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Diba Alemi

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I. INTRODUCTION

President Obama stated, "[l]et us never negotiate out of fear, but let us never fear to negotiate."[1] This sentiment, first articulated by John F. Kennedy, demonstrates the important role negotiation and democracy could play in worldwide conflicts.[2] It was this kind of approach that paved the way for the recent nuclear agreement between Iran and the world's major powers.[3] Even though Iran and the United States have had a hostile relationship throughout 20th and 21st centuries,[4] they were able to put their differences aside and form an agreement for the greater good of the world.[5] This deal is beneficial to Iran and the world at large since it is minimizing the possibility of yet another war in the Middle East.[6]

After twenty months of discussion between representatives of Iran, the United States, and other nations, negotiators finally reached an agreement that prevents Iran from acquiring any nuclear weapons.[7] If this agreement,

1. Samantha Power, *Explanation of Vote at a UN Security Council Vote on Resolution 2231 on Iran Non-proliferation*, U.S MISSION TO THE UNITED NATIONS, http://usun.state.gov/remarks/6765 (Jul. 20, 2015).

2. *Id*.

3. Kyle Mathis, Comment, *The Nuclear Supplier Group: Problems and Solutions*, 4 ALA. C.R. & C.L. L. REV. 169, 175-76 (2013). The Iran nuclear deal reached on July 15, 2015 provides a comprehensive long-term deal that prevents Iran from acquiring a nuclear weapon in exchange for lifting the sanctions that have been imposed on Iran. Jethro Mullen and Nic Robertson, *Landmark Deal Reached on Iran Nuclear Program*, CNN POLITICS, http://edition.cnn.com/2015/07/14/politics/iran-nuclear-deal/ (last updated Jul. 15, 2015).

4. Douglas Little, *Frenemies: Iran and American Since 1900*, OSU.EDU, http://origins.osu.edu/article/frenemies-iran-and-america-1900 (May 2011).

5. Anthony Tauro, *Why is the Iran Nuclear Deal so Important?*, QUORA, (Jul. 17, 2015), https://www.quora.com/Why-is-the-Iran-nuclear-deal-so-important.

6. *Id*.

7. Mullen and Robertson, *supra* note 3.

titled the Joint Comprehensive Plan of Action (JCPOA), between the "E3/EU+3 (China, France, Germany, the Russian Federation, the United Kingdom, and the United States, with the High Representatives of the European Union for Foreign Affairs and Security Policy) and the Islamic Republic of Iran" is fully implemented, then it is believed that it would create both regional and international peace and security.[8] This agreement focuses on Iran limiting its nuclear activities in exchange for relief from the sanctions[9] that have been imposed on Iran since 2002.[10]

Section I provides a brief introduction. Section II discusses the sanctions that have been imposed on Iran. Section III elaborates the worldwide effect of the Joint Comprehensive Plan of Action ("JCPOA") agreement. Section IV discusses the dispute resolution clause in the JCPOA agreement. Section V compares other dispute resolution clauses to JCPOA's dispute resolution clause. Section VI discusses the difficulties the developing countries face during the international dispute resolution process. Section VII explains the necessity of adding time to negotiate to the dispute resolution process of the. Lastly, Section IX concludes.

II. THE SANCTIONS ON IRAN

Over the years, the United States and other nations have imposed sanctions on Iran due to Iran's illegal activities.[11] These sanctions have been imposed on Iran in hopes of inducing a peaceful discussion about their nuclear activities with the United States rather than Iran continuing their illicit nuclear activities.[12] These peaceful discussions finally began in 2013 and it ultimately resulted in the JCPOA agreement, which prevents Iran from acquiring a nuclear weapon in exchange for lifting sanctions on Iran.[13]

8. U.N. Sec. Couns. Rep. of the Sec. Couns., Joint Comprehensive Plan of Action, 7488th Sess., U.N. Doc. S/RES/2231 (Jul. 20, 2015) [hereinafter JCPOA].

9. Mullen and Robertson, *supra* note 3.

10. The United Nation, European Union, and several individual countries have imposed sanctions on Iran in hopes of preventing Iran from developing a nuclear weapon. *Iran Nuclear Crisis: What are the Sanctions?*, BBC NEWS (Mar. 30, 2015), http://www.bbc.co.uk/news/world-middle-east-15983302.

11. Mullen and Robertson, *supra* note 3.

12. Patrick Clawson, *U.S Sanctions*, THE IRAN PRIMER, http://iranprimer.usip.org/resource/us-sanctions (last updated Aug. 2015).

13. Jessica Winch & David Lawler, *Iran nuclear deal: agreement reached in Vienna-as it happened*, THE TELEGRAPH (Jul. 14, 2015), http://www.telegraph.co.uk/news/worldnews/middleeast/iran/11729176/Iran-nuclear-deal-live.html.

The United States has imposed sanctions on Iran since the 1979 Islamic Revolution.[14] Over the years, these sanctions have become broader and broader, reaching an all-time high with the Obama administration's enactment of the Comprehensive Iran Sanction, Accountability, and Divestment Act in 2010.[15] The past five administrations have imposed sanctions on Iran, due to a number of questionable Iranian actions.[16] First, the Carter administration (after the 1979 Islamic revolution) imposed a series of sanctions starting with a ban on Iranian oil imports.[17] Second, the Reagan administration imposed restrictions on exports to Iran of dual-use items that could be adapted for military use.[18] Third, the Clinton administration banned all United States participation in Iran petroleum development after Iran announced a $1 billion contract with Conoco, a U.S. oil company.[19] Fourth, the Bush administration issued "a series of orders to freeze the assets of firms and individuals said to be involved in Iran's support for terrorism, in Iran's role in threatening stability in Iraq, and in Iran's nuclear and missile programs."[20] Lastly, "[t]he Obama administration continued and intensified" the enforcement of sanctions on Iran launched during the Bush administration.[21]

Due to Iran's illicit nuclear activities, the United States, the European Union, Japan, the Republic of Korea, Canada, Australia, Norway, Switzerland, and others have put in place strong sanctions "relating to Iran's nuclear, missile, energy, shipping, transportation, and financial sectors."[22]

> These measures are designed: (1) to block the transfer of weapons, components, technology, and dual-use items to Iran's prohibited nuclear and missile programs; (2) to target select sectors of the Iranian economy relevant to its proliferation activities; and (3) to induce Iran to engage constructively, through discussions with the United States, China, France, Germany, the United Kingdom, and Russia ["E3+3 process,"] to fulfill its nonproliferation obligations. These nations have made clear that Iran's full compliance

14. Clawson, *supra* note 12. Washington first imposed sanctions on Iran in 1979 over the U.S. Embassy seizure and they were lifted after the 1981 hostage release. *Id*.

15. *Id*.

16. *Id*.

17. *Id*.

18. *Id*.

19. *Id*.

20. *Id*. Washington also imposed sanctions on Chinese and Russian companies, "for helping Iran's nuclear and missile programs." *Id*.

21. *Id*. The United States subsidiaries of foreign banks have paid over $14 billion in penalties for violating sanction regulations relating to transactions with Iran. *Id*.

22. Alan Singer, *The Presidency and the Iran Accord: Constitutional Day Lesson Ideas*, THE HUFFINGTON POST (Sep. 13, 2015), http://www.huffingtonpost.com/alan-singer/the-presidency-and-the-ir_b_8128478.html.

> with its international nuclear obligations would open the door to its receiving treatment as a normal non-nuclear-weapon state under The Nonproliferation Treaty and sanctions being lifted.[23]

In November 2013, the Obama administration waived a number of sanctions after finally reaching an agreement with Iran regarding nuclear issues.[24] The United States policymakers believe that the harsh sanctions over the years resulted in Iran finally negotiating a nuclear deal, which was the main goal of the sanctions in the first place. [25]

A. Impact of Sanctions

The sanctions that have been imposed on Iran since 1979 have, without a doubt, crippled Iran's economy.[26] For instance, the sanctions on Iran have caused greater inflation, decreased their value of money, intensified their pollution, increased the unemployment rate, and etc.[27] For example, in one week the price of chicken rose 30% and price of vegetables rose almost 100%.[28] Additionally, the value of Iran's currency (rial) has fallen by half against foreign countries.[29] Iran's inability to import gas has caused the country's air quality to worsen.[30] Iran's unemployment rate has reached 10-15% and most analysts believe that the true unemployment rate is actually double this amount.[31] Ultimately, after years of sanctions and the resulting difficulties they imposed on Iran, the JCPOA has given Iran the chance to improve its economic status.[32]

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23. *Id*.
24. Clawson, *supra* note 12.
25. *The Historic Deal that Will Prevent Iran from Acquiring a Nuclear Weapon*, THE WHITE HOUSE, https://www.whitehouse.gov/issues/foreign-policy/iran-deal (last visited Oct. 28, 2015).
26. *Id*.
27. Sabrina Peterson, *Iran's Deteriorating Economy: An Analysis of the Economic Impact of Western Sanctions*, INTERNATIONAL AFFAIRS REVIEW, http://www.iar-gwu.org/node/428 (last visited Feb. 16, 2016); *Economic sanctions have tangible consequences for average Iranians*, PBS (Feb. 10, 2014), http://www.pbs.org/newshour/bb/economic-sanctions-have-tangible-consequences-average-iranians/.
28. Najmeh Bozorgmehr, *Sanctions threaten weak Iranian economy*, IRAN (Jun. 27, 2012), http://www.ft.com/cms/s/0/95061748-c04d-11e1-982d-00144feabdc0.html#axzz40Oht6cM2.
29. Peterson, *supra* note 27.
30. *Id*.
31. *Id*.
32. *Id*.

B. Lifting the Sanctions on Iran

If Iran complies by the terms of the JCPOA, then certain "UN sanctions resolutions against Tehran will be terminated."[33] The sanctions that would be lifted by Iran continuing its compliance with the JCPOA agreement are, "the trade of goods or services linked to Iranian nuclear activities, . . . the financial assets of designated Iranian officials and companies, and . . . an embargo on conventional weapons and ballistic missiles."[34] However, the embargoes will remain intact "for five years for conventional weapons and for eight years for ballistic missiles."[35] After 10 years from which the JCPOA is valid, the UN will close the nuclear deal file.[36]

Iran finally has the chance to improve its economy now that the sanctions are being lifted. Iran's economy can improve in a number of different ways.[37] For instance, the foreign exchange rate of the rial can be strengthened.[38] The inflation rate of 42% could drop down to 15%.[39] The new economic activity by domestic and foreign investors and the promotion of tourism will create new job opportunities, which would decrease Iran's unemployment rate.[40] Additionally, Iranian exports will rise, such as Iran's oil and gas production.[41] Moreover, not only Iran but the world at large will benefit from the lifted sanctions of Iran.[42] The benefits that come from the

33. Andre Viollaz, *The UN is paving the way for lifting sanctions on Iran*, Business Insider UK (Jul. 20, 2015) http://uk.businessinsider.com/afp-un-to-pave-way-for-lifting-sanctions-on-iran-2015-7?r=US&IR=T.

34. *Id*.

35. *Id*.

36. *Id*.

37. Bijan Khajehpour, *How the nuclear deal will help Iran's economy*, IRAN PULSE, http://www.al-monitor.com/pulse/en/originals/2015/04/economic-impact-iran-nuclear-deal.html# (last visited Feb. 16, 2016).

38. *Id*.

39. *Id*.

40. *Id*.

41. *Id*.

42. Matthew Johnston, *Industries That Will Benefit From Lifting Iran Sanction*, INVESTOPEDIA(Jul. 28, 2015), http://www.investopedia.com/articles/investing/072215/industries-will-benefit-lifting-iran-sanctions.asp. Some of the industries that will benefit greatly from the sanctions being lifted from Iran are the financial, energy and transportation industries. The financials industry will benefit from this because Iran will finally have access to the global payment system, SWIFT. *Id.* Since Iran is the fourth largest oil reserves and second largest natural gas reserves, lifted sanctions will create a great opportunity for global energy companies. *Id*. The transportation industry will benefit from lifted sanctions since Iran has stated that they need to "replace at least 400 commercial airplanes within the next decade." *Id*.

sanctions being lifted from Iran demonstrates how crucial it is for the JCPOA to remain intact.

III. THE WORLDWIDE EFFECT OF JCPOA DEAL

The nuclear deal between Iran and the world's major powers is considered a historic deal, which blocks every possible pathway for Iran to obtain a nuclear bomb.[43] It is important to keep in mind that the JCPOA does not only affect the participants of the JCPOA, but the world at large as well. [44] This deal minimizes the likelihood of another war in the Middle East by drastically decreasing the likelihood of Iran building a nuclear weapon, relieving Iran from the sanctions, and heightening the bar for US military intervention abroad and encouraging diplomacy.[45] Therefore, the success or the failure of the JCPOA would greatly affect the world.

This deal took place for a number of reasons. One of the main reasons the United States made this deal was to ensure a more peaceful world.[46] This sense of security not only benefits United States but its allies as well.[47] As President Obama stated, "that is precisely why we are taking this step-because an Iran armed with a nuclear weapon would be far more destabilizing and far more dangerous to our friends and to the world."[48] However, the failure of JCPOA will increase the likelihood of another war in the Middle East, which is what President Obama has been trying to avoid all along.[49] For instance, Israel has already stated their willingness to enter into a war with Iran upon failure of JCPOA.[50] Because the Middle East has

43. Khajehpour, *supra* note 37.

44. President Obama stated, "'[p]ut simply, no deal means a greater chance of more war in the Middle East'". Michael Gordon & David Sanger, *Deal Reached on Iran Nuclear Program; Limits Fuel Would Lessen With Time*, N.Y. TIMES, (Jul. 14, 2015), http://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-is-reached-after-long-negotiations.html?_r=0.

45. Tauro, *supra* note 5. The success of the JCPOA will set a high bar for US military intervention abroad because the JCPOA 's success will demonstrate the effectiveness of diplomacy rather than taking military actions. *Id*.

46. Power, *supra* note 1.

47. *Id*.

48. *Id*.

49. Russia feared that if the nuclear deal was not finalized then the United States and its allies would take military action against Iran, which would compromise the regional security. Jonas Bernstein, *Russia's Stake in Iran Nuclear Deal*, VOICE OF AMERICA (Jul. 18, 2015), http://www.voanews.com/content/russias-stake-in-iran-nuclear-deal/2867710.html.

50. Jeremy Diamond, *Could Military Force Still Be Used Against Iran?* CNN, http://www.cnn.com/2015/04/02/politics/iran-nuclear-deal-military-attack/ (last updated Apr. 2, 2015)("[I]f Iran violates the term of the agreement, that could open up the door for Israeli action.").

historically been a high conflict region, it is evident that it is best to avoid another war in the Middle East at all cost.[51] Additionally, the JCPOA's success not only prevents another war in the Middle East, but it also helps the economic status of countries who are looking forward to building an economic relationship with Iran.[52]

Many countries have welcomed the Iranian nuclear agreement and because the sanction's removal opens up new trade and investment opportunities within Iran.[53] More specifically, China aims to take advantage of this opportunity.[54] China hopes to secure primary positions in both the oil and non-oil sectors of Iran's economy.[55] Therefore, China will be one of the biggest beneficiaries of the sanctions.[56] Before the UN sanctioned Iran, Iran was China's third largest oil supplier.[57] Sanction relief will allow Chinese companies for even greater investment opportunities with Iran.[58]

Russia has indirectly benefited from the JCPOA agreement.[59] This agreement allows Russia to strengthen their relationship with China, which is significant to Russia.[60] Russia highly values their relationship with China[61] and this alliance has imposed a threat to Western countries.[62]

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51. Gordon & Sanger, *supra* note 44.

52. Courtney Bliler, *China and Iran's New Love Affair?*, NATIONAL INTEREST (Jul. 28, 2015), http://nationalinterest.org/feature/china-irans-new-love-affair-13434.

53. *Id*.

54. *Id*.

55. *Id*. Beijing has been place first in line for oil and non-oil sectors of Iran's economy. *Id.*

56. *Id*.

57. *Id*.

58. *Id*.

59. Due to the sanctions that has been imposed on Russia for its involvement with Kremlin's invasion and annexation of Crimea, Russia is now looking forward to new economic opportunities with Iran. David Herszenhorn, *Russia Quickly Maneuvers to Capitalize on Nuclear Deal*, N.Y. TIMES (Jul. 14, 2015) http://www.nytimes.com/2015/07/15/world/europe/russia-quickly-maneuvers-to-capitalize-on-iran-nuclear-deal.html.

60. The JCPOA agreement provides another stream of oil and gas to the world (coming from Iran), which hinders Russia's economy even more at their time of vulnerability. Pavel Baev, *The China Factor in Russian Support for the Iran Deal*, BROOKINGS (Jul. 21, 2015) http://www.brookings.edu/blogs/order-from-chaos/posts/2015/07/21-china-russia-support-for-iran-deal-baev. However, the Chinese wanted the JCPOA to go through and Russia is in no position to jeopardize its relationship with China. *Id*. Russia's isolation from the Western countries has resulted in Russia relying on China for financing and marketing. *Id.*

61. *Id*.

62. "ValueWalk reported in September that China, Russia and the U.S are the top three conventionally military powerful countries in the world out of 126 countries." Polina Tikhonova, *U.S. Underestiamtes Power of China-Russia Alliance*, VALUEWALK (Oct. 28, 2015) http://www.valuewalk.com/2015/10/u-s-underestimates-power-of-china-russia-alliance/. Research

Consequently, Iran has formed a new alliance with Russia and China as well.[63] Therefore, it is likely for Russia and China to be participating in any war that involves Iran.[64] The involvement of Russia, China, and Iran in this war would make this war far more catastrophic than some of the other current wars in the Middle East.[65] Therefore, it is crucial for the JCPOA to be a success since its failure would be a disaster to the world.[66]

The JCPOA demonstrates that when nations unite to resolve global issues, the result can be exceptional.[67] The countries of United Nations have come together and demonstrated unity in the process of creating the JCPOA.[68] Therefore, this deal may pave the path for even greater resolutions for current and future conflicts.[69] The JCPOA demonstrates the ongoing vigilance and the absolute necessity of the unity of countries, which naturally encourages diplomacy as the "global norm."[70] "[I]t is not enough to agree to global norms such as that against the proliferation of nuclear weapons."[71] What is even more important is enforcing global norms, which has been the key to the JCPOA.[72] The overwhelming amount of wars and the bloodshed that it has caused demonstrates the importance of being able to create a peaceful agreement between countries that have crucial differences.[73] The wars in Yemen, Syria, South Sudan, Darfur, Mali, and Libya exemplify the ramifications of disharmony and show that the world needs to replace war with diplomacy.[74]

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has shown that the consequences of a war between United States versus Russia and China would be "immense since United States and Russia are the two largest nuclear powers in the world. *Id*.

63. The nuclear restriction treaty has influenced a new and strong alliance between Russia, China, and Iran. Morris R. Beschloss, *China/Russia/Iran Alliance Confronts U.S.*, THE DESERT SUN (Oct. 29, 2015) http://www.desertsun.com/story/money/industries/morrisbeschlosseconomics/2015/10/29/chinarussiairan-alliance-confronts-us-morris-beschloss-economics/74843842/. These three powerful unions "serve to spread the combined economic, military and political power" of their countries and throughout the Middleast. *Id.*

64. *Id*.

65. Tikhonova, *supra* note 62.

66. Beschloss, *supra* note 63.

67. Power, *supra* note 1. When the world and the countries act as *united nations* can they address the world's most complicated problems. *Id.*

68. Power, *supra* note 1.

69. *Id*.

70. *Id*.

71. *Id*.

72. *Id*.

73. *Id*.

74. *Id*. It has been proven that the use of force has been required in the past; however, it is also important to exhaust our diplomatic channels to reach a more peaceful settlement. *Id*.

IV. THE DISPUTE RESOLUTION CLAUSE IN JOINT COMPREHENSIVE PLAN OF ACTION

The JCPOA aims to stop Iran from developing a nuclear weapon by limiting Iran's ability to produce the materials that are needed to develop a nuclear weapon.[75] For instance, this deal reduces the number of centrifuges and Iran's stockpile of uranium.[76] For fifteen years, Iran will permit the International Atomic Energy Agency ("IAEA") to monitor, as necessary, Iran's nuclear activity in order to verify that Iran is reducing its centrifuges and stockpile of uranium.[77] On "Adoption Day," which will be ninety days after the United Nations Security Council passed resolution, the JCPOA participants will make the necessary arrangements in order to prepare for their commitments under the JCPOA.[78] Once the IAEA has verified Iran's compliance with the terms of the JCPOA, the European Union and the United States will take actions to terminate nuclear-related sanctions.[79] However, if an issue arises from the JCPOA and it remains unresolved, then the sanctions are re-imposed on Iran and Iran can cease to fulfill its commitments under the agreement.[80] This means that the dispute resolution process of the JCPOA is the last step and the last hope the participants of the JCPOA have before the contract is considered void.[81]

The dispute resolution clause in the JCPOA accounts for how the dispute resolution process will be conducted, and specifies the duration of each step of the dispute resolution.[82] If Iran or the E3/EU+3 believe that one of the parties is not conforming to their commitments under the JCPOA, the complaining party can refer the issue to the Joint Commission for resolution.[83] The Joint Commission has fifteen days to review and resolve

75. Gereth Porter, *The Iran Nuclear Agreement in a Nutshell*, MIDDLE EAST EYE (Jul. 17, 2015), http://www.middleeasteye.net/news/iran-nuclear-agreement-nutshell-39221266.

76. *Id*.

77. *Id*.

78. *Id*.

79. *Id*.

80. *Id*.

81. *Id*.

82. JCPOA, *supra* note 8, at 19-20.

83. *Id*. at 19. "The Joint Commission is comprised of the representatives of Iran and the E3/EU+3 (China, France, Germany, the Russian Federation, the United Kingdom, and the United States with the High Representative of the Union for Foreign Affairs and Security Policy), together, the JCPOA participants." Eur. External Action Serv., *Annex IV- Joint Commission*, at 1.2, http://eeas.europa.eu/statements-eeas/docs/iran_agreement/annex_4_joint_commission_en.pdf (last visited Feb. 3, 2016).

the issue, unless there is consensus for an extension.[84] If the matter remains unsolved, then any participant may raise "the issue to Ministers of Foreign Affairs."[85] In lieu of the Joint Commission, the Ministers of Foreign Affairs have fifteen days to resolve the issue, unless there is consensus for an extension.[86]

If the issue has yet to be resolved, then the complaining party may raise it with an advisory board, which consists of three members.[87] The three members are each appointed by the parties in the dispute "and a third independent member."[88] The advisory board has fifteen days to "provide a non-binding opinion on the compliance issue."[89] If the issue is not resolved after this thirty-day process, then the Joint Commission will consider "the opinion of the Advisory Board for . . . [five] days in order to resolve the issue."[90] If the complaining party deems that the issue of compliance has yet to be resolved and considers the issue to be a significant non-performance, then that party has the right to cease to perform under the JCPOA in whole or in part.[91] The participant who believes the non-performance issue has yet to be resolved can has to notify the United Nations "Security Council that it believes the issue constitutes a significant non-performance."[92]

"Upon receipt of the notification from the complaining party" and "a description of the good-faith efforts the participant[s] made to exhaust the dispute resolution process . . . the UN Security Council . . . shall vote on a resolution to continue the sanctions lifting."[93] If the resolution set by the UN

84. *Id*. The Joint Commission is responsible to review the issue at hand and each JCPOA participant will have one vote. *Annex IV- Joint Commission*, *supra* note 83, at 3.1, 4.2.)

85. JCPOA, *supra* note 8, at 19.

86. *Id*. at 19-20.

87. *Id*. at 20.

88. *Id*.

89. *Id*.

90. *Id*.

91. *Id*.

92. *Id*.

93. JCPOA, *supra* note 8, at 20. If the issue has yet to be resolved, the United States can use its veto power to re-impose the old sanctions that were placed on Iran. Ankit Panda, *How the Iran Deal's 'Snap Back' Mechanism Will Keep Tehran Complaint*, THE DIPLOMAT (Jul. 15, 2015), http://thediplomat.com/2015/07/how-the-iran-deals-snap-back-mechanism-will-keep-tehran-compliant/. The entire process would only take maximum of 65, unless there is consensus for an extension. Even though the Russia and China are part of the United Nations Council, United States will still have no problem reinstating the U.N. sanctions. *Id.* Meaning the U.S. and the EU states in the P5+1 can veto ongoing sanctions relief; however, China and Russia can't veto a return to the status quo. *Id.* However, Russian officials are not too happy about any voting procedures in which it would lose its Security Council veto power, which Obama responded to by saying "in the agreement, we've set it up so we can override Iran's objection, and we don't need Russia or China in

is not followed after thirty days, "then the provisions of the old UN Security Council resolutions w[ill] be re-imposed, unless the UN Security Council decides otherwise."[94] The UN Security Council intends to prevent the reapplication of the provisions if the issue is resolved within this time.[95] Additionally, the UN Security Council will take into account the views of the State and the opinion of the Advisory Board.[96] Iran has expressed that in case the sanctions are re-implemented, then it will treat it as ground to cease performing its commitments under the JCPOA in whole or in part.[97]

In summary, the dispute resolution process of the JCPOA agreement lasts for a total of 35 days unless this time period is extended by consensus.[98] After these thirty-five days, the fate of the parties rests in hands of the UN Security Council.[99] At that point, they have no choice but to adhere by the UN Security Council's decision even if they are unsatisfied by it.[100] For Iran, that means that the sanctions are likely to be re-imposed and for the world at large it would mean that Iran would once again be on its way of developing a nuclear weapon.[101] This re-implementation of sanctions is more popularly referred to as "snapped back."[102]

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order for us to get that override." Edith Lederer, *UN Resolution on Iran Deal Would End 'Snap Back' Sanctions Mechanism in 10 Years*, HAARETZ (Jul. 16, 2015) http://www.haaretz.com/world-news/1.666269.

94. *Id*.

95. *Id*.

96. *Id*.

97. *Id*.

98. *Id*.

99. *Id*.

100. *Id*.

101. *Id*.; Michele Kelemen, *A Look At How Sanctions Would 'Snap Back' If Iran Violates Nuke Deal*, NPR (Jul. 21, 2015), http://www.npr.org/2015/07/20/424571368/if-iran-violates-nuke-deal-a-look-at-how-sanctions-would-snap-back (This is also dangerous because it means that if sanctions are re-imposed in part or entirely, then Iran could treat that as grounds to no longer comply by the JCPOA. Therefore, if the United States wants to reinstate sanctions, then it actually risks giving Iran the opportunity to no longer adhere by the deal.).

102. Ishaan Tharoor, *The historic nuclear deal with Iran: How it works*, THE WASHINGTON POST, (Jul. 14, 2015), https://www.washingtonpost.com/news/worldviews/wp/2015/07/14/the-historic-nuclear-deal-with-iran-how-it-works/.

V. THE DISPUTE RESOLUTION CLAUSE OF JCPOA IN COMPARISON TO OTHER INTERNATIONAL DISPUTE RESOLUTION CLAUSES

It is important to note the significant difference between the dispute resolution clause in the JCPOA and the dispute resolution clause in other international agreements. For instance, the dispute resolution clause in the agreement between Russia and United States (Russia's Dispute Resolution Clause) in regards to peaceful uses of nuclear energy states "[a]ny dispute between the Parties concerning the interpretation or application of the provision of this Agreement shall be promptly discussed by the Parties with a view to resolving that dispute through consultation or negotiation."[103] Russia's Dispute Resolution Clause dramatically differs from the JCPOA dispute resolution clause in that JCPOA's is much more detailed and has a very strict timeline on the dispute resolution process.[104] However, Russia's Dispute Resolution Clause does not specify a time limit on the dispute resolution process and therefore it is much more flexible.[105]

The dispute resolution clause in the agreement between Japan and the United States (Japan's Dispute Resolution Clause) in regards to peaceful uses of nuclear energy states:

> If any dispute arising out of the interpretation or application of this Agreement is not settled by negotiation, mediation, conciliation or other similar procedure, the parties may agree to submit such dispute to an arbitration tribunal which shall be composed of three arbitrations appointed in accordance with the provisions of this paragraph. [106]

Similar to Russia's Dispute Resolution, Japan's Dispute Resolution Clause does not specify a time limit on the dispute resolution process either,[107] whereas the dispute resolution clause in the JCPOA is much more detailed and only allows thirty-five days to resolve any issue arising from the JCPOA agreement before the UN Security Council votes on the issue.[108]

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103. Agreement for Cooperation Between the Government of the United States of America and the Government of Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy, Russ.-U.S., May 6, 2008, 17, http://www.state.gov/documents/organization/160815.pdf [hereinafter Russia's Dispute Resolution Clause].

104. JCPOA, *supra* note 8.

105. Russia's Dispute Resolution Clause, *supra* note 103.

106. Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, Japan-U.S., Nov. 4, 1978, 7, http://nnsa.energy.gov/sites/default/files/nnsa/05-13-multiplefiles/2013-05-02%20Japan_123.pdf, [hereinafter Japan's Dispute Resolution Clause].

107. *Id*.

108. JCPOA, *supra* note 8.

It would be difficult for the participants of the JCPOA deal to effectively present their case in only thirty-five days.[109] Typically, the arbitration process for a complex dispute lasts approximately twelve to eighteen months.[110] Therefore, it would be unlikely for an issue arising out of the JCPOA to be solved in only thirty-five days. If the issue is not resolved, then the sanctions snap-back, and Iran will revert back to developing a nuclear weapon again and will no longer be held to the standards of the JCPOA.[111] This would only make matters worse; thus, it is imperative to do everything possible to increase the likelihood of JCPOA's success, such as extending the time limit of the dispute resolution process of the JCPOA.[112]

VI. DEVELOPING COUNTRIES FACING UNFAIRNESS AND BIAS IN INTERNATIONAL ARBITRAION

The increase in international transactions and the disputes they inevitably give rise to has introduced complex issues to arbitration. Consequently, it has pushed the "traditional methods, procedures and ways of thinking to their limits and thereby accelerating [evolution of dispute resolution]."[113] Entities in developing countries face a number of challenges when dealing with developed countries in an event of dispute.[114] Typically, developed countries have an advantage in the dispute resolution process because of their greater financial power and technical expertise.[115] It would be beneficial to have a dispute resolution policy to address these concerns.[116]

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109. JCPOA, *supra* note 8. Carolyn Lamm, *Fundamental Rules of Procedure: Whose Due Process is it?*, WHITE & CASE, 92 (May 6, 2014), http://www.arbitration-icca.org/media/3/14246917853210/lamm_fundamental_rules_of_procedure_whose_due_process_is_it.pdf (arguing that one way to ensure fairness is to give the parties enough time to present their case effectively).

110. LATHAM & WATKINS, *Guide to International Arbitration*, 20, https://www.lw.com/thoughtleadership/guide-to-international-arbitration-2014 (last visited Feb. 3, 2016).

111. JCPOA, *supra* note 8.

112. Failure of the JCPOA can cause another war in the Middle East, jeopardize the safety of the world, discourage the use of democracy in an event of international dispute, and Iran and other nations' economy will be negatively impacted. JCPOA, *supra* Section III.

113. Raja Bose and Mika Talreja, *International Arbitration and Developing Countries – Which Way Forward?*, http://www.lawgazette.com.sg/2010-03/feature2.htm (last visited Feb. 3, 2016).

114. Eun-Joo Min, *Alternative Dispute-Resolution Procedures: International View*, IPHANDBOOK, http://www.iphandbook.org/handbook/ch15/p03/ (last visited Feb. 3, 2016).

115. *Id*.

116. *Id*.

This would also provide strategic benefits and minimize the potential of a dispute escalating.[117]

The dispute resolution strategies should be crafted in accordance with the specific circumstances and the history of the parties.[118] Ideally, a procedure that minimizes the economic inequality between the parties should be recognized and implemented.[119] Factors that should be considered when determining the most appropriate procedure for an international dispute resolution agreement are technical, commercial, legal, and social interests.[120] Additionally, the circumstances leading up to the conflict is the most important factor in forming the most appropriate dispute resolution process.[121] Following this approach, the JCPOA dispute-resolution process should be crafted in accordance with circumstances of the conflict and the history of the participants.[122]

It would be best to implement a dispute resolution procedure that minimizes the economic inequality between the participants of the JCPOA.[123] More specifically, Iran, a developing country, has less bargaining power in comparison to the other participants of the JCPOA.[124] This inequality is harmful because it reduces the likelihood of finding a solution that everyone would be willing to comply with.[125] It would be beneficial for JCPOA's dispute resolution policy to address these concerns.[126] This form of dispute resolution process minimizes the risk of the dispute escalating and decreases the likelihood of the participants ceasing to perform under the JCPOA.[127]

117. *Id*.
118. *Id*.
119. *Id*.
120. *Id*.
121. *Id*.
122. *Id*.
123. *Id*.
124. *Id*.
125. *Id*.
126. *Id*.
127. *Id*. If an issue arising from the JCPOA remains unsolved, then the participants of the JCPOA have the right to cease performance under the JCPOA. JCPOA, *supra* note 7.

VII. ADDING TIME TO NEGOTATE WILL INCORPRATE FAIRNESS INTO THE JCPOA'S DISPUTE RESOLUTION PROCESS AND INCREASE ITS LIKELIHOOD OF SUCCESS.

The procedural due process is concerned with the parties having a fair opportunity to present their case.[128] Generally, it requires "a system of . . . impartial administration of justice between the citizens of its own country and those of other countries[.]"[129] This means it is essential that the arbitrators be impartial and that the parties have a fair opportunity to present their case effectively.[130] In order to ensure fairness in international dispute resolution, it is important to provide the parties with enough time to present their case effectively in front of an impartial tribunal.[131] However, the current dispute resolution process of the JCPOA lacks fairness because of its unrealistic timeframe[132] and participants' prejudice towards Iran.[133]

A. IMPORTANCE OF DUE PROCESS IN INTERNATIONAL DISPUTE RESOLUTION PROCESS

One of the main components of dispute resolution is procedural due process.[134] It is essential for the involved parties to be able to present their case to an impartial tribunal.[135] The principal human rights instruments recognize the importance of presenting a case in a fair hearing.[136] The

128. Charles Kotuby T. JR., *GENERAL PRINCIPALS OF LAW, INTERNATIONAL DUE PROCESS, AND THE MODERN ROLE OF PRIVATE INTERANATIONAL LAW*, 23 DUKE J. COMP. & INT'L L. 411, 431(2013), *available at* http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1392&context=djcil.

129. *Id*. at 427.

130. *Id*. at 427-28.

131. Lamm, *supra* note 109, at 6.

132. The JCPOA only allows 35 days for the dispute resolution process even though a typical dispute resolution process dealing with complex issues takes approximately 12–18 months. JCPOA *supra* note 7; Latham & Watkins, *supra* note 110.

133. The Joint Commission of the JCPOA, Iran, China, Russia, France, Germany, United Kingdom and United States, have the responsibility to review and attempt to resolve any issue that arises from the JCPOA. *Annex IV – Joint Commission*, *supra* note 82, at 6. However, this is problematic for Iran since the majority of the Joint Commission—France, Germany, and the United Kingdom—are close allies of the United States. *Top 10 Countries that are USA's Allies*, LISTAKA, http://listaka.com/top-10-countries-usas-allies/ (last visited Feb. 3, 2016). Consequently, the Joint Commission's review of the issue would most likely consist of unfairness and prejudice towards Iran.

134. Lamm, *supra* note 109, at 14.

135. *Id*. at 5.

136. *Id*. at 14.

principal requires both equality and the right to properly participate in the procedure, "[t]hese being separate but related fundamental elements of a fair trial."[137] One way to ensure a fair hearing is to give parties the time needed to present their case effectively. For instance, a party may request more time if there are real problems with witness examination, factual argument, and legal argument.[138] This additional time is usually deemed necessary in order for the parties to effectively present their case.[139]

The complexity of a dispute determines the duration of the dispute resolution process.[140] Typically, government involvement in a dispute complicates the dispute resolution process more than when the party is just a private investor.[141] A difficult issue may prolong the dispute resolution process for as long as twelve to eighteen months.[142] However, one of the main reasons international dispute resolution is so appealing and so frequently used in international disputes is its quicker process.[143]

The delays that are traditionally associated with court proceedings are typically avoided in an alternative dispute resolution process.[144] However, it would be misguided to say that the sole reason a dispute resolution clause is included in an agreement between parties from different nations is because it is cost effective.[145] In international dispute resolution, the focus should be more on the procedure being conducted fairly and efficiently rather than attempting to have a cheaper or quicker process.[146] Particularly, when a state is a party to a dispute, it is crucial to account for the difficulty of the case, which justifies a longer duration for the dispute resolution process.[147]

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137. *Id*.

138. *Id*. at 17.

139. *Id*.

140. *See*, Lamm, *supra* note 109; Latham & Watkins, *supra* note 110.

141. Lamm, *supra* note 109, at 9. The dispute becomes more complicated when the government is involved because government counsel is not only trying to identify the argument that will win the case but also to balance the interest of the entire government. *Id*.

142. Latham & Watkins, *supra* note 110, at 20.

143. *Issues of Fairness and Just. in Alternative Disp. Resol.*, NADRAC, 1 (November 1997), https://www.ag.gov.au/LegalSystem/AlternateDisputeResolution/Documents/NADRAC%20Publications/Issues%20of%20Fairness%20and%20Justice%20in%20Alternative%20Dispute%20Resolution.PDF.

144. Lamm, *supra* note 109, at 3.

145. *Id*.

146. *Id*. at 1.

147. Government involvement in a dispute complicates the dispute resolution procedure more than when the party is just a private investor. That is because government counsel is not only trying to identify the argument that will win the case but also to ensure, through detailed discussion with interested agencies, that the argument balances the interest of the entire government. *Id*. at 9. Since the involvement of government justifies longer briefing time, it should also justify a longer dispute

Therefore, the complexity of the dispute should be an important factor in determining the duration of the dispute resolution process rather than the cost.

B. WHY IS THE INITIAL STEP OF THE DISPUTE RESOLUTION PROCESS THE MOST IMPORTANT STEP OF THE PROCESS?

The first step of the arbitration, the oral pleading, sets forth the fairness of the tribunal as a whole.[148] The main purpose of an oral pleading is to allow the parties to present their case in an organized manner for the factual and legal points that the parties disagree on. [149] This initial step of the dispute resolution process is significant because it is the first time the parties have the chance to hear the other side's argument.[150] After the parties learn about the other party's argument, they can form their strategy on how they would like to proceed with the dispute.[151] Therefore, it is important that the parties in this initial step are treated equally and are given a fair chance to effectively present their case in order to ensure that they are well informed about the issue at hand.[152]

C. ADDING NEGOTIATION AS THE FIRST STEP OF THE DISPUTE RESOLUTION PROCESS OF JCPOA

One way to improve the dispute resolution process of the JCPOA is to allow the parties to discuss and negotiate the issue amongst themselves prior to the issue being raised to the Joint Commission.[153] This approach to dispute resolution is commonly referred to as "multi-step dispute resolution."[154] Multi-step dispute resolution clauses typically suggest for the parties to refer to consultation, negotiation, and/or mediation prior to

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resolution process since the difficulty of the situation as a whole is what warrants a longer briefing time. *Id*. at 9.

148. "[N]othing could be more valuable at that point-when the tribunal's mind is at its freshest-for the tribunal to hear each side's view of the credibility and impact of the evidence." *Id*. at 17.

149. *Id*.

150. *See Id*.

151. *Id*.

152. *Id*.

153. JCPOA, *supra* note 8, at 19.

154. John DeGroote, *Multi-Step Disp. Resol. Clauses: 7 Reasons They Work*, SETTLEMENT PERSPECTIVES (Mar. 19, 2010), http://settlementperspectives.com/2010/03/multi-step-dispute-resolution-clauses-7-reasons-they-work/.

addressing litigation or arbitration.[155] This is a "tiered dispute resolution clause" specifying the particular steps that need to be followed prior to arbitration or litigation.[156]

Even though the JCPOA already has a tiered dispute resolution clause, the dispute resolution process can still benefit from an additional step. Currently, the first step of the JCPOA dispute resolution process allows the Joint Commission fifteen days to review and resolve the issue.[157] Second, if the issue remains unsolved, then the Ministers of Foreign Affairs have fifteen days to resolve and vote on the issue.[158] Third, if the issue still remains unsolved after the Joint Commission consideration-in lieu of review at the Ministerial level, then the Advisory Board has fifteen days to provide a non-binding opinion on the issue.[159] If the issue still remains unresolved, then the Joint Commission has five days to consider the opinion of the Advisory Board to resolve the issue.[160] If the issue is yet to be solved, then the complaining party can treat it as a breach and reason to cease to perform under the JCPOA.[161] Lastly, the UN Security Council votes on a resolution, and if UN Security Council's resolution is not adopted within thirty days, then all participants could cease to perform under the JCPOA.[162]

The JCPOA provides only thirty-five days for the dispute resolution process.[163] However, an arbitration dealing with complex disputes typically takes approximately twelve to eighteen months to resolve,[164] therefore, it is unrealistic to believe that any dispute arising from the JCPOA can be solved within thirty-five days. In the first thirty days of the process, the Joint Commission considers the issue, and each participant votes on the issue.[165] However, the majority of the participants of the Joint Commission are allies of the United States and each of the participants have their own political

155. *Id*.
156. *Id*.
157. JCPOA, *supra* note 8, at 19.
158. *Id*. at 19-20.
159. *Id*. at 20.
160. *Id*.
161. *Id*.
162. *Id*.
163. *Id*.
164. Latham & Watkins, *supra* 110, at 20.
165. JCPOA, *supra* note 8, at 19-20.

agenda.[166] Therefore, it is difficult to assume that the participants of the Joint Commission's own biases will not affect their ultimate vote.[167]

One way to prolong the dispute resolution process for the JCPOA would be to add another step prior to the parties referring the issue to the Joint Commission.[168] This can be done by adding negotiation as a mandatory step prior to the parties raising the issue to the Joint Commission.[169] However, the negotiation should only be amongst the participants who are part of that particular issue. Adding this provision to the arbitration clause of the JCPOA would be extremely beneficial because it minimizes the risk of the parties' resolution being influenced by the political pressures of the other participants in the JCPOA, and it also gives the parties more time to resolve the issue amongst themselves.[170] It would be irrational for the participants of the JCPOA to rush the dispute resolution process and conclude that the JCPOA deal is off. This would only make matters worse[171] since the JCPOA is already showing its great potential.[172]

The JCPOA has already been implemented and people are finally seeing the great potential of this agreement.[173] On January 16, 2016, the IAEA inspectors verified that Iran completed the proper steps necessary to adhere by the JCPOA.[174] Accordingly, implementation of the JCPOA has opened the door for the lifting of sanctions against Iran.[175] Even though the JCPOA has been successful until now, there are still number of difficulties that the participants of the JCPOA are currently experiencing. Iran and United State's relationship continuous to be unstable, meaning it is still likely that a

166. *See Top 10 Countries that are USA's Allies*, *supra* note 133 (discussing the top Countries that are United States allies are Germany, France, United Kingdom).

167. Hossein – Zadeh, *supra* note 122.

168. JCPOA, *supra* note 8, at 19-20.

169. PAUL D. FRIEDLAND, ARBITRATION CLAUSE FOR INTERNATIONAL CONTRACTS, 121, (Juris Publishing, Inc., 2nd ed. 2007). A multi-step dispute resolution clause requires negotiation or mediation as the first step prior to arbitration or litigation. This can be significant because parties at the outset of a dispute are "often entrenched in their position, and their overconfidence in their case will diminish only once they receive an opposing submission." *Id*.

170. *See, e.g.*, *Japan's Dispute Resolution Clause*, *supra* note 106 (discussing this type of agreement made between Japan and United States).

171. *See supra* Section III. Failure of the JCPOA can cause another war in the Middle East, jeopardize the safety of the world, discourage the use of democracy in an event of international dispute, and Iran and other nation's economy will be negatively impacted. *Id*.

172. *Implementation day for JCPOA*, WORLD NUCLEAR NEWS (Jan. 18, 2016), http://www.world-nuclear-news.org/NP-Implementation-day-for-JCPOA-1801167.html.

173. *Id*.

174. *Id*.

175. *Id*.

dispute can arise from the JCPOA agreement. In such event, it is best to be as prepared as possible to ensure that the issue is resolved rather than voiding the agreement as soon as possible. Adding negotiation prior to the commencement of the dispute resolution process would subsequently give the participants of the JCPOA more time to rectify the issue as opposed to rushing to declare the agreement as void and a failure. These changes increase the likelihood of the JCPOA's success and consequently illustrate the importance of negotiation amongst world leaders. Therefore, the success of JCPOA is critical because it encourages global norms such as peaceful negotiation,[176] creates a safer world,[177] and it helps the economic status of Iran and the countries who are looking forward to building an economic relationship with Iran.[178]

CONCLUSION

The presence of inequality, unfairness, and prejudice in JCPOA's dispute resolution process warrants the idea of adding additional time to minimize the negative impact of these factors in the event of a dispute.[179] This would not only benefit the participants of the JCPOA, but it would also benefit the world.[180] Requiring only the parties who are primarily concerned with the dispute to negotiate amongst themselves prior to referring the issue to all of the participants (the Joint Commission), gives the parties more time to resolve the issue and it minimizes all the negative factors that are currently present in the JCPOA's dispute resolution process. This new and improved dispute resolution process can account for the specific circumstances of the participants of the JCPOA and their history.[181] People are already witnessing the great benefits of this agreement and these minor changes can allow the agreement to continue being a success. Therefore, extending the duration of the JCPOA's dispute resolution would only improve the likelihood of JCPOA's success.

176. Power, *supra* note 1.
177. *Id*.
178. Bliler, *supra* note 52.
179. Michael Gordon & David Sanger, *supra* note 44.
180. *Supra* Section III.
181. Min, *supra* note 114.