



Status of the Iran Nuclear Deal's Procurement Channel

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August 16, 2017 (Earlier [version](#) issued on April 21, 2016)

The Procurement Channel of the Joint Comprehensive Plan of Action (JCPOA) is a potentially valuable transparency and verification tool aimed at controlling the export of goods to Iran's authorized nuclear programs and non-nuclear, civil end users. Troubling problems emerged early on and weakening compromises and exemptions were made that called into question if the Procurement Channel could truly be an effective monitoring mechanism for Iran's nuclear-related imports. A particular challenge to the viability of the channel is Iran's on-going commitment to illicitly procuring sensitive goods for its missile and military programs, combined with a long history of illicit nuclear and nuclear-related procurements. Until the channel is better established, the United States should adopt a policy of a presumption of denial with regard to Iranian proposals to the channel, unless two conditions are met. The first condition is a determination that the parties seeking the goods do not have any involvement with Iran's military industries or entities, particularly the Iran Revolutionary Guard Corps (IRGC), or companies linked to any of these entities. The second is rigorous, reliable, on the ground checks on the use of goods in Iran after they are imported, otherwise known as "end use checks."

Moreover, the procedures of the Procurement Channel need reform within the context of the JCPOA, which should be pursued at the Joint Commission in order to repair some of the channel's other deficiencies. Investing the appropriate time, attention, and resources is critical to ensuring that the Procurement Channel is successful at regulating exports of proliferation-sensitive goods to Iran. In the longer term, Iran should be pressed to create an internationally acceptable export control system, as it stated in the JCPOA it intends to do. However, this effort makes sense only if Iran commits not to undermine, or worse, make a mockery of, such an internationally acceptable export control regime by conducting illicit procurements for its own military programs. In addition, much more scrutiny is needed of any Iranian cooperation on missiles with North Korea and other pariah states, as well as investigating whether there is any nuclear cooperation between Iran and North Korea. A full list of proposed remedies and reforms is at the end of this report.

The Procurement Channel is a potentially valuable transparency and verification condition in the JCPOA aimed at controlling the export of goods to Iran's authorized nuclear programs and non-nuclear, civil end users. This condition was institutionalized for ten years in United Nations Security Council (UNSC) resolution 2231 in January 2016. Under the JCPOA and the UN

resolution, the Procurement Channel's purpose, for the first ten years of the JCPOA, is to regulate the flow of sensitive goods to Iran's authorized nuclear programs and non-nuclear civil end users. It seeks to deny Iran opportunities, or at least help expose any efforts, to violate the JCPOA and increase the transparency of Iran's nuclear programs. In particular, an effective Procurement Channel would provide confidence that Iran is not acquiring or stockpiling goods for undeclared nuclear activities, including a covert gas centrifuge facility, or for a surge in building up its nuclear capabilities if the nuclear deal collapses. These activities are particularly difficult for international inspectors to detect, even with the Additional Protocol in effect. An unstated but important purpose of the Procurement Channel is to prevent Iran from exploiting its increased ability to conduct legitimate trade to outfit illegally its ballistic missile and conventional arms programs.

Since Implementation Day, the P5+1 and UN Secretariat have been establishing the administrative aspects of this new international architecture. The process involves a state submitting a proposal to the UN Security Council, Security Council Affairs Division (SCAD), and the UNSC Facilitator on behalf of a company residing in that particular state that wants to export certain goods to Iran. The UN in turn sends the proposal, via the JCPOA Joint Commission, to the Procurement Working Group (PWG), which is the primary decision-making body for the Procurement Channel. Members of the PWG include one voting member each of the P5+1 and Iran. However, setting up this infrastructure proved difficult; our Institute spoke to several officials from different organizations and P5+1 governments who reported significant initial challenges, some of which remain ongoing.

Broader sets of analyses of current and potential issues with the Procurement Channel as well as remediation steps were released by the Institute in [August](#) and [December](#) 2015.

Proposals So Far

From Implementation Day until mid-June 2017, according to reporting by the UN facilitator of Resolution 2231, a total of 16 proposals had been submitted to the PWG, including by non-JCPOA member states.¹ During the first year of the JCPOA, there were only six proposals submitted to the PWG, four of which came in May 2017. During the first five months of 2017, there have been ten proposals submitted which fell under the Nuclear Suppliers Group Part II nuclear dual-use list. Two of those were for temporary export for demonstration and display purposes at an exhibition. Five proposals were approved, one was withdrawn, and four were under review as of late May or early June. Thus, there appears to be an increase in the number of proposals in the first months of 2017. It is unknown if this trend has continued.

The 16 proposals came from four countries, but about two thirds originated in Germany. Some appear to involve equipment denied by the German government prior to the implementation of the JCPOA but now allowed under the rules of the Procurement Channel. The proposals have

¹ *Third six-month report of the Facilitator on the implementation of Security Council resolution 2231 (2015)*, S/2017/537, June 27, 2017, http://www.un.org/ga/search/view_doc.asp?symbol=S/2017/537&Lang=E

involved a range of machine tools, a coordinate measuring machine, frequency changers, capacitors, carbon fiber, and a plunger pump. One proposal, which was approved, involved Russia exporting yellowcake to Iran as payment for Iran providing heavy water to it.

The declared end users for the goods in the 16 proposals, in addition to three for display and demonstration purposes (one of which was withdrawn in 2016), have thus far included the Iranian automobile industry (6), oil and gas industry (2), aluminum cans manufacturing (1), nuclear industry (1), pharmaceutical industry (1), dental industry (1), and cement manufacturing industry (1).

A proposal contemplated by Kazakhstan to supply 950 metric tonnes of natural uranium to Iran was not submitted.² The P5+1, according to knowledgeable sources, recommended to Kazakhstan that it not to submit the proposal, as it would not be approved.

Iran and other pariah states have used, among other civilian industries, the automobile, oil and gas, and dental industries as fronts for the illegal acquisition of goods for their nuclear, missile, or arms industries. As such, the proposals need rigorous vetting.

Problem of Insufficient Time for Effective Review of Proposals to offer determination of non-military Iranian end users

A major weakness of the Procurement Channel provisions in the UNSC resolution and JCPOA is the limited time-frame for action to decide on an export to Iran. The number of entities involved in assessing sales proposals and the short timeline for deciding to approve or disapprove a proposal are fundamental challenges for the Procurement Channel. Figure 1 by the UN Security Council facilitator shows the process of submitting proposals and recommending an action to the Procurement Channel (abbreviated PC). It should be noted that in figure 1, "JC" stands for Joint Commission and includes the PWG (admittedly rather confusing).

² "Iran Plans to Buy Kazakh Uranium Ore, Seek Russia Help to Make Nuclear Fuel," Reuters. February 25, 2017, <http://www.reuters.com/article/us-iran-nuclear-kazakhstan-russia-idUSKBN1640DO>

3.A) PROCUREMENT CHANNEL: PROCEDURE

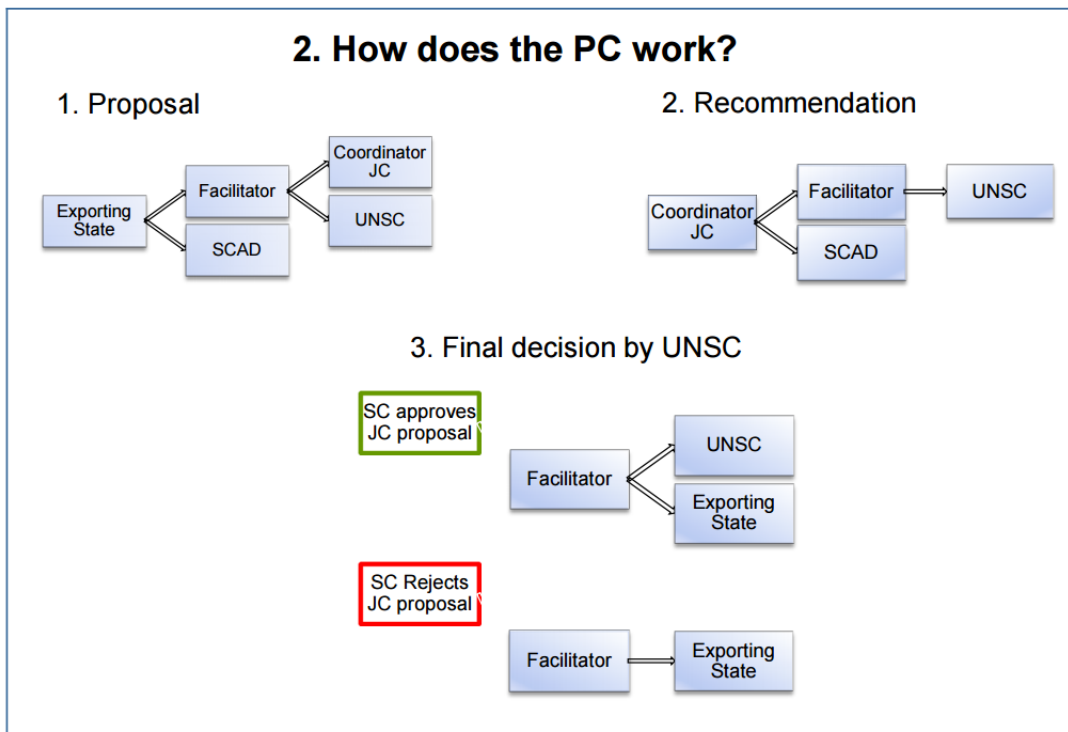


Figure 1: Process of submitting a proposal to the PWG and receiving a recommendation (SCAD=Security Council Affairs = Division; JC=Joint Commission (also denoting Procurement Working Group); UNSC and SC=UN Security Council). Credit: Open Briefing of the UN Security Council Facilitator, Implementation of Security Council Resolution 2231 (2015), New York, March 1, 2016. [http://www.un.org/en/sc/2231/pdf/Facilitator-presentation-Implementation-of-resolution-2231\(2015\).pdf](http://www.un.org/en/sc/2231/pdf/Facilitator-presentation-Implementation-of-resolution-2231(2015).pdf)

The JCPOA Procurement Working Group, which decides by consensus whether to authorize a proposal, has only 20 days, extendable to 30 days (assumed to be actual working days), to deny a proposal and inform the Security Council of its decision; otherwise, the export is approved. This timeframe requires unusually quick investigations of whether a proposal should be blocked, particularly given Iran’s on-going commitment to pursue goods abroad illegally for its missile, arms, and perhaps nuclear programs.

A 20- or 30-day timeframe is extremely difficult for PWG state export control and counter-proliferation bureaucracies to manage. Key entities and analysts of countries in the PWG reviewing these export proposals have typically no more than one to five days per agency to review a proposal and determine if it should be blocked, according to interviews with officials from governments of the P5+1. This short timeline for decision making creates an environment of hasty decisions and inadequate time for investigating the end use or end user of goods proposed for a sale and gain assurance that end use checks will be done. Decision making would be even more difficult when a proposed sale is submitted by an Iranian end user that was previously sanctioned or is suspected of being linked to Iran’s military or missile industries.

Many Iranian entities are linked to the IRGC and it is difficult to determine whether such linkages indicate goods will go to a nefarious purpose.

Challenges of End Use Verification

Related to the above issue, it is unclear whether many countries will actually send teams to Iran and check the end use of nuclear dual-use goods as allowed by the JCPOA and UNSCR 2231. China, for example, which is less vigilant about proliferation-sensitive exports, may not be diligent about checking the end use of a Procurement Channel-authorized, dual-use good it has sold to Iran. There have been no reported instances of countries conducting end use verification checks of goods sold to Iran to date. Lack of rigorous and regular end use checks would undermine the effectiveness of the Procurement Channel. The P5+1 and international community more broadly must have reasonable assurance that the goods authorized for import by the channel are being used for their stated purposes, including not being diverted to Iran's missile, other military programs, or secret nuclear programs or caches possibly to be used in a surge or break out later. The implementation of a policy of adequate end use verification checks by the selling state or a trusted member of the P5+1 is a critical condition that the Joint Commission must insist on. Inhibiting that goal is the existing language in the JCPOA that limits end use checks of NSG Part II goods to the country supplying the goods. A new formulation is needed to correct this deficiency.

Russia has played the role of a disruptive force; has found an ally in China

Given the short time frames to act to block a proposal, efficiency and speed in the process are critical. According to P5+1 officials, Russia early in the first year of the JCPOA attempted to exploit the lack of clarity about Procurement Channel rules and functions to weaken its effectiveness, and has been supported by China in some of those endeavors. One official accused Russia of attempting to manipulate the whole process. Russia's role overall appears to be one of intervening when desired to complicate the rejection of proposals within the tight guidelines imposed by the JCPOA and to isolate certain sensitive exports from the Procurement Channel process.

When the Procurement Channel was initially being set up, Russia said that proposals should not have to use an electronic form where information is entered online rather than a paper or document form. Western countries wanted to make an electronic form mandatory and Russia disagreed. Electronic forms are common on the internet and used by even small retailers interested in doing internet business. The process to send proposals is akin to buying from a retailer such as Amazon by sending a handwritten purchase order scanned for delivery as an attachment to an e-mail and Amazon having to re-type the information into its information system before filling the order. Impediments to creating an electronic form for proposals are not difficulty or cost. In terms of minimizing mistakes and increasing efficiency, electronic forms are far better. Given their simplicity, they are readily usable. With few proposals, this manual system is manageable but if the number of proposals increases, it may cause problems.

Russia claimed a victory on this issue. Despite the ease of using electronic forms, the United Nations has not required them. On its web site, the United Nations encourages applicants to send proposals by e-mail to SC-Resolution2231@un.org using a model application form that would be scanned and e-mailed. The UN office says: “It is helpful to submit the proposals in a machine readable format as this is likely to speed up the review process.”³ By using such an inefficient method, the United Nations increases the chance of mistakenly entering key data into a UN or state database and delaying assessments of proposals, particularly if the number of proposals increase.

Russia also spearheaded an effort, with Chinese aid, to create exemptions – or no need to use the Procurement Channel – for the Fordow centrifuge plant and the modernization of the Arak reactor. Russia and China are responsible for the renovations at these two sensitive sites. In the case of Fordow, gas centrifuges will be converted to perform the enrichment/depletion of stable, non-uranium isotopes. The first phase of the Russian/Iranian cooperation has involved Russia evaluating how Iran can use existing cascades at Fordow for isotope production. This evaluation is being done in Russia. One notification to the UN Secretariat was of an Iranian delegation going to Russia with regards to technology related to stable isotope production.⁴ These visits could allow the transfer of sensitive centrifuge technology relevant to centrifuges for uranium enrichment. Such a transfer could happen in secret and outside the purview of the PWG. In the second phase, Russia will assist Iran to reconfigure the cascades at Fordow for stable isotope separation. Any goods would be exported to Iran in the second phase and would likewise not go through the Procurement Channel; the PWG will only be notified. This will occur similarly in the case of the Arak reactor. The initial design work will be done in China and then the later delivery of parts will be outside the Procurement Channel.

Russia also notified the UN Secretariat on four occasions in 2017 of the transfer of NSG Part I and II goods intended for the Bushehr light water reactors.⁵ That brings to a total of six notifications related to light water reactors, in particular related to technology, low enriched uranium in assembled fuel elements, fuel charging and discharging machines, and reactor internals. The exemption of the Bushehr reactor from the PWG is less problematic than the exemptions for Fordow and Arak, which are viewed as more sensitive from a proliferation and misuse point of view.

Since these transfers are not subject to PWG approval, the exemptions undermine the fundamental purpose of the Procurement Channel to control internationally exports of goods to sensitive portions of the Iranian nuclear program. The United States and European countries ultimately acceded to Russia’s and China’s demands that these services should be exempt in

³ See “Information on the Procurement Channel,” <http://www.un.org/en/sc/2231/pdf/160113-Information-on-the-procurement-channel.pdf>

⁴ Information from knowledgeable official. In addition, the *Third six-month report of the Facilitator* states that one unnamed country notified the PWG in April of an activity related to the necessary modification of the two cascades at the Fordow facility for stable isotope production. This could be related to the same notification in the text.

⁵ *Third six-month report of the Facilitator*.

UNSC resolution 2231, which reduces U.S. and European oversight over transfers of goods and services to sensitive nuclear facilities and programs. These exemptions also make it more difficult to gain assurance that illicit transfers will not occur.

Although transfers in the exempted categories must be reported to the Security Council facilitator 10 days in advance, it is possible that Russia and China's reporting will not be complete. Both Russia and China have been lax in enforcing export control laws and sanctions and have proven on many occasions in the UN Panels of Experts on Iran and North Korea that they are willing to block investigations, stonewall the panels on the provision of information, provide misleading or incomplete information, and protect their own nationals from scrutiny. Overall, these exemptions have served to weaken the Procurement Channel and set dangerous precedents for it.

A test run of the Procurement Working Group procedures in December 2015 revealed another issue where Russia's role was disruptive. With regard to missile and conventional military misuse, Iran has tried to argue, with Russian support, that anything military related is not the business of the PWG. This argument would in essence state that the PWG does not have jurisdiction over any exports to Iran's military or missile industries, all of which need a considerable amount of dual-use equipment. Iran appears to be arguing that it will seek to buy banned equipment under a civilian cover, and if caught by the PWG, the PWG can only send the issue to the UN Security Council for a decision. It cannot stop the sale on its own authority. Of course, the United States would be expected to block any approval for a sale at the Security Council. So, in that sense, the Iranian effort will not be successful. However, it could illicitly procure such goods, which is discussed further below. But Iran, with Russian support, may have sought to reduce the PWG's credibility internationally and hinder its operations.

Disrupting the Handling of Past Denials: Russia also tried to weaken the way the PWG would handle the issue of previous denials by supplier states of sales to Iran. This effort seeks to subvert a longstanding practice by likeminded bodies, in particular the NSG, to communicate denial information and ensure the most informed decisions about making an export.

An extensive body of information exists about past supplier denials to Iranian entities. These denials have been shared among NSG and Missile Technology Control Regime (MTCR) members. The sharing is called "denial notification" and involves dual-use goods listed on control lists. There are also goods that are denied as part of a "catch-all" condition. They are unlisted goods that are technologically suitable for WMD use. This denial is called "complementary information" and are shared likewise with other suppliers in the NSG. Under the existing system, if a supplier wants to sell the same or a similar good to the denied party, it must go to the denying party and ask why the sale was denied.

Russia proposed to delete all these denials. Given that Iran is still openly committed to illicit procurements for its missile and conventional weapons program and could seek to violate the JCPOA on nuclear-related procurements, Russia's actions are counter-productive and would needlessly weaken the process. Supplier states need to know the existing body of denials in

order to make a sound and timely decision about whether a sale could violate the JCPOA or UNSC resolution 2231. On the PWG application, there should be a place to mark if a denial has occurred and if the new supplier country consulted with the original denying country.

Danger of Illicit Missile Procurements

Iran has openly stated that it will continue illicitly procuring missile and missile-related goods, which it feels is allowed since these items are not explicitly covered by the JCPOA. Iran routinely ignores UN bans on its import of such goods; the international embargo on Iran's import of military related goods remains in effect until Year 5 of the JCPOA, and until Year 8 for missile-related goods, under Resolution 2231.

German intelligence reporting recently found that Iran continued throughout 2016 its attempts to procure goods usable in long-range ballistic missiles capable of delivering nuclear warheads. According to a report from the German state of Baden Wuerttemberg, "Despite the nuclear agreement, Iran is strongly trying to accelerate its development of ballistic carrier systems, for which precise manufacturing devices are necessary." The report went on to provide details about the illicit procurement attempts made by Iran to its companies.⁶

Iran's illicit efforts could happen outside the Procurement Channel, but for certain dual-use goods, they may occur within the Procurement Channel. In the latter case, where Iran actively seeks to deceive the PWG, it may reckon that its chances of success are higher by falsely listing a civilian end use than seeking the goods outside the channel. To the extent that the PWG process is weakened and end use checks are rare, Iran's chances of success are likely to increase. Yet, as indicated by the German intelligence reporting, illicit procurement appears in practice to be the more common means of Iran obtaining missile and military related goods.

High-level Iranian officials have stated that they will not only refuse to heed the UNSCR 2231 ban on missile related imports but also work on missiles, including test launches. This was exemplified by Iran's ballistic missile launches in January and March 2017. The weaker language in resolution 2231 that "calls on" Iran to refrain from missile tests of nuclear-capable missiles has motivated Russia and China to argue, incorrectly, that such launches do not violate the resolution. The United States and allies essentially argue that if the missile falls under category 1 of the Missile Technology Control Regime, which the relevant ones do, then these missiles and any launches are banned.⁷ Nonetheless, Russia's and China's legal interpretation

⁶ Verfassungsschutzbericht 2016, Baden Wurttemberg, http://www.verfassungsschutz-bw.de/site/lfv/get/documents/IV.Dachmandant/Datenquelle/PDF/2017_Aktuell/Verfassungsschutzbericht_BW_2016.pdf, p. 289 (Translated by Institute for Science and International Security).

⁷ The Missile Technology Control Regime Annex Handbook, 2010, states:

Greatest restraint is applied to what are known as Category I items. These items include complete rocket systems (including ballistic missiles, space launch vehicles and sounding rockets) and unmanned aerial vehicle systems (including cruise missile systems, target drones and reconnaissance drones) with capabilities exceeding a 300 km/500 kg range/payload threshold; production facilities for such systems;

has led them to block actions at the Security Council to penalize Iran. This problem was underscored by reporting by the UN Resolution 2231 facilitator in June 2017 which described various such arguments made by unnamed (but presumably non-U.S. or EU) representatives of members of the UN Security Council at a meeting to discuss Iran's January ballistic missile launch. Those representatives argued against Security Council action based on this weaker language in the resolution, prompting the facilitator to report, "there was no consensus on how that particular launch related to resolution 2231 (2015)." The pro-strong enforcement member states argued, "the [January 2017 launch] missile was inherently capable of delivering nuclear weapons." In that context, the experts noted that "500 kg has been the approximate mass required to carry a first-generation nuclear weapon and 300 km is an internationally accepted range of strategic significance [i.e. the MTCR guideline.]" The experts concluded that, "in their view, the test constituted an activity related to ballistic missiles designed to be capable of delivering nuclear weapons and was inconsistent with resolution 2231 (2015)."⁸

Unless stronger action is taken, Iran can be expected to continue working on a central and necessary facet of nuclear weapons – perfecting its nuclear-capable missile delivery systems – while only temporarily limiting its nuclear programs, with the *de facto* blessing of Russia and China. This development creates further regional and international insecurity regarding Iran's nuclear weapon intentions. To the extent that the PWG cannot provide assurance that it has blocked missile and military related exports via the Procurement Channel, the PWG's credibility is undermined.

Need for More Resources for United Nations

The UN Security Council, SCAD, and the UNSC Facilitator are the recipient of proposals from governments on proposed sales by domestic suppliers of nuclear or nuclear dual-use goods to Iran. The United Nations [released sets of guidance](#) for countries on how to submit proposals and what information to include in an application, such as item descriptions and end use authorizations from the Iranian Atomic Energy Organization or from Iran's Ministry of Industry, Trade, and Mine.

There is a need for more outreach by the United Nations to UN member states on the Procurement Channel. Since countries must set up and inform domestic suppliers of proper channels for making a nuclear or nuclear-dual use sale to Iran, broad outreach is key to ensuring countries have adequate time and resources to ensure compliance. There continues to be a rather serious problem of lag time between adequately informing UN member states of their obligations and those states ensuring compliance domestically. The UN facilitator stated

and major sub-systems including rocket stages, re-entry vehicles, rocket engines, guidance systems and warhead mechanisms.

See: http://mtcr.info/wordpress/wp-content/uploads/2016/04/MTCR_Annex_Handbook_ENG.pdf

⁸ *Third six-month report of the Facilitator.*

in his June 2017 report that, “Eighteen months after Implementation Day, transparency, practical guidance and outreach remain a priority.”⁹

A fundamental challenge is ensuring that companies and governments know when a good requires the approval of the PWG and thus the state’s submission of a proposal to the UN Security Council. In countries that poorly enforce export controls or effectively do not have them—a surprising number of countries – there are real concerns that the companies or authorities will not be able to know when a dual-use good falls inside the Procurement Channel. In countries which Iran has exploited to obtain a wide range of goods illegally for its nuclear and missile programs, the Procurement Channel approach may simply not be implemented or be implemented so poorly as to render it inoperable.

The UN Secretary General does not receive sufficient information about Iran’s procurements. So far, states have limited their sharing of procurement-related information with the Secretary General that is needed to investigate Iranian violations of resolution 2231. The Secretary General has also encountered problems in accessing goods in member states that have been interdicted and prevented from going to Iran under 2231.

Compliance and Enforcement is Unclear

It is unclear whether the Joint Commission and UN Security Council will take a serious line toward issues of Iranian or foreign entities exporting proliferation-sensitive goods to Iran without going through the Procurement Channel or illegitimately using the Procurement Channel. The Atomic Energy Organization of Iran has sought sensitive nuclear-related materials and facilities beyond what it needs or should get. In at least two cases, the requests could have been tests of the JCPOA’s nuclear and nuclear-related goods procurement channel and a supplier country’s ability to police the channel. Under the deal, Iran is viewed as being able to ask for whatever it wants as far as nuclear or nuclear-related goods from overseas and does not have to report the request to the Joint Commission. Although in the two cases referenced, a government detected and made clear its intention to deny the suppliers both exports, Iran could repeat the pattern in other countries, testing other countries’ systems of controls and their processes of submitting requests to the PWG. In this way, this loophole lays the basis for Iran to find less scrupulous suppliers and countries that will eventually make unauthorized sales. Armed with this knowledge, Iran would be far better positioned to find those able and willing to assist secret Iranian illicit procurements of controlled dual-use goods for its nuclear, missile, or other military programs. If a Chinese company, for example, makes a nuclear dual-use sale to Iran, will China take action to ensure the good’s interdiction or its return? If a non-JCPOA state makes such a sale, what can the P5+1 do to motivate that state or other countries in its transit path to intercept the good or require its return? Further, in many cases, detecting such exports or imports will require intelligence information. For example, it may be difficult to know whether the Iranian government has authorized a domestic entity to make a

⁹ *Third six-month report of the Facilitator.*

proliferation-sensitive import outside the Procurement Channel, and it may be able to deny any involvement.

If it is caught making these requests, Iran can claim it is not violating the deal. If it receives any of the controlled goods, it may have violated the JCPOA and its PWG's rules. However, there is no mechanism to demand Iran return ill-gotten goods. Iran can also claim it made the import by mistake or insist that the goods are for a civilian, non-nuclear program and should be treated as an insignificant or nonexistent violation.

The United States should recognize this Iranian practice of seeking goods as inconsistent with the JCPOA and likely intended as a scheme to aid in the violation of the JCPOA and UNSC resolution 2231. It should insist that Iran report any further requests for nuclear or nuclear-related goods to the Joint Commission and Procurement Working Group.

Lack of Iranian Export Controls

According to the JCPOA, "Iran intends to apply nuclear export policies and practices in line with the internationally established standards for the export of nuclear material, equipment and technology (emphasis added)." Iran has not committed to do so, and Tehran could interpret this condition far differently than the United States.

As part of creating a strategic trade control regime in Iran, the United States should also interpret the JCPOA as stating that Iran will commit not to conduct illicit commodity trafficking for government controlled or owned military, missile, nuclear, or other industries and programs, and it will agree to enforce this ban on private Iranian companies. Conducting illicit commodity trafficking is not in line with internationally established standards for strategic trade control systems.

The United States should request via the Joint Commission regular UN reporting on Iran's progress in establishing strategic export controls that meet international standards. The United States and its counterparts in the P5+1 should cooperate with the United Nations Secretariat to ensure that its reporting on Iran's efforts to conduct illicit commodity trafficking for its military, nuclear, missile, or other industries is more fulsome.¹⁰

Iran/North Korean Cooperation

The United States has sanctioned Iranian and North Korean entities for cooperating on ballistic missiles and conventional weapons, including coordinating shipments of commodities and traveling to share technology and development efforts.¹¹ There are unverified concerns that

¹⁰ *Second six-month report of the Facilitator on the implementation of Security Council Resolution 2231 (2015)*, S/2017/49, January 18, 2017.

¹¹ U.S. Department of Treasury, "Treasury Sanctions those Involved in Ballistic Missile Procurement for Iran," January 17, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0322.aspx>

they may be undertaking nuclear cooperation or transferring nuclear technology, equipment, or materials to each other. It goes without saying that Iran's missile and conventional military cooperation with North Korea also violates UNSC resolutions on North Korea.¹² Any nuclear cooperation that is uncovered would be a breach of the JCPOA.

Recommendations

The following recommendations may reduce Procurement Channel and PWG dysfunction and improve their effectiveness:

Procedural reforms that should be undertaken by individual parties

- The United States and European members of the Joint Commission's Procurement Working Group should adopt a policy of automatic denial of a sales proposal if they have not had adequate time to investigate the end use or end user or have suspicions about either of these. Under the Procurement Channel guidelines, governments can re-submit proposals if they are denied, offering more time for an in-depth investigation. Further, the United States and its allies on the PWG should announce that the sale of any goods to an Iranian trading company will be blocked.
- Particularly given Iran's on-going commitment to illicit trade, reasons for blocking a proposal should include an importer's link in any way to military industries or the IRGC, past illicit procurement activity by the importer or individuals employed there, or lack of adequate assurances on end use verification, including the lack of scheduling of end use visits.
- The United States and its allies should develop a list of commonly sought catch-all goods and distribute it to all UN member states and emphasize that all states should seek PWG authorization for these catch-all goods.
- Previous denials should be clearly marked on any proposal including whether the original denying state has been contacted.
- All states should send any denial information of sensitive goods to the United Nations and the PWG.

Regular end use checks are critical

- The United States and European JCPOA member states should consistently raise the issue of end use checks for authorized sales to Iran with any state that makes them. They should continually pressure states to make these end use visits or encourage the

¹² United Nations Security Council, *Resolution 1718 (2006)*, S/RES/1718 (2006), October 14, 2006.

IAEA to ask for access to these goods in the course of safeguarding Iran's nuclear program.

More fundamental reforms requiring action by the Joint Commission

- A number of reforms to the procurement conditions of the JCPOA are needed, which would need approval by the Joint Commission:
 - Any member of the PWG should be able to conduct end use checks on nuclear-related dual-use goods sent to Iran. The state must inform the UN Security Council and the IAEA about the outcome of such checks.
 - The period for Procurement Working Group review of submitted proposals should be extended by several weeks.
 - States should be required to report suspected illicit nuclear or nuclear-related procurements to the UN Secretary General. The Secretary General would disseminate these reports to the Joint Commission and IAEA.
 - Steps, including at the Joint Commission, should be taken to require Iran to report to the UN Security Council, which will inform the PWG, of any Iranian requests to foreign suppliers for controlled or sensitive goods. Such requests must be reported whether or not they originated with the AEOI. A request not reported would be considered Iran not meeting its commitments under the Iran nuclear deal.
 - Steps should be initiated to ensure that the Procurement Channel and associated PWG should remain in existence indefinitely, or until the Security Council decides to suspend or end its deliberations.

Reforms needed at the United Nations

- The UN Secretary General should receive a broader mandate to investigate the implementation of, and potential compliance issues related to, UNSC resolution 2231 and any follow-on resolution. Toward that end, member states should share more procurement-related information with the Secretary General and more proactively allow access to goods in member states that have been interdicted and prevented from going to Iran under 2231. Furthermore, the process of placing additional entities on the 2231 sanctions list should be eased.
- The use of electronic forms should be instituted by the UN Secretariat as a new requirement in the proposal process.

- Previous denials should be clearly marked on any proposal including whether the original denying state has been contacted.

Outreach needs acceleration

- Outreach by the United Nations is critical and should be fully supported with the provision of additional financial resources.
- The United States and European JCPOA members should carry out their own outreach campaigns to educate UN member states on the Procurement Channel and other obligations under UNSCR 2231 and remaining national and regional sanctions (as well as those sanctions and resolutions related to North Korea).

Iran needs to create a credible domestic export control system

- The United States should seek via the Joint Commission regular UN reporting on Iran's progress in establishing strategic export controls that meet international standards. The United States and its counterparts in the P5+1 should cooperate with the United Nations Secretariat to ensure that its reporting on Iran's efforts to conduct illicit commodity trafficking for its military, nuclear, missile, or other industries is more fulsome.

Exemptions are counterproductive

- The exemptions for Fordow and the Arak reactor need to be recognized as poor choices that require additional scrutiny, beyond notifications to the United Nations. The United States and European JCPOA members should insist that China and Russia report in detail their intended sales and transfers in these exempted categories to the Joint Commission's Procurement Working Group with the understanding that these reports require verification by the P5+1 and IAEA. If one member state in the PWG disagrees with the transfer or raises an undeclared transfer, that transfer should be blocked or, if tangible, removed from Iran.
- No further exemptions of the Procurement Channel should be given.

Stricter enforcement is necessary

- The Joint Commission and the United States and its partners should institute a method to notify the Financial Action Task Force, financial institutions, and financial regulators of an approved or rejected proposal. The financial sector should treat transactions involving Iran of any high tech dual-use goods that have not been approved by the PWG as subject to extra scrutiny and diligence, and as perhaps illegal.

- Since the only penalty outlined in the JCPOA is full snapback of previous UN Security Council sanctions on Iran, in the case of its involvement in noncompliance, the United States and its allies need to decide on intermediate penalties and how to provide enforcement to prevent and address unauthorized procurements by Iranian and foreign entities. With regard to Iran, penalties could include slowing down or halting approvals, or reducing civil nuclear cooperation, additional sanctions, or if violations of the Procurement Channel persist, the re-imposition of financial sanctions.
- Being in compliance with UNSCR 2231 should include Iran returning any banned goods, including missile or military related goods, which are revealed to have been sent there.
- Illicit procurements by Iran for its military and missile programs should immediately trigger U.S. and EU sanctions.

Blocking Iranian/North Korean cooperation

- Steps should be taken to explicitly ban Iran from any military, missile, or nuclear cooperation with North Korea or other states deemed to be proliferant states or state supporters of terrorism. Some of these steps should involve U.S. legislative action.

U.S. Congressional action is necessary

- The U.S. Congress should develop legislation to effectively monitor and enforce the Procurement Channel, as well as to encourage reform in line with the above recommendations.