going to happen with the European companies that have begun to trade with Iran? Are we for certain going to be sanctioning those companies? Or is there 180-day period where that can be potentially negotiated away?

that, "The agreement's (JCPOA) backers argue that Washington, having withdrawn from the deal, has no standing to invoke its provisions. They're right."[121]

Brian H. Hook, Special Representative for Iran and Senior Policy Advisor to the U.S. Secretary of State at the time, clearly stated that, "we're no longer in the deal, and so the parties that are still in the deal will have to make their decisions with respect to using or not using the dispute resolution mechanism"[122]

Therefore, it is abundantly clear that all U.S. officials without exception assumed—and some, like the architect of the U.S. withdrawal John Bolton, explicitly and publicly stated—that the United States no longer has any recourse to the reapplication of the provisions of terminated resolutions via provisions of UNSCR 2231.

The fact is that the Trump administration was clearly hoping that the U.S.' unlawful withdrawal from the JCPOA, coupled with its illegal "maximum pressure" policy, would either cause the Iranian government to collapse, bring the nation to its knees, or provoke a reciprocal Iranian withdrawal from the JCPOA. Because these assumptions have been proven wrong, it now shamelessly is attempting to change course and—in an extreme case of bad faith—conveniently resort to the procedure that they initially—and permanently—closed to themselves.

State Counselor Wang Yi, Minister for Foreign Affairs of the People's Republic of China, in his letter to the Secretary-General (S/2020/517) also took the position that "The United States, no longer a participant in the Plan after withdrawing from it, has no right to demand that the Security Council invoke the snapback provision."[123]

At the UN Security Council meeting on 30 June 2020, members of the Council stressed that the U.S. has no right to take advantage of the Dispute Resolution Mechanism. The People's Republic of China took the position that "Having quit the JCPOA, the US is no longer a participant, and has no right to trigger snap-back at the Security Council".[124] Germany confirmed China's rejection of the reapplication of the provisions of terminated resolutions via

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AMBASSADOR BOLTON: Well, the decision that the President signed today puts sanctions back in place that existed at the time of the deal; it puts them in place immediately.
Now, what that means is that within the zone of economics covered by the sanctions, no new contracts are permitted. Treasury will be announcing, in the next few hours, what they call winddown provisions that will deal with existing contracts. And there will be varying periods within
these contracts to be wound down. Some will extend up to six months; some might be 90 days. There might be other provisions as well.
This contingency has been posted on the Treasury Department website since 2015 because of the
potential for the use of the provisions of Resolution 2231, which we're not using because we're out of the deal. But in other words, the concept that there would be a wind-down period has been
there for a long time. And that's basically the pattern we'll follow — we are following. But the fact of the sanctions coming back in is effective right now.
Q But that won't be negotiated away during that — for those existing — AMBASSADOR BOLTON: We're out of the deal.
Q We're out.
AMBASSADOR BOLTON: We're out of the deal. We're out of the deal.
Q Are we out of the deal?
AMBASSADOR BOLTON: You got it." Available at:https://www.whitehouse.gov/briefings-statements/press- briefing-national-security-advisor-john-bolton-iran/

[121] John Bolton, "Iran 'Snapback' Isn't Worth the Risk", the Wall Street Journal, 16 August 2020. Available at: https://www.wsj.com/articles/iran-snapback-isnt-worth-the-risk-11597595060

[122] Remarks of Brian H. Hook, Special Representative for Iran and Senior Policy Advisor to the Secretary of State. Available at: https://www.state.gov/middle-east-peace-and-security

[123] Letter dated 8 June 2020 from the Permanent Representative of China to the United Nations addressed to the Secretary-General and the President of the Security Council, S/2020/517.

[124] Ministry of Foreign Affairs of the People's Republic of China, "Statement by Ambassador Zhang Jun at Security Council Open VTC on Iranian Nuclear Issue",30 June 2020. Available at: https://www.fmprc.gov.cn/mfa_eng/wjb_663304/zwjg_665342/zwbd_665378/t1793668.shtml

UNSCR 2231 at the very same meeting—with the Permanent Representative of Germany to the UN declaring that, "I would also align myself with what my Chinese colleague just said about the snapback mechanism".[125]

The European Union Representative to the UN disapproved of the U.S. intention to abuse the process of the UNSCR 2231 and the JCPOA and noted that "I would like to address the issue of the possible snapback of sanctions in this Council, about which there has been recent speculation. As the High Representative has already said, in May 2018 the US announced that it was ending its participation in the JCPOA. This announcement was confirmed in a presidential memorandum".[126] Most recently he confirmed that fact and has stressed that "we therefore consider that the

U.S. is not in a position to resort to mechanisms reserved for JCPOA participants (such as the so-called snapback)".[127]

Therefore, as highlighted by Foreign Minister Lavrov in his letter to the Secretary-General (S/2020/451), "Having violated the Security Council resolution 2231 and rejected to implement the JCPOA, the US thus forfeited the possibility to use the mechanisms provided, inter alia, in paragraphs 11-13 of the resolution"[128].

Professor Larry D. Johnson—former Assistant Secretary-General for Legal Affairs who served in the UN Legal Office from 1971 to 2010—has presented his analysis of the U.S. attempt to resort to the mechanism.

As of 8 May 2018, the US—according to its own official documents and statements—was no longer a "JCPOA participant." So on what basis does the US now claim to be a participating State under the resolution entitled to invoke the snapback? Perhaps the argument is based on the US being described as a "JCPOA participant" in a paragraph of resolution 2231, which is independent of the text of the deal itself. It sounds like the argument is that since it was a "Chapter VII" binding resolution, the US is a "participant" until the Council decides otherwise, irrespective of the US position internally that it is out of the deal. If that is the legal basis, it is sorely flawed. First, the paragraph in question is purely descriptive and exhortatory; it lists as a factual matter who the participants were at the time of the adoption of the resolution in 2015. The Council did not impose or declare "participation status" on anyone. Second, the snapback under the binding paragraph of the resolution can only be triggered by a "participant State." The US as of now and by its own doing, is in the same position as other non-participants on the Council.[129]

In view of the above, and in light of the context, the object and purpose of UNSCR 2231, explicit admission by the White House on the day President Trump ordered to "cease U.S. participation", subsequent practice by the U.S., statements by representatives of all remaining JCPOA Participants, and authoritative views of scholars and practitioners, the United States can by no stretch of imagination, flight of fancy, or mis-interpretation be considered a JCPOA Participant for the purpose of Resolution 2231.

[125] Permanent Mission of the Federal Republic of Germany to the United Nations, "Remarks by Ambassador Christoph Heusgen in the Security Council VTC Meeting on Non-proliferation", 30 June 2020. Available at: https://new-york-un.diplo.de/un-en/news-corner/200630-heusgen-jcpoa/2361042

[126] Remarks by he European Union Representative to the United Nations, Amb. Olof Skoog, 30 June 2020.

[127] https://www.aljazeera.com/news/2020/08/trigger-snapback-sanctions-iran-eu-official-200816105311200.html

[128] Letter dated 27 May 2020 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council, S/2020/451

[129] https://twitter.com/MarkTFitz/status/1296221037684838402?s=09

U.S. Material Breach of UNSCR 2231 and Lack of Good Faith

According to operative paragraph 2 of UNSCR 2231, the Security Council "Calls upon all Members States, regional organizations and international organizations to take such actions as may be appropriate to support the implementation of the JCPOA, including by taking actions commensurate with the implementation plan set out in the JCPOA and this resolution and by refraining from actions that undermine implementation of commitments under the JCPOA;

The U.S. acted in grave violation of the JCPOA and UNSCR 2231 by unlawfully withdrawing from the JCPOA, unilaterally re-imposing sanctions from 8 May 2018 onwards and to this date, and punishing law-abiding states and other entities for complying with this obligation.

One of the well-established principles governing the creation and performance of legal obligations is good faith. Good faith is an inseparable part of international cooperation, especially when this cooperation is the basis for the implementation of the JCPOA and UNSCR 2231. The actions and positions of the current U.S. administration have proven that it has never acted in good faith.

Not only has the U.S. failed to honor its own commitments under the JCPOA, but it has also substantively obstructed the implementation of commitments by the remaining JCPOA participants and other UN Member States as required under UNSCR 2231.

Since President Trump's assumption of office, the U.S. has imposed sanctions against Iran over 145 times.[130] The Secretary-General underscored the importance of the sanction-lifting in accordance with relevant provisions of the JCPOA and UNSCR 2231—which the U.S. has disregarded. In his 7th Report on Implementation of UNSCR 2231, the Secretary-General pointed out that "the lifting of sanctions allowing for the normalization of trade and economic relations constitute an essential part of the Plan".[131]

U.S. violations of UNSCR 2231 have not been limited to its sanctions-lifting commitments. As reflected in the report of the Secretary-General, the U.S. decision to not extend waivers for nuclear-related projects in the framework of the JCPOA also "continue to be contrary to the goals set out in the Plan and in resolution 2231 (2015) and may also impede the ability of the Islamic Republic of Iran to implement certain provisions of the Plan and of the resolution"[132].

Imposition of sanctions is a flagrant manifestation of "bad faith" in a grave breach of the JCPOA, UNSCR 2231, ICJ provisional order[133], as well as numerous resolutions of the United Nations General Assembly and Human Rights Council on unilateral economic coercive measures.

Therefore, as the International Court of Justice clearly underlined in its 1971 advisory opinion on Namibia:

One of the fundamental principles governing international relationship thus established is that a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship.[134]

[130] A list of U.S. sanctions against Iran are contained in annex to this letter.

[131] UN Security Council, Secretary General 7th Report on Implementation of UNSCR 2231, S/2019/492

[132] UN Security Council, Secretary General 8th Report on Implementation of UNSCR 2231, S/2020/531

[133] Alleged Violations of The 1955 Treaty of Amity, Economic Relations, and Consular Rights (Islamic Republic of Iran V. United States of America), Provisional Measures, ICJ Reports, 3 October 2018, Available at; https://www.icj-cij.org/files/case-related/175/175-20181003-ORD-01-00-EN.pdf

[134] Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, Para. 91.

Notification under UNSCR 2231 is not merely an arbitrary and formal action but a substantive part of a process of Dispute Resolution, which is intentionally subjected to several qualifications and conditions. Any bona fide JCPOA participant— United States not being one—is obliged to submit any notification under paragraph 11 of the UNSCR 2231 along with "a description of the good-faith efforts the participant made to exhaust the dispute resolution process" specified in paragraph 37 of the JCPOA, which is annexed to UNSCR 2231. The United States has engaged in no effort—let alone good faith effort—to "exhaust the dispute resolution process".

Based on the universally accepted general principle of law, the United States cannot benefit from the fruits of its unlawful act[135] of withdrawal from the JCPOA by assuming that it has no obligation to submit its notification alongside a description of good-faith efforts. The Security Council should consider the related provisions of the JCPOA, as attached in Annex A to the Resolution.

The negotiating history of the JCPOA—and UNSCR 2231—clearly attests to the fact that the procedure for the settlement of dispute—within the Joint Commission as well as in the Security Council—was intentionally a multi-staged and time-consuming process to preserve this unique achievement of the international community and to prevent arbitrary action by any genuine participant, let alone the United States, which explicitly relinquished that status at the highest level.

In this context, it should be noted that the requirement of "good faith" also applies to the interpretation of Security Council Resolution 2231, and is reinforced by Article 2(2) of the Charter:

All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

The United States' record of unlawful acts and practices in the present case, along with the "abuse of process", deceptive maneuverings and pseudo-legal legerdemain to trigger the reapplication the provisions of terminated resolutions against Iran contravene the requirement of good faith.

Iran's Efforts in Good Faith to Fully Implement the JCPOA

The decision of the president of the United States to cease U.S. participation in the JCPOA was not preceded even by a single case of Iranian non-performance of its obligations under the JCPOA, but in spite of full compliance by Iran—verified in 15 reports of the International Atomic Energy Agency from the date of conclusion of JCPOA until over a year after unlawful U.S. withdrawal[136].

Following the unlawful withdrawal of the United States and (re)imposition of its sanctions lifted in accordance with the JCPOA, Iran was deprived from enjoying the benefits of sanction-lifting under JCPOA. After U.S. withdrawal from the JCPOA, the UN Secretary General[137], the remaining JCPOA participants[138] and many other members of the international

[135] Ex Injuria Sua Nemo Habere Debet

[136] IAEA Reports to the Security Council: S/2016/57 (19 January 2016), S/2016/250 (15 March 2016), S/2016/535 (13 June 2016), S/2016/808 (22 September 2016), S/2016/983 (21 November 2016), S/2017/234 (20 March 2017), S/2017/502 (14 June 2017), S/2017/777 (13 September 2017), S/2017/994 (28 November 2017), S/2018/205 (8 March 2018), S/2018/540 (6 June 2018), S/2018/835 (12 September 2018), S/2018/1048 (26 November 2018), S/2019/212 (6 March 2019), S/2019/496 (14 June 2019).

[137] "Statement by the Secretary-General on the Joint Comprehensive Plan of Action (JCPOA)", 08 May 2018. Available at: https://www.un.org/sg/en/content/sg/statement/2018-05-08/statement-secretary-general- joint-comprehensive-plan-action-jcpoa

[138] "Remarks by High Representative/Vice President Federica Mogherini on the Statement by U.S. President Trump Regarding the Iran Nuclear Deal (JCPOA)", Rome, 8 May 2018.

community called on Iran to address its concerns through the mechanisms established in the JCPOA and to allow the remaining JCPOA participants to redress the unlawful withdrawal.

From the beginning it was clear that "reintroduction or re-imposition, including through extension, of the sanctions and restrictive measures will constitute significant non-performance which would relieve Iran from its commitments in part or in whole"[139] –also stipulated in paragraph 26 of the JCPOA.[140]

While expressly reserving Iran's immediate right[141]28 under Paragraph 26 of the JCPOA, my Government initiated the Dispute Resolution Mechanism under Paragraph 36 of the agreement on 10 May 2018[142]. However, acting in good faith, Iran refrained from applying the 'remedy' in order to enable the remaining JCPOA participants to make good on their promises. For a full year, Iran continued full implementation of the JCPOA. Fifteen consecutive IAEA reports verified Iran's full compliance with its JCPOA commitments.[143]

Having repeatedly exhausted the Dispute Resolution Mechanism to absolutely no avail, my Government decided to exercise its rights under Paragraphs 26 and 36 of the JCPOA to apply remedial measures and cease performing its commitments in part on 8 May 2019—in full compliance with the provisions of the JCPOA—in order to preserve the agreement.

In spite of all this, our remedial measures have until now had no impact on the IAEA's monitoring and verification of our peaceful nuclear program, thereby rendering any claim of proliferation risks irrelevant. Indeed, Iran's peaceful nuclear program remains subject to the "most robust" inspection regime in history. From 2016 through 2019, over 92 percent of the Agency's total comparable global inspections were carried out in Iran.[144]

Conclusion: Intended Notification by the U.S. Is Inadmissible

The U.S. disregard for the rule of law and abuse of the United Nations to advance its unilateralist interests and destroy the very foundations of multilateralism and international law poses a serious threat to the civilized world as well as international peace and security. Abusing and violating the provisions of paragraphs 10 and 11 of the UNSCR 2231 by sending a simple notification—while the U.S. had already breached its obligations under the UNSCR 2231 and Article 25 of the UN Charter via re-imposition of unilateral and unlawful sanctions—sets an extremely dangerous precedent which must be clearly and vociferously rejected by the Council and its members.

As indicated at the outset of Paragraph 10 of the UNSCR 2231, the Dispute Resolution Mechanism is only open to the actual JCPOA Participants—and not to a defected "original"

[139] S/2015/550, Letter dated 20 July 2015 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council. (Annex 14 of this document)

[140] Paragraph 26 of the JCPOA: "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."

[141] In my letter of 10 May 2018 to the Coordinator of the JCPOA Joint Commission, I stated "It is Iran's unquestionable right—recognized also under the JCPOA and UNSCR 2231—to take appropriate action in response to persistent numerous unlawful acts by the U.S., particularly its withdrawal and re-imposition of all sanctions. However, as President Rouhani announced in his televised response on 8 May and further elaborated in the Statement of the Government on 10 May 2018, the Islamic Republic of Iran will decide its next step in the course of few weeks following consultations with the remaining JCPOA Participants to see if and how the commitments collectively undertaken by EU/E3+3 vis-a-vis Iran could be fulfilled in the absence of a reneging party by EU/E3+2. Nothing in this period would affect Iran' right to react and protect its national interest as appropriate, a right which is manifestly recognized in the JCPOA and the UNSC resolution 2231(2015)."

[142] My Letter of 10 May 2018 to the Coordinator of the JCPOA Joint Commission.

[143] IAEA Reports to the Security Council referenced in Footnote 23 above.

[144] IAEA, "The Safeguards Implementation Report for 2019", GOV/2020/9.

participant that willfully and explicitly decided to “cease participation”, actively sought to destroy the instrument, and subsequently relinquished all its prerogatives and privileges.

The procedure is not a self-executive one and is subjected to conditions specified in Paragraphs 36 and 37 of the JCPOA as attached to and endorsed by UNSCR 2231 and operative Paragraphs 10-13 of UNSCR 2231. The illegal attempt by the U.S. to abuse the Dispute Resolution Mechanism for the purpose of destroying UNSCR 2231 and the JCPOA must be regarded as an abuse of process which will have a negative impact on the fundamental credibility and integrity of the UN Security Council.

The abuse of process, as prohibited in international law, is also prevented by the precise procedures in UNSCR 2231 as well. Given the history of illegal actions against Iran, this resolution was meticulously crafted at the time of the adoption of the JCPOA to prevent unilateral abuse of the Dispute Resolution Process. To that end, Paragraphs 10 and 11 of the Resolution refer to the Dispute Resolution requirements specified in Paragraphs 36 and 37 of the JCPOA. The Security Council in Paragraph 11 of the Resolution also ‘expresses’ the requirement of establishing the ‘Advisory Board’ to ensure an end to arbitrary recourse to the Dispute Resolution Mechanism.

The Islamic Republic of Iran has already and clearly shown its good faith and full responsibility. Now, it is the turn of the international community. Accordingly, I urge the Security Council to take all appropriate measures to prevent the U.S.—an unapologetic and serial violator of UNSCR 2231—from unilaterally and unlawfully abusing the Dispute Resolution Mechanism, with the stated objective of destroying the JCPOA and UNSCR 2231, and refrain from admitting the notification and recognizing any effect arising therefrom. The Iranian people rightfully expect the Council to guarantee their rights under the Resolution, and bring the United States to account for the irreparable harm inflicted on the entire Iranian nation merely for reasons of personal aggrandizement or domestic political expediency.

In view of the above, I trust that the President of the Security Council will refrain from receiving and circulating the inadmissible U.S. notification, and the Council will not permit the U.S. to abuse Security Council Resolution 2231 to achieve its stated objective of destroying that very resolution—and along with it the authority of the Council and the Organization.

I should be grateful if you would have this letter circulated as a document of the Security Council.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter dated 4 October 2020 to the Secretary-General rejecting the abuse the processes of UN Security Council by the United States

In the name of God, the Compassionate, the Merciful

4 October 2020

His Excellency

Mr. Antonio Guterres

Secretary-General of the United Nations

Excellency,

Pursuant to my previous letters, in particular the letter dated 8 May 2020 (S/2020/380) and the letter dated 20 August 2020 (S/2020/814), I would like to bring the following to your attention concerning the unlawful attempt by the United States to abuse the processes of the United Nations Security Council, and its ensuing groundless claim of the re-application of previous Security Council resolutions.

On 19 September 2020, the United States purported that the provisions of previous Security Council resolutions had been reinstated. The Islamic Republic of Iran concurs with 13 members of the Security Council—and three consecutive Presidents of the Council—who have twice declared in official letters that the unilateral action by the United States purporting to the re-application of previous resolutions is null and void. There is a clear agreement between Members of the Council that the United States is not a participant of the JCPOA and has violated both the UNSCR 2231 and the JCPOA by an unlawful withdrawal and (re)imposition of unilateral sanctions on Iran. There is absolutely no uncertainty—neither in fact or law—and it is imperative to respect the unambiguous position of the Council Members against the unlawful claim by the United States.

The International Court of Justice articulated in its 1971 advisory opinion on Namibia, that "One of the fundamental principles governing international relationship thus established is that a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights which it claims to derive from the relationship."[145] The Security Council itself has established in previous cases that a grave violation against well-established rules of international law "has no legal validity, and is considered null and void".[146]

Given the illegal nature of the claim by the United States—and its rejection as null and void by 13 members and three consecutive Presidents of the Security Council, it is incumbent upon the international community, all United Nations Member States, and all organs of the United Nations—including in particular the Secretariat—to refrain from recognizing this illegal measure and to make appropriate arrangements in order to prevent the validation of an unlawful situation created by abuse of process in an arbitrary manner—and they should never give it any effect over time.

[145] Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971, Para. 91.
[146] UNSCR 662, Paragraph 1.

The Islamic Republic of Iran recalls that the Security Council in its Resolution 2231, "Underscoring that Member States are obligated under Article 25 of the Charter of the United Nations to accept and carry out the Security Council's decisions"[147] calls upon them to "refrain from actions that undermine implementation of commitments under the JCPOA."[148] The same operative paragraph of UNSCR 2231 calls upon international organizations to do likewise. Thereby, Member States and the Secretariat of the United Nations have a Charter obligation to refrain from giving any effect to grave violation of UNSCR 2231 by the United States and its declared policy of destroying the Joint Comprehensive Plan of Action (JCPOA)—which is not only annexed to the resolution, but the very *raison d'être* of that resolution. Under these provisions of UNSCR 2231 too, all Member-States and organs of the United Nations—including in particular the Secretariat—have an international obligation not to recognize the unlawful actions by the United States as *status-quo*, and accordingly must refrain from any action or omission that might be interpreted as a recognition of it, whether direct or indirect. We underline the complementary obligation of States—under which they are prohibited from rendering aid or assistance in maintaining the situation created by unlawful actions of the United States.

However, following the unlawful U.S. claim, Your Excellency in a letter to the President of the Security Council (S/2020/921) stated "pending clarification by the Security Council whether or not the terminations in paragraph 7 (a) of resolution 2231 (2015) continue in effect, the Secretariat stands ready to provide the required support at the direction of and in coordination with the Security Council or a reconstituted 1737 Sanctions Committee."

This letter is not only inconsistent with the inadmissibility of the U.S. claim in law and fact as well as unambiguous statements of three consecutive Council presidents and 13 Council members, but also goes beyond the clear administrative process and mandates in relation to the implementation of UNSCR 2231—established in the Note by the President of the Security Council (S/2016/44).

Due to the dissolution of the administrative bodies of previous resolutions such as the 1737 Committee and the panel of experts—which is not reversible and requires new 'decisions' by the Council—the Security Council itself is responsible for monitoring the implementation of Resolution 2231. This means that the Secretariat is not in a position to comment on substantive matters and alter the process of implementation of UNSCR 2231. Therefore, and with all due respect, your letter of 19 September 2020 manifestly went beyond the powers and mandate of the Secretariat.

Excellency,

The unilateral withdrawal of the United States from JCPOA on 8 May 2018 was universally rejected as unlawful and received global condemnation, coupled with commitments—particularly by EU/E3—to take remedial measures. But regrettably those condemnations and commitments were only empty declarations. Many Member-States of the United Nations—in effect—gave in to U.S. bullying and observed—however unwillingly—the ensuing unlawful U.S. restrictions against Iranian people. The United Nations thus failed the Iranian people by refraining from taking the necessary measures to prevent the United States from benefitting from the fruits of its illegal actions—waging economic terrorism against Iranian people.

In recent months, the Iranian people have noted with appreciation the unified rejection of the two latest U.S. attempts against Iran in the Security Council. But it is imperative that these resolute legal positions should not remain solely declaratory like in 2018 and be translated to practice. The international community should be cognizant of the consequences

[147] UNSCR 2231, penultimate preambular paragraph.
[148] UNSCR 2231, Operative Paragraph 2

of the repetition of its past practical failure. If practical effects are given to the unlawful and unfounded U.S. claim of reapplication of provisions of previous resolutions—even on the smallest and symbolic scale, the Islamic Republic of Iran will take resolute action—already acknowledged in paragraph 13 of Security Council resolution 2231, and further elaborated in our statement of 20 July 2015 (S/2015/550) as well as President Rouhani's letter of 8 May 2019 addressed to the leaders of the remaining JCPOA Participants.

We expect the international community and the United Nations to change the dangerous course of complacency. Appeasing a lawless bully will not spare anyone from its wrath. It has—and will—encourage it to widen and expand its lawlessness with impunity. The Islamic Republic of Iran has already shown its good faith and full responsibility. Now, it is the turn of the international community to reciprocate in kind. Accordingly, I urge the United Nations to hold the Government of the United States accountable for its unilateral and irresponsible conduct which will detrimentally challenge the credibility of UN Security Council and undermine the integrity of the UN Charter.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 13. Letters on requirements for a possible U.S. return to JCPOA

Letter dated 12 March 2021 to the Coordinator of JCPOA Joint Commission on the pre-requisites for return of the United States to JCPOA

In the name of God, the Compassionate, the Merciful

12 March 2021

His Excellency Mr. Josep Borrell Fontelles

High Representative of the European Union for Foreign Affairs and Security Policy

Coordinator of the JCPOA Joint Commission

Excellency,

I wish to reiterate the full commitment of the Islamic Republic of Iran to the Joint Comprehensive Plan of Action (JCPOA), and our readiness to immediately return to full implementation.

Meanwhile, in accordance with Paragraph 36 of the JCPOA, and pursuant to my numerous letters since September 2016, I must bring to your attention a number of significant political, factual and legal concerns regarding developments since the inauguration of a new administration in the United States.

- The Islamic Republic of Iran is fully committed to the full and *effective* implementation of JCPOA by *all* sides.
    - Iran has stated at the highest level its commitment to stop all of its remedial measures adopted under Paragraph 36 immediately following full removal of all sanctions imposed, re-imposed or re-labeled since January 20, 2017.
    - Iran's commitment to reciprocate is rational, and, is made in good faith.
- The United States should understand, as logic and basic decency dictates, that seeking to remove an effect without eliminating the cause—absurd in nature and similarly in politics—can never work.
    - The United States is boxing itself into a position that can make it impossible to make progress.
    - Repeating statements such as the one made by Secretary Blinken in Congress this week makes any future progress more difficult.
    - The decision to prevent the Republic of Korea from transferring a fraction of the unlawfully blocked and urgently needed monies belonging to the Iranian people to the Swiss Channel in order to purchase food and medicine is not only unconscionable but entails international criminal responsibility for a willful and intended starvation of an entire population.

- There is no problem of *mutual* mistrust. The party that has failed to establish confidence in its adherence to its obligations is certainly not Iran, but the United States and to a lesser extent its E3/EU partners.
    - Iran's complete and full compliance with all its JCPOA obligations have been confirmed 15 times by the pertinent verification authority, the IAEA—five of which occurred following Trump's unlawful and unilateral decision to cease U.S. participation in JCPOA.
    - It is the United States that has failed—even during the Obama administration—to establish any confidence in the good-faith fulfilment of its obligations. Iran has duly documented all of these non-performance issues in its many letters to the Coordinator of the JCPOA Joint Commission, starting with the letter sent on 2 September 2016.
    - After one year of lackluster implementation by the Obama administration, followed by Trump's four years of active hostility toward and flagrant violation of the JCPOA and UNSCR 2231—and even extraterritorial punishment of its adherents—it is the United States that needs to rectify its behavior and provide measurable and verifiable means to establish confidence about its current and future compliance.
    - The E3/EU have not been able—in spite of verbal commitments and claims to the contrary—to effectively perform their obligations under the JCPOA or those made *after* the U.S. withdrawal, as detailed in Iran's notification of 2 July 2020 under Paragraph 36 of the JCPOA.
- No one in the world has any doubt that it was the United States that *broke* the JCPOA, and it must therefore *fix* it itself. No amount of posturing will change this self-evident truth.
    - The United States is accountable for hundreds of billions of dollars of unjustifiable direct and indirect irreparable harm to the economy and livelihoods of the people of Iran, coupled with the losses of life directly caused by its indiscriminate economic terrorism targeting the Iranian people.
    - The U.S. should not arrogate to itself—nor can the EU/E3—the right to demand anything from Iran before it rectifies its dismal record of non-performance and outright brutality against the Iranian people—which continues to date, and amid an ongoing pandemic at that.
    - Offering engagement with Iran does not reflect a change of policy from former President Trump. He was also prepared to engage. But Iran will never engage under pressure with those who break the most fundamental preemptory norms of international law, in particular, good faith, *pacta sunt servanda* and inadmissibility of benefitting from wrongful acts.
- There will never be any renegotiation of a thoroughly negotiated document.
    - The Joint Comprehensive Plan of Action and UNSCR 2231 are thoroughly negotiated *comprehensive* documents conclusively and definitively settling timelines, addressing all pertinent issues such as missiles designed to be capable of delivering nuclear weapons, and the effective lifting of sanctions "conducive to promoting and facilitating the development of normal economic and trade contacts and cooperation with Iran."
    - The *travaux préparatoires* of the JCPOA and UNSCR 2231 is well known to senior members of the current U.S. administration and at least 3 JCPOA Participant ministers who personally contributed to the negotiations.

- Hard bargains were *concluded,* and difficult choices were made, including the extension to 5 and 8 years of certain limitations for Iran against Iran's desire and as a *quid pro quo* for the said arrangements.
- Iran has already paid the price for what it gained in writing—the text of the accord—notwithstanding absolutely zero *practical* gains.
- Iran will *never* agree to re-negotiate what has already been finalized and fully paid for—the latter albeit by Iran only.

● The path and sequence for a return to full compliance with JCPOA is crystal clear in logic, law and fact.

- Iran never left the JCPOA and acted in full conformity with the letter and spirit of Paragraph 36 of the accord when it took remedial measures.
- Iran will stop its remedial measures as soon as the causes of action clearly established in Iran's letters—*inter alia*—of 16 December 2016, 10 May 2018, 21 August 2018, 6 November 2018, 8 May 2019, 29 January 2020, 10 March 2020, and 2 July 2020 to the Coordinator of the JCPOA Joint Commission under Paragraph 36 of the JCPOA and letters of 10 May 2018 and 10 April 2019 to the Secretary-General of the United Nations are removed.
- If the United States intends to rectify its wrongful acts, the first necessary step is to return to full compliance as the offending party.
  - No legal—or even political—argument can justify any other course of action, or indeed any conditionality.
  - The outdated concept of 'might is right' is no longer applicable in the civilized world and certainly Iran will *never* succumb to such behavior. Our long record on this is as strong as it is crystal clear.

● No negotiations are needed for the implementation of a fully-negotiated and fully implemented—at least by Iran—document.

- There is nothing ambiguous or unclear about returning to full compliance with the JCPOA. The current United States administration clearly knows what it takes to fulfil its obligations in a manner satisfactory to Iran.
- Once that is done and the cause of action is removed, Iran will immediately reverse its remedial measures under Paragraph 36. Iran knows exactly what it needs to do to satisfy the IAEA, as does the Agency itself.

● Insistence by the United States on the need for negotiations prior to implementation gives rise to a possible intention to impose new conditionalities under economic pressure.

- This amounts to extortion which has not, and never will, work with Iran.
- Statements by current and soon-to-be senior U.S. administration officials—including "2021 is not 2015…the geopolitics of the region have changed, and the way forward must similarly change"—regrettably point to the aforementioned foul intention, and is indicative of absolute bad faith.

● As JCPOA Participants, the EU/E3 and the Coordinator of the ICPOA Joint Commission must adhere to the requirements of the dispute resolution mechanism between Iran and the United States—officially invoked, exhausted and duly notified by Iran from 2 September 2016 to 8 May 2019.

- The E3 and the EU have twice admitted, on 6 July 2018 and 24 September 2018 at the ministerial level—and many times at DFM/PD level—the existence

of the dispute arising from the U.S. withdrawal in line with procedures set out in Paragraph 36:

- "Upon the *request of the Islamic Republic of Iran*, a meeting of the Joint Commission of the Joint Comprehensive Plan of Action (JCPOA) was held on 6 July in Vienna at Ministerial level. The Joint Commission met to discuss the way forward to ensure the continued implementation of the nuclear deal in all its aspects and *review unresolved issues arising from the unilateral withdrawal of the United States* from the agreement and the announced re-imposition of sanctions lifted under the JCPOA and its Annex II, which they deeply regret."
- "A Ministerial meeting of the E3/EU+2 and the Islamic Republic of Iran, the participants of the Joint Comprehensive Plan of Action, was held on 24 September 2018 in New York. The participants considered ways forward to ensure the full and effective implementation of the JCPOA in all its aspects. *They also took stock of the process of finding and operationalizing practical solutions for issues arising from the unilateral withdrawal of the United States from the agreement and the re-imposition of sanctions* lifted under the JCPOA and its Annex II, which they deeply regret*."*
  - The E3/EU must—at the very least—refrain from equating the victim with the culprit, or worse, siding with the *culprit* and echoing its unlawful politically motivated assertions.
- Joint Ministerial statements between the E3 and the United States seek to alter history, have no legal validity and amount to significant non-performance under Paragraphs 28, 29 and 36 of the JCPOA.
- The invitation to a meeting on behalf of the Coordinator of the JCPOA Joint Commission against the clearly communicated objection of Iran—a JCPOA participant—and because of the insistence of the United States—a non-participant which has and continues to be punishing a JCPOA participant and other members of the international community for compliance—is totally unacceptable and against all principles of fair play.
- The fact that the EU offer was almost simultaneously welcomed by the U.S. State Department proves the complicity in creating a misinformation propaganda campaign by the violator against a JCPOA participant.
- These actions constitute significant non-performance of the JCPOA and must be ceased forthwith, and rectified.

- Once there is an understanding as to the principle, a logical choreography of steps can be easily worked out with the assistance of the Coordinator of the JCPOA Joint Commission, within the terms of its responsibility under JCPOA.
- When and if clarifications are needed, Iran and the United States can use Switzerland or the Coordinator of the JCPOA Joint Commission to seek and receive clarifications.

Iran is prepared to take all necessary measures for the full implementation of all its JCPOA commitments immediately following the effective removal of all sanctions. It will start as early—or as late—as the U.S. and the E3 take the necessary steps.

I will be grateful if you would share this letter with the Foreign Ministers of the remaining JCPOA Participants (EU/E3+2). In the interest of transparency and fair play, you may also wish to provide a copy to the Government of the United States.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Letter dated 11 April 2021 to the Coordinator of JCPOA Joint Commission on the sanction-lifting obligations of the United States

In the name of God, the Compassionate, the Merciful

11 April 2021

His Excellency Mr. Josep Borrell Fontelles

High Representative of the European Union

for Foreign Affairs and Security Policy

Coordinator of the JCPOA Joint Commission

Excellency,

In accordance with paragraph 24 of the Joint Comprehensive Plan of Action (JCPOA), it is the responsibility of the E3/EU and the United states to specify "a full and complete list of all nuclear-related sanctions or restrictive measures". According to paragraphs 2 and 6 of Annex II of the JCPOA, it is their obligation—respectively—to ensure that their respective lists constitute the *full and complete* list of all relevant sanctions that will be lifted.

Unfortunately, the United States has inexplicably refused to do so. Therefore, acting in good faith to contribute to a timely conclusion of the current Joint Commission consultations, I enclose herewith an indicative—but not exhaustive—list of U.S. sanctions, restrictive measures, and other actions contrary to the JCPOA and inconsistent with Security Council's objective of "promoting and facilitating the development of normal economic and trade contacts and cooperation with Iran."

I must emphasize that to return to full compliance with the JCPOA, the United States and the E3/EU are also obliged to remove all restrictive measures that they imposed, re-imposed or relabeled since JCPOA "Implementation Day" inconsistent with their obligations under the JCPOA, particularly those that I have brought to the attention of the JCPOA Joint Commission in writing—including under Paragraph 36 of the JCPOA.

In my letter of 2 September 2016 to the JCPOA Coordinator, I "request[ed] the convening of the Joint Commission at the ministerial level" to *inter alia* "address the numerous and persistent failures", including regarding sale of passenger aircraft to Iran, banking and financial issues, OFAC's prohibitive signals, the US Visa Waiver Program, the US' reintroduction of certain sanctions, EU's unprecedented restrictions on the export of certain items to Iran, and US/EU's words and deeds against Iran in the UNSC incompatible with UNSCR 2231.

In my letter 16 December 2016, I informed the coordinator of the JCPOA Joint Commission, "that on 14 December 2016, the United States committed a significant breach of its obligations under the JCPOA by re-introducing the sanctions under ISA. The renewal of Iran Sanctions Act—with or without signature by the U.S. President—constitutes a clear violation of the commitment undertaken by the United States under the JCPOA to 'refrain from re-introducing or re- imposing the sanctions that it has ceased applying under this JCPOA' (paragraphs 26 and 28)." I asked the coordinator "to bring this letter to the attention

of all JCPOA participants in accordance with paragraph 36 of the Joint Comprehensive Plan of Action".

These unlawful measures, adopted by the United States—and to some extent the E3/EU—following JCPOA "Implementation Day" must be remedied.

Furthermore, in my letter of 28 March 2017, I warned the JCPOA Joint Commission that "Since the assumption of office by the new US Administration, what used to be *lack-luster* implementation of the JCPOA by the previous administration has now turned into total and *open hostility* toward the deal. The Islamic Republic of Iran has fulfilled all its obligations under the agreement and is thus entitled to demand and receive the full benefits as stipulated in the JCPOA; a multilateral undertaking which 'includes reciprocal commitments', requires implementation 'in good faith and in a constructive atmosphere, based on mutual respect', enshrines the undertaking of all participants 'to refrain from any action inconsistent with the letter, spirit and intent of this JCPOA that would undermine its successful implementation' and underlines 'that conclusion of this JCPOA marks a fundamental shift' in dealing with Iran—also repeated in the preamble of UNSCR 2231. The declared policy and practice of the current administration in the United States flout every single one of these clearly stated commitments of the 'Government of the United States of America'. *It is evident that the 'Government of the United States of America' has maliciously intended—since the very beginning—to prevent normalization of trade with Iran and to deprive Iran from the economic dividends clearly envisaged in the JCPOA*."

According to Paragraph 29 of the JCPOA, "The EU and its Member States and the United States, consistent with their respective laws, *will refrain from any policy specifically intended to directly and adversely affect the normalisation of trade and economic relations with Iran inconsistent with their commitments not to undermine the successful implementation of this JCPOA*." In that letter and numerous ensuing communications to the Joint Commission through its Coordinator, I documented the overarching policy, *stated purpose,* and vicious global campaign of the President, officials, and instrumentalities of the "Government of the United States of America" to do exactly that: adversely affect normalization of trade and undermine implementation of the JCPOA. For your reference, I enclose some of those documents.

It is abundantly clear that *all* measures by the former US Administration were aimed—as even publicly boasted by US officials—at destroying the JCPOA and preventing Iran from enjoying its benefits promised by the accord. Consequently, all sanctions and measures taken by the Trump administration—under any pretext—are *JCPOA-related sanctions* and must be effectively removed, reversed, and remedied.

My colleagues have come to the current Joint Commission meeting in good faith and with a view to restore full and effective implementation of the JCPOA by all parties. Our good faith has been manifested in the smooth working of the nuclear working group. However, the proceedings of the sanctions-lifting working group indicate otherwise. The ambiguous, non-transparent, non-comital and non-specific approach by the United States makes the road ahead extremely difficult and cumbersome. The papers presented by the United States, so far, are incomplete, insufficient, and disappointing, and indicate the lack of seriousness and good faith on the part of the United States concerning a return by it to the JCPOA.

As my colleagues underlined repeatedly during the meeting, sanctions-lifting is not subject to bargaining, and it does not need "detailed discussions" or a "roadmap". Even a "framework" is not necessary. It seems that the US intends to maintain some parts of unlawful sanctions imposed since the "Implementation Day" of the agreement as leverages over Iran. This is totally unacceptable and will with certainty lead to failure.

It is imperative now to receive a clear "list of sanctions" which the U.S. will be lifting. Without this list progress cannot be made. While I am enclosing an indicative list

only as a good-faith effort to ease the process, the responsibility for specifying a "full and complete list" rests only on the E3/EU and the US, as stated above in accordance with Paragraph 24 of the JCPOA and paragraphs 2 and 6 of its Annex II. Annex II also specifies the effects of the lifting of sanctions. The effectiveness and verifiability of the sanctions-lifting will be at the heart, and the over-arching purpose, of any discussion over a possible US return.

As I stated in my letter of 12 March 2021, the United States should understand that seeking to remove an effect without eliminating the cause will never work. The cause of mistrust is not mutual. The party that has failed to establish confidence in its adherence to its obligations is the United States, and to a lesser extent its E3/EU partners.

There of course is no doubt that it was the United States that broke the JCPOA, and it is therefore *its* responsibility to fix it *itself*. The path and sequence for a return to full compliance with JCPOA is crystal clear in logic, law, and fact. Iran never left the JCPOA and acted in full conformity with the letter and spirit of Paragraph 36 of the accord when it took remedial measures. Iran will stop its remedial measures as soon as the causes of action are removed, and following verification of full performance by the United States. We stand ready to discuss with the JCPOA participants on how to reach speedy and effective verification.

I would also like to put on the record that we expect full implementation of paragraph 33 of the JCPOA, namely, "to ensure Iran's access in areas of trade, technology, finance and energy".

I will be grateful if you would share this letter and its annexes with the Foreign Ministers of the remaining JCPOA Participants (EU/E3+2). In the interest of transparency and fair play, you may also wish to provide a copy to the Government of the United States.

Please accept, Excellency, the assurances of my highest consideration.

M. Javad Zarif

Annex 14. Response to U.S. allegation on missiles and regional issues contained in Secretary Pompeo statement of 21 May 2018, *Iran Daily*, 20 June 2018

In the name of God, the Compassionate the Merciful

US Foreign Policy in Crisis

M. Javad Zarif

Following the Trans-Pacific Partnership and the Paris Climate Accord, the Joint Comprehensive Plan of Action (JCPOA) is the third multilateral agreement that the current United States administration has withdrawn from. The administration has also put in jeopardy other multilateral arrangements such as NAFTA, the global trade system, and parts of the United Nations system, thus inflicting considerable damage to multilateralism, and the prospects for resolving disputes through diplomacy.

The announcement on 8 May 2018 of United States' withdrawal from the JCPOA and the unilateral and unlawful re-imposition of nuclear sanctions[149] — a decision opposed by majority of the American people[150] — was the culmination of a series of violations of the terms of the accord by this administration, in spite of the fact that the International Atomic Energy Agency, as the sole competent international authority had repeatedly verified Iran's compliance with its commitments under the accord.[151] The U.S. decision was rejected by the international community and even its closest allies, including the European Union[152], Britain[153], France[154] and Germany.

On 21 May 2018, US Secretary of State Mike Pompeo, in a baseless and insulting statement, issued a number of demands of and threats against Iran[155] in brazen contravention of international law, well-established international norms, and civilized behavior. His statement reflected a desperate reaction by the US administration to the overwhelming opposition of the international community to the persistent efforts by the White House to kill the JCPOA, and the ensuing Washington's isolation. Mr. Pompeo, in his statement, attempted to justify the US' withdrawal from the JCPOA and divert international public opinion from the unlawful behavior of the United States and its outright violation of UN Security Council resolution 2231[156]; a resolution drafted and proposed by the US itself and adopted unanimously by the Council. Mr. Pompeo's 12 preconditions for Iran to follow are especially preposterous as the US administration itself is increasingly isolated internationally due to its effort to undermine diplomacy and multilateralism. It comes as no surprise that the statement and the one made

[149] https://www.whitehouse.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action-counter-irans-malign-influence-deny-iran-paths-nuclear-weapon/

[150] https://edition.cnn.com/2018/05/08/politics/poll-iran-agreement/index.html

[151] IAEA in its report of 24 May, IAEA has concluded that "continues to verify the non-diversion of declared material at the nuclear facilities and locations outside facilities where nuclear material is customarily used(LOFs) declared by Iran under its Safeguards Agreement" and "since Implementation Day, the Agency has been verifying and monitoring the implementation by Iran of its nuclear-related commitments under the JCPOA." https://www.iaea.org/newscenter/focus/iran/iaea-and-iran-iaea-reports

[152] https://eeas.europa.eu/headquarters/headquarters-homepage/44238/remarks-hrvp-mogherini-statement-us-president-trump-regarding-iran-nuclear-deal-jcpoa_en

[153] https://www.gov.uk/government/news/joint-statement-from-prime-minister-may-chancellor-merkel-and-president-macron-following-president-trumps-statement-on-iran

[154] https://www.diplomatie.gouv.fr/en/french-foreign-policy/disarmament-and-non-proliferation/events/article/jcpoa-joint-statement-by-france-the-united-kingdom-and-germany-08-05-18

[155] https://www.state.gov/secretary/remarks/2018/05/282301.htm

[156] The Security Council in the resolution 2231 (2015) has urged the full implementation of the JCPOA and has called upon all UN Member States, including the United States to "refrain from actions that undermine implementation of commitments under the JCPOA".

by the US president on Iran were either ignored or received negatively by the international community, including by friends and allies of the United States. Only a small handful of US client states in our region welcomed it.[157]

I seriously doubt that had the US Secretary of State even had a slight knowledge of Iran's history and culture and the Iranian people's struggle for independence and freedom, and had he known that Iran's political system—in contrast to those of the American allies in the region—is based on a popular revolution and the people's will, would he have delivered such an outlandish statement. He should, however, know that ending foreign intervention in Iran's domestic affairs, which culminated in the 25-year period following the US-orchestrated coup in 1953, had always been one of the Iranian people's main demands since well before the Islamic Revolution. He should also be aware that in the past 40 years the Iranian people have heroically resisted and foiled aggressions and pressures by the US, including its coup attempts, military interventions, support of the aggressor in an 8-year war, imposition of unilateral, extraterritorial and even multilateral sanctions, and even going as far as shooting down an Iranian passenger plane in the Persian Gulf in 1987. "Never forget" is our mantra, too.

The Islamic Republic of Iran derives its strength and stability from the brave and peace-loving Iranian people; a people who, while seeking constructive interaction with the world on the basis of mutual respect, are ready to resist bullying and extortions and defend in unison their country's independence and honor. History bears testimony to the fact that those who staged aggression against this age-old land, such as Saddam and his regime's supporters, all met an ignominious fate, while Iran has proudly and vibrantly continued its path towards a better and brighter future.

It is regrettable that in the past one-and-a-half years, US foreign policy—if we can call it that[158]—including its policy towards Iran has been predicated on flawed assumptions and illusions—if not actual delusions. The US President and his Secretary of State have persistently made baseless and provocative allegations against Iran that constitute blatant intervention in Iran's domestic affairs, unlawful threats against a UN Member State, and violations of the United States' international obligations under the UN Charter, the 1955 Treaty[159], and the 1981 Algiers Accord[160]. While rejecting these fictitious allegations, I would like to draw the attention of U.S. policymakers to some aspects of their nation's current foreign policy that are detrimental to the entire international community:

1. Impulsive and illogical decisions and behavior of the US President—and efforts by his subordinates to find some justification to persuade a reluctant domestic and foreign audience—have already surfaced as the main feature of the decision-making process in Washington over the past 17 months. This process, coupled with ill-conceived and hasty explanations to justify outcomes, usually lead to contradictory statements and actions. As an example, in his role as CIA Director, Mike Pompeo once in a Congressional hearing emphatically stated: "Iran has not violated its commitments[161]." Later, and following the US

[157] http://www.newsweek.com/trumps-iran-deal-announcement-could-leave-us-isolated-and-allies-trouble-916023

[158] https://www.washingtonpost.com/news/josh-rogin/wp/2018/05/21/pompeos-iran-strategy-speech-lacked-a-real-strategy/?utm_term=.9789576593c4

[159] According to Treaty of Amity of 1955, the United States is obliged not to impose sanctions against Iran and Iranians peoples. For instance, Article IV of this Treaty is obliging the United States "at all times accord fair and equitable treatment to the Iranian nationals and companies" and "refrain from applying unreasonable or discriminatory measures that would impair Iranians legally acquired rights and interests". Furthermore, Article X is prescribing that "Between the territories of the United States and Iran "shall be freedom of commerce and navigation."

[160] In the Algeria Declaration of 1981, "The United States pledged that it is and from now on will be the policy of the United States not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs."

[161] https://www.foreign.senate.gov/hearings/nomination-041218

President's decision to withdraw from the accord, now Secretary of State Pompeo in his statement on May 21 emphatically stated that "Iran has violated its commitments[162]."

2. It wouldn't be an exaggeration to say that some aspects of US foreign policy have been put up for auction—far beyond the routine lobbying practices. It is, for instance, unprecedented that a US president should choose the very country he had called "fanatic and a supporter of terrorism[163]" during his election campaign as the destination for his first foreign visit as president[164], or to publicly make aspects of his foreign policy positions contingent on the purchase by one or another country of arms and other items from the United States.[165] It has also been reported that in some other cases, mostly illegitimate financial interests have been the main basis for the formulation of mind-bogglingly ill-conceived US policy positions.[166]

3. Contempt for international law and attempts to undermine the rule of law in international relations have been among the main features of the current administration's foreign policy. To the extent, according to media reports, that the US negotiators in the G7 Summit were even insisting on deleting the phrase "our commitment to promote the rules-based international order."[167] This destructive approach began by showing contempt for the fundamental principle of *pacta sunt servanda*, which is arguably the oldest principle of international law. The US withdrawal from some international agreements and undermining others, coupled with efforts to weaken international organizations, are examples of destructive moves so far by the US government, which have unfortunately darkened the outlook for the international order. Obviously, the continuation of such policies can endanger the stability of the international community, turning the U.S. into a rogue state and an international outlaw.[168]

4. Predicating decisions on illusions is another aspect of this administration's foreign policy. This has been especially evident with respect to West Asia. The illegal and provocative decision regarding al-Quds al-Sharif, blind support for the cruel atrocities committed by the Zionist regime against Gazans, and aerial and missile attacks against Syria are some of the more brazen aspects of such an unprincipled foreign policy.

The statement made by Mr. Pompeo on May 21 was the culmination of a delusional US approach to our region. Ironically, the U.S. Secretary of State tried to set preconditions for negotiations and agreement with the Islamic Republic of Iran at a time when the international community is doubtful about the possibility or utility of negotiation or agreement with the US on *any* issue. How can the US government expect to be viewed or treated as a reliable party to another round of serious negotiations following its unilateral and unwarranted withdrawal from an agreement which was the result of hundreds of hours of arduous bilateral and multilateral negotiations, in which the highest ranking US foreign affairs official participated, and which was submitted to the Security Council by the US and adopted unanimously as an international commitment under Article 25 of the Charter?

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[162] https://www.state.gov/secretary/remarks/2018/05/282301.htm

[163] https://www.politico.com/story/2016/10/full-transcript-third-2016-presidential-debate-230063

[164] https://lobelog.com/how-the-saudis-took-donald-trump-for-a-ride/

[165] https://www.whitehouse.gov/briefings-statements/remarks-president-trump-crown-prince-mohammed-bin-salman-kingdom-saudi-arabia-bilateral-meeting/ , https://www.rt.com/news/421890-peanuts-mbs-trump-video/ and https://www.haaretz.com/us-news/trump-humiliated-saudi-crown-prince-while-boasting-about-arms-sales-1.5938561

[166] https://theintercept.com/2018/03/02/jared-kushner-real-estate-qatar-blockade/ and https://www.vanityfair.com/news/2018/03/did-jared-kushner-punish-qatar-because-it-wouldnt-lend-his-family-money

[167] https://www.reuters.com/article/us-g7-summit-communique-text/the-charlevoix-g7-summit-communique-idUSKCN1J5107

[168] https://www.smh.com.au/world/middle-east/donald-trump-s-america-has-just-become-a-rogue-nation-20180509-p4zebu.html

Recent statements and actions by the U.S. president, including reneging on his agreement with the G7[169] while in the air flying back from the summit, are other examples of his erratic behavior. His remarks immediately following his meeting with the leader of the DPRK regarding his possible change of mind in 6 months are indicative of what the world is facing—an irrational and dangerous US administration. Does the US Secretary of State really expect Iran to negotiate with a government whose president says: "I may stand before you in six months and say, 'Hey, I was wrong. I don't know if I'll ever admit that, but I'll find some kind of an excuse"[170]? Can such a government really set preconditions for Iran? Isn't it actually confusing the plaintiff for the defendant? Mr. Pompeo has forgotten that it is the US government that needs to prove the credibility of its words and legitimacy of its signature, and not the party that has complied with its international obligations and sticks to its word. In fact, the truth is that all US administrations in the past 70 years should be held accountable for their disregard for international law, and their violations of bilateral and multilateral agreements with Iran. A short list of the rightful demands of the Iranian people from the US government could include the following:

1. The US government must respect Iran's independence and national sovereignty and assure Iran that it will end its intervention in Iran's domestic affairs in accordance with international law in general, and the 1981 Algiers Accord[171] in particular.

2. The United States must abandon its policy of resorting to the threat or use of force – which constitute a breach of the preemptory norms of international law and principles of the Charter of the United Nations – as an option in the conduct of its foreign affairs with or against the Islamic Republic of Iran and other States.

3. The US government should respect the State immunity of the government of the Islamic Republic of Iran,[172] which is a fundamental principle of international law, and, while rescinding previous arbitrary and unlawful financial judgments, it should refrain from executing them in the US and extra-territorially.

4. The US government should openly acknowledge its unwarranted and unlawful actions against the people of Iran over the past decades, including *inter alia* the following, take remedial measures to compensate the people of Iran for the damages incurred, and provide verifiable assurances that it will cease and desist from such illegal measures and refrain from ever repeating them:

a. its role in the 1953 coup[173] that led to the overthrow of Iran's lawful and democratically-elected government and the subsequent 25 years of dictatorship in Iran;[174]

[169] https://www.bbc.com/news/world-us-canada-44427660 and https://www.telegraph.co.uk/news/2018/06/10/donald-trump-throws-g-7-disarray-tweets-leaves/

[170] http://thehill.com/homenews/administration/391774-trump-if-i-was-wrong-about-kim-ill-find-some-kind-of-an-excuse and https://www.rollingstone.com/politics/news/trump-interview-north-korea-w521433

[171] http://www.iusct.net/General%20Documents/1-General%20Declaration%E2%80%8E.pdf

[172] http://www.icj-cij.org/en/case/143/judgments

[173] https://www.theguardian.com/world/2013/aug/19/cia-admits-role-1953-iranian-coup https://nsarchive2.gwu.edu/NSAEBB/NSAEBB435/#_ftn1

[174] https://www.nytimes.com/2000/04/16/world/secrets-history-cia-iran-special-report-plot-convulsed-iran-53-79.html

b. unlawful blocking, seizure and confiscation of tens of billions of dollars of assets of the Iranian people after the Islamic revolution[175], or under various baseless pretexts[176] in recent years;[177]

c. direct military aggression against Iran in April 1980[178], which was a blatant violation of the sovereignty and territorial integrity of Iran;

d. provision of massive military and intelligence assistance to the Iraqi dictator[179] during the 8-year war he imposed on the Iranian people[180] inflicting hundreds of billions of dollars of damages on Iran and its people;

e. responsibility in the enormous suffering that Iranians have incurred over the past 3 decades as a result of the use by Saddam of chemical weapons, whose ingredients were provided[181] by the US[182] and some other western countries;[183]

f. the shooting down of an Iran Air passenger plane by the USS Vincennes in July 1988—a flagrant crime that led to the murder of 290 innocent passengers and crew[184], and the subsequent awarding of a medal to the captain of the ship[185] rather than punishing him for his war crime;

g. repeated attacks against Iran's oil platforms in the Persian Gulf[186] in the spring of 1988;

[175] According to Points II and III of Algeria Declaration of 1981, the United States is committed to return all Iranians Assets.

[176] https://www.supremecourt.gov/opinions/15pdf/14-770_9o6b.pdf

[177] https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=2243&context=californialawreview

[178] https://www.britannica.com/event/Operation-Eagle-Claw

[179] https://www.nytimes.com/1992/01/26/world/us-secretly-gave-aid-to-iraq-early-in-its-war-against-iran.html, https://www.washingtonpost.com/archive/politics/2002/12/30/us-had-key-role-in-iraq-buildup/133cec74-3816-4652-9bd8-7d118699d6f8/?noredirect=on&utm_term=.6be00053e094 and https://en.wikipedia.org/wiki/United_States_support_for_Iraq_during_the_Iran%E2%80%93Iraq_War. Also according to PBS Frontline, Saddam was recruited by the CIA while in Cairo in the 1950s. According to United Press International, he was used by the United States to plan a coup against General Abdulkarim Qassim. His collaboration with the United States after assuming power in 1979 has been widely documented. See Richard Sale "Exclusive: Saddam key in early CIA plot," *United Press International*, 4 October 2003, http://www.upi.com/archive/view.php?archive=1&StoryID=20030410-070214-6557r

[180] https://1997-2001.state.gov/statements/2000/000317.html

[181] https://glasgow.rl.talis.com/items/684B064F-2507-AE89-0568-56D8F164C550.html

[182] http://www.bbc.com/persian/iran-features-40431691

[183] http://foreignpolicy.com/2013/08/26/exclusive-cia-files-prove-america-helped-saddam-as-he-gassed-iran/

[184] https://www.britannica.com/event/Iran-Air-flight-655

[185] https://www.washingtonpost.com/archive/politics/1990/04/23/2-vincennes-officers-get-medals/cf383f02-05ce-435b-9086-5d61de569ed8/?utm_term=.e6c9789813e6

[186] The International Court of Justice, the principal judicial organ of the United Nations, in its Judgment of 2003 found that "the actions of the United States of America against Iranian oil platforms on 19 October 1987 and 18 April 1988 cannot be justified as measures necessary to protect the essential security interests of the United States of America under Article XX, paragraph 1 (d), of the 1955 Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, as interpreted in the light of international law on the use of force."

h. repeated and unwarranted insults against the Iranian people by calling the entire nation "an outlaw and rogue nation"[187] or "a terrorist nation"[188] and by including Iran in the so-called "axis of evil;"[189]

i. unlawful and unreasonable establishment of a bigoted list of the nationals of some Islamic countries, including Iranians, prohibiting their entry into the US.[190] The Iranians are among the most successful, educated and law-abiding immigrants in the US and have done great service to American society. They are now prohibited from seeing their loved ones, including even their aging grandparents;

j. harboring and providing safe haven to anti-Iranian saboteurs in the USA, who openly incite blind violence against Iranian civilians,[191] and supporting criminal gangs and militias and terrorist organizations,[192] some of which were listed for years as terrorist groups by the US and later removed from the list following intense lobbying by those who have received money from them.[193] Some of those lobbyists[194] now occupy high-ranking positions in the Trump administration;

k. support provided to Mossad[195] for the multiple terrorist assassinations of Iranian nuclear scientists;[196]

l. sabotage of Iran's nuclear peaceful program through cyber-attacks;[197]

m. fabrication of fake documents[198] to deceive the international community over Iran's peaceful nuclear program and to create an unnecessary crisis[199].

5. The United States government must cease its persistent economic aggression against the Iranian people which has continued over the past four decades; nullify the cruel and extensive primary and extraterritorial sanctions, rescind hundreds of legislations and executive orders[200] aimed at disrupting Iran's normal development which are in flagrant

[187] http://articles.latimes.com/1987-09-28/news/mn-6980_1_weinberger
[188] https://www.washingtonpost.com/video/politics/trump-calls-iran-a-terrorist-nation-like-few-others/2017/10/13/810b8214-b025-11e7-9b93-b97043e57a22_video.html?utm_term=.33c4c2ad3feb
[189] https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html
[190] https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visa-waiver-program.html
[191] http://www.socialist.ca/node/3550
[192] https://www.rand.org/content/dam/rand/pubs/monographs/2009/RAND_MG871.pdf
[193] http://foreignpolicy.com/2018/04/30/bolton-iran-mek-terrorism-trump/
[194] https://www.politico.com/magazine/story/2016/11/giuliani-mek-terrorist-group-money-bolton-iran-214479 , https://www.youtube.com/watch?v=4OWYnNh9w4s ; Also in, http://nototerrorism-cults.com/en/?p=1436
[195] https://www.politico.eu/article/netanyahu-israel-assassinate-iranian-scientists-hatched-a-secret-plan/
[196] https://www.jpost.com/Middle-East/Iran/Israel-behind-assassinations-of-Iran-nuclear-scientists-Yaalon-hints-411473
https://www.politico.com/magazine/story/2018/03/05/israel-assassination-iranian-scientists-217223
[197] https://www.washingtonpost.com/world/national-security/us-israel-developed-computer-virus-to-slow-iranian-nuclear-efforts-officials-say/2012/06/19/gJQA6xBPoV_story.html?noredirect=on&utm_term=.54301c957813; Also in: https://www.nytimes.com/2012/06/01/world/middleeast/obama-ordered-wave-of-cyberattacks-against-iran.html
[198] https://www.nytimes.com/2015/01/27/us/politics/cia-officer-in-leak-case-jeffrey-sterling-is-convicted-of-espionage.html
[199] http://justworldbooks.com/books-by-title/manufactured-crisis/
[200] https://www.treasury.gov/resource-center/sanctions/Programs/pages/iran.aspx

contravention of international law[201] and have been universally condemned,[202] and compensate the Iranian people for the enormous damages to the Iranian economy and its people.

6. The US government should immediately cease its violations and breaches of the JCPOA[203], which have caused hundreds of billions of dollars in direct and indirect damages for disrupting trade with and foreign investment in Iran, compensate Iranian people for these damages and commit to implement unconditionally and verifiably all of its obligations under the accord, and refrain (in accordance with the JCPOA) from any policy or action to adversely affect the normalization of trade and economic relations with Iran.

7. The US government should release all Iranians and non-Iranians who are detained under cruel conditions in the US under fabricated charges[204] related to the alleged violation of sanctions[205], or apprehended in other countries following unlawful pressure by the US government for extradition, and compensate for the damage inflicted on them. These include pregnant women,[206] the elderly and people suffering from serious health problems; some of whom have even lost their lives in prison.[207]

8. The US government should acknowledge the consequences of its invasions and interventions in the region, including in Iraq,[208] Afghanistan and the Persian Gulf region[209], and withdraw its forces from and stop interfering in the region.

9. The US government should cease policies and behavior that have led to the creation of the vicious DAESH terrorist group and other extremist organizations, and compel its regional allies to verifiably stop providing financial and political support and armaments to extremist groups in West Asia and the world[210].

10. The US government should stop providing arms and military equipment to the aggressors—who are murdering thousands of innocent Yemeni civilians and destroying the country[211]— and cease its participation in these attacks.[212] It should compel its allies to end their aggression against Yemen and compensate for the enormous damage done to that country.

11. The US government should stop its unlimited and unconditional support for the Zionist regime[213] in line with its obligations under international law; condemn its policy of apartheid and gross violations of human rights, and support the rights of the Palestinian

[201] https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280142196
[202] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996R2271:EN:HTML
[203] See UN. Documents A/72/869 and S/2018/453
[204] https://www.theblaze.com/news/2014/01/13/former-u-s-defense-contractor-arrested-for-attempting-to-ship-sensitive-information-to-iran; Also in: https://www.justice.gov/usao-sdny/pr/dual-iranian-american-citizen-sentenced-25-years-prison-conspiring-and-attempting
[205] https://www.nytimes.com/2018/03/09/world/middleeast/ahmad-sheikhzadeh-iranian-prosecution.html
[206] http://ifpnews.com/exclusive/iran-perusing-situation-iranian-woman-detained-australia-official/
[207] http://globalnation.inquirer.net/109665/wanted-iranian-dies-in-nbi-custody
[208] https://www.nytimes.com/2007/02/08/opinion/08zarif.html
[209] https://www.globalpolicy.org/humanitarian-issues-in-iraq/consequences-of-the-war-and-occupation-of-iraq.html; Also in: https://www.huffingtonpost.com/ivan-eland/worst-effect-of-us-afghan_b_5474805.html?guccounter=1; And
[210] https://www.independent.co.uk/news/world/middle-east/isis-us-saudi-arabia-arms-fighters-jihadis-military-capability-enhanced-weapons-syria-terrorism-a8112076.html and https://www.reuters.com/article/us-mideast-crisis-iraq-arms/arms-supplied-by-u-s-saudi-ended-up-with-islamic-state-researchers-say-idUSKBN1E82EQ
[211] https://www.washingtonpost.com/news/worldviews/wp/2017/11/09/saudi-arabias-arms-deals-are-buying-the-wests-silence-over-yemen-allege-activists/?utm_term=.7bf6b323a98b
[212] https://www.brookings.edu/opinions/lets-admit-it-the-u-s-is-at-war-in-yemen-too/
[213] http://www.middleeasteye.net/news/42-times-us-has-used-its-veto-power-against-un-resolutions-israel-942194703

people, including their right to self-determination and the establishment of an independent Palestinian State with al-Quds al-Sharif as its capital.

12. The US government should stop selling hundreds of billions of lethal—not beautiful—military equipment every year to regions in crisis[214], especially West Asia, [215] and instead of turning these regions into powder kegs[216] it should allow the enormous amount of money spent on arms to serve as funding for development and combating poverty. Only a fraction of the money paid by US arms customers could alleviate hunger and abject poverty, provide for potable, clean water, and combat diseases throughout the globe.[217]

13. The US government should stop opposing the efforts by the international community for the past 5 decades to establish a *zone* free from weapons of mass destruction in the *Middle East*.[218] It should compel the Zionist regime—with its history of aggression and occupation—to de-nuclearize, thus neutralizing the gravest real threat to regional and international peace and security, which emanates from the most destructive arms in the hands of the most warmongering regime in our time.

14. The US government should stop increasingly relying on nuclear weapons and the doctrines of using nuclear weapons to counter conventional threats[219]—a policy that is in flagrant contravention of its commitment under Article VI of the Non-Proliferation Treaty, the advisory opinion of the International Court of Justice,[220] the 1995 NPT Review Conference Declaration, and UN Security Council resolution 984. The U.S. should comply with its moral, legal and security obligations in the field of nuclear disarmament, which is a near unanimous demand of all United Nations Member States, and virtually all people across the globe, including even former US Secretaries of State.[221] As the only State that is stamped with the shame of ever using nuclear weapons itself, it is incumbent on the US to relieve humanity from the nightmare of a global nuclear holocaust, and give up on the illusion of security based on "mutually assured destruction" (MAD).

15. The US government should once and for all commit itself to respect the principle of *pacta sunt servanda* (agreements must be kept), which is the most fundamental principle of international law and a foundation for civilized relations among peoples, and discard in practice the dangerous doctrine which views international law and international organizations as merely "a tool in the US toolbox"[222].

The aforementioned US policies are examples of what has resulted in Iranians distrusting the American government. They are also among underlying causes of injustice, violence, terrorism, war and insecurity in West Asia. These policies will bring about nothing but a

[214] https://www.sipri.org/news/press-release/2018/asia-and-middle-east-lead-rising-trend-arms-imports-us-exports-grow-significantly-says-sipri
[215] https://www.defensenews.com/breaking-news/2017/06/08/revealed-trump-s-110-billion-weapons-list-for-the-saudis/
[216] https://www.nytimes.com/2017/05/26/opinion/us-saudi-arabia-arms-deal-iran.html
[217] http://watson.brown.edu/costsofwar/news/2014/facebook-meme-iraq-war-dollars-could-have-ended-world-hunger-30-years
[218] https://www.theguardian.com/world/2015/may/23/netanyahu-thanks-us-blocking-middle-east-nuclear-arms-ban
[219] https://media.defense.gov/2018/Feb/02/2001872886/-1/-1/1/2018-NUCLEAR-POSTURE-REVIEW-FINAL-REPORT.PDF
[220] The International Court of Justice in its Advisory Opinion of 1996 expressly stated that "The legal import of that [disarmament] obligation goes beyond that of a mere obligation of conduct; the obligation involved here is an obligation to achieve a precise result - nuclear disarmament in all its aspects - by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith." http://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf
[221] https://www.wsj.com/articles/SB116787515251566636
[222] US Department of State: http://usinfo.state.gov/mena/Archive/2006/Mar/06-846555.html

heavy toll in human lives and material assets[223] for different regions of the world, and isolation for the US in world public opinion[224]. The only ones benefitting are and will be lethal arms manufacturers. If the US government summons the courage to renounce these policies in words and deeds, its global isolation will end and a new image of the US will emerge in the world, including in Iran, paving the path to joint efforts for security, stability, and inclusive sustainable development.

I admit that regrettably, it is not realistic to harbor a hope for such a change in US behavior. Thus, at the global level the Islamic Republic of Iran has for years promoted inclusion, multilateralism, dialogue, respect for the rule of law and nuclear disarmament through initiatives such as Dialogue among Civilizations[225] and WAVE (World Against Violence and Extremism)[226], and participated actively in international efforts to achieve nuclear disarmament[227] and a rule-based international system[228]. We have also presented practical proposals and engaged in serious diplomatic efforts to end regional conflicts in Syria[229] and Yemen[230] through diplomacy from the earliest stages of these unfortunate conflicts, sadly, to the deaf ears of the United States that continues to support aggressors and terrorists in every conflict in our region. And following the United States' withdrawal from the JCPOA, Iran has earnestly engaged with the remaining JCPOA Participants (EU/E3+2) in a good faith effort to salvage this unique global diplomatic achievement[231]. We continue to do so as of this writing.

Nationally, Iran has ensured its security and stability in the past 4 decades on the basis of its inherent domestic capabilities and its reliance on the great Iranian people, not on any foreign power's benevolence or patronage. Despite foreign pressure and while expending comparatively the least amount in the region on armaments[232], it has become stronger, more stable and more advanced by the day.

And regionally, in contrast to the US and its foreign policy, Iran—in accordance with its constitution[233]—neither seeks to dominate nor will it ever submit to domination. It believes that the era of regional and global hegemony has long passed, and any effort by any power to achieve it is futile.[234] Instead of yielding to foreign domination or trying to dominate others, countries in our region should seek to create a stronger, more prosperous and more stable region.[235] We in Iran view our security and stability as inseparable from those of our neighbors.[236] We have a common history and culture as well as indivisible opportunities and challenges, and can only enjoy security and stability at home, if and only if our neighbors

[223] http://www.utrikesmagasinet.se/kronikor/2017/november/hans-blix-from-an-isolated-iran-to-an-isolated-us/and https://www.theguardian.com/world/2018/jan/05/russia-us-iran-un-emergency-session

[224] https://news.gallup.com/poll/225761/world-approval-leadership-drops-new-low.aspx

[225] A/Res/56/6

[226] A/Res/70/109

[227] See for instance "Impermissibility of the Use or Threat of Use of Nuclear Weapons," *Iranian Journal of International Affairs*, Volume VIII, No. 1, 1996 and https://www.theguardian.com/commentisfree/2015/jul/31/iran-nuclear-deal-israel-vienna-treaty-middle-east-wmd .

[228] See for instance *International Law as a Language for International Relations*, (The Hague: Kluwer Law International, 1996.)

[229] https://www.theguardian.com/commentisfree/2015/dec/18/syria-islam-syrians-peace

[230] https://www.reuters.com/article/us-yemen-security-iran/iran-submits-four-point-yemen-peace-plan-to-united-nations-idUSKBN0N823820150417

[231] https://tvnewsroom.consilium.europa.eu/video/eu-hr-mogherini-meets-mfas-of-the-e3-and-iran-1abbf

[232] https://www.sipri.org/sites/default/files/Milex-share-of-GDP.pdf and https://www.sipri.org/databases/milex

[233] Article 152: The foreign policy of the Islamic Republic of Iran is based on the rejection of any kind of domination, both its exercise and submission to it;… http://www.wipo.int/edocs/lexdocs/laws/en/ir/ir001en.pdf

[234] https://aawsat.com/home/article/10372

[235] https://www.ft.com/content/c0b6bc36-fead-11e7-9650-9c0ad2d7c5b5

[236] http://assafir.com/Article/1/434785

enjoy internal and international stability and security. We expect other regional countries to adopt a similar approach, and instead of insisting on the failed experiment of "trying to purchase or outsource security,"[237] concentrate on dialogue, mutual understanding, confidence building, and cooperation with neighbors.

The Islamic Republic of Iran views the establishment of a "Regional Dialogue Forum" in the Persian Gulf as the best means to resolve regional crises and create a stronger region.[238] We can begin adopting confidence-building measures to bring regional countries closer to each other on the basis of such principles as the sovereign equality of states, non-resort to the threat or use of force, peaceful settlement of disputes, respect for territorial integrity of other States, inviolability of international boundaries, non-intervention in domestic affairs of others, and respect for the right of peoples to self-determination. By fostering common understanding about threats and opportunities at the regional and global levels, we can move towards achieving a non-aggression pact and creating common mechanisms for regional cooperation. We firmly believe that we, regionally—as the inheritors of the richest civilizations the world has ever known—should stand tall and can solve our own problems amongst ourselves and secure a better future for all of our children without outside interference and patronage, both of which come at a heavy cost to our collective dignity as well as our future development.

[237] https://www.theatlantic.com/international/archive/2017/10/iran-persian-gulf-jcpoa/542421/
[238] https://www.ft.com/content/c0b6bc36-fead-11e7-9650-9c0ad2d7c5b5