

EU3 negotiations with the Islamic Republic of Iran: Not out of the woods yet and time is short, very short

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Background and summary

Following a meeting between the EU3 (Britain, France, and Germany) and the Islamic Republic of Iran in May 2005, British Foreign Secretary Jack Straw announced that, in an effort to resolve the long running dispute over Iran's nuclear programme, the EU3 "would make detailed proposals" by the end of July or the beginning of August. The proposals would be made "in the context of the Paris Agreement remaining in force",^[1] meaning that Iran continue its voluntary suspension of all enrichment-related and reprocessing activities in the interim.

Iran insists on its right to "pursue peaceful nuclear activities" under Article IV of the nuclear Non-Proliferation Treaty, but continues to be less than forthcoming in supplying information about its activities to the International Atomic Energy Agency (IAEA). Meanwhile, the United States opposes any indigenous enrichment capacity and has repeatedly called for Iran to be referred to the United Nations Security Council (UNSC) for alleged breach of its safeguards agreement with the IAEA. IAEA inspections have until now returned an open verdict.

Following the meetings between US Secretary of State Condoleezza Rice and members of the EU3 in February 2005, the US administration agreed to increase its support for the EU3 talks with Iran and to drop its objection to Iran joining the World Trade Organisation. In return, the EU3 agreed to support the US administration's threat to refer Iran to the UNSC if negotiations broke down and Iran restarted its enrichment programme.

BASIC believes a diplomatic solution to the impasse over Iran's nuclear programme remains possible and urges all parties to show flexibility in order to find the necessary compromises. A zero-sum strategy played with such high stakes is, more than likely, doomed to failure. The threat to refer Iran to the UNSC is already counterproductive and is likely to be inconclusive if carried through. It is also highly questionable legally. An inconclusive diplomatic outcome might lead some to conclude that military strikes are the next best option available.

Recommendations

- The EU3 must focus on the specific detail, so far undisclosed, of what it can offer Iran in the areas of diplomatic, security, technological and economic cooperation. Their twin objectives should be to avoid referral to the UNSC and to persuade Iran that it is in its interests to be more co-operative and engaged in international efforts to curb nuclear proliferation. The EU3 must accept that Iran needs legally binding security assurances and long-term economic co-operation.
- Iran must recognise that, in the current climate, further development of facilities that could be used to develop nuclear weapons in the future will serve only to increase distrust and undermine its long-term security. Iran must also improve its record on implementation of safeguards and supply of information to the IAEA and recognise that any further prevarication will increase distrust and impede economic assistance. Statements of intent not to acquire nuclear weapons must be backed up with willingness to accept wide-ranging verification measures.
- The US administration must fully back the diplomatic process and, as a matter of urgency, be forthcoming with further offers to contribute to the EU3 proposals. It must also refrain from qualifying its support for the process by issuing threats to refer Iran to the UNSC should the negotiations fail. Such threats will undermine efforts to call Iran to account, and are likely to lead to further conflict and strengthen the support within Iran for weaponisation.

The positions of the main parties

Several weeks after the agreement reached in Geneva on 25 May between the EU and Iran, an acceptable settlement appears no nearer and time is running short. The

parties must come forward with detailed proposals in an effort to break the impasse, but statements and events since May seem only to have hardened positions.

Iran

Iran has made it clear that it intends to continue to develop a range of facilities which will enable it to generate electricity from nuclear power reactors without undue reliance on commercial sources for supply of materials. Following his election victory on 23 June, Iranian President-elect Mahmoud Ahmadinejad said that:

Iran's peaceful technology is the outcome of the scientific achievements of Iran's youth. We need the peaceful nuclear technology for energy, medical and agricultural purposes and our scientific progress. We will continue this. We will continue talks with Europeans while preserving our national interests and insistence on the right of the Iranian nation to use nuclear energy.[2]

Iran has become increasingly insecure in recent years, with President Bush, in 2002, describing the Islamic Republic as forming part of an axis of evil, along with Iraq and North Korea. The Bush administration has also repeatedly criticised Iran's record on human rights and its links with terrorist groups. Iran shares long borders with Afghanistan and Iraq, where US forces are now present in large numbers.

Iran also has tense relations with Israel. Iran's official policy does not recognise the state of Israel. In return, President Ariel Sharon of Israel has called for military action against Iran. Meanwhile Iran points out the perceived double standard of US support for Israel, which remains outside the Non-Proliferation Treaty (NPT) and is believed to have developed a significant nuclear arsenal.

The continued stand off with the United States is likely to harm Iranian security. Democratic reform, improved diplomatic relations and economic integration with the West will have a more positive effect on Iran's security and its standing in the world than acquiring a nuclear weapon capability. Iran's leaders have said that they have no desire to divert any of their effort into a nuclear weapons programme.

Iran has claimed an 'inalienable right' as a non-nuclear weapon state under the NPT (Article IV) to "develop research, production and use of nuclear energy for peaceful purposes". However, these rights are conditional on the understanding that facilities will not be used "to manufacture or otherwise acquire nuclear weapons" (Article II). To verify this, Iran must comply fully with its safeguards responsibilities "with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons" (Article III). Iran has indicated that it will comply with its obligations to permit the IAEA to inspect its facilities, take samples and make extensive enquiries about its developing programme.

While Iran has not formally been declared in breach of any of these obligations and abides by the IAEA's Additional Protocol, past failures to declare significant and sensitive aspects of its nuclear activities have raised concerns that Iran is attempting to exploit its rights under Article IV to make progress towards developing a nuclear weapon option in future. Because of significant delays in declarations and access to material and sites, and a lack of transparency by the Iranians, the IAEA has been unable to confirm that Iran is in full compliance with its NPT obligations. This has led diplomats to be understandably cautious about assisting Iran with technology and materials, and to try to block the development of particularly sensitive technologies.

The United States

Prior to the 2004 Presidential elections, US policy on the EU3-Iran talks was at best ambivalent with then Secretary of State Colin Powell declaring the administration to be "agnostic" regarding the value of the negotiations.[3] No attempt has been made to engage diplomatically with Iran. Instead the US administration made repeated attempts to have Iran referred to the UNSC, whilst White House officials refused to "take options off the table"[4] concerning the possibility of military action.

Following the election, in an attempt to rebuild relations with allies in Europe following the divisions over Iraq, new US Secretary of State Condoleezza Rice visited Europe and held talks

on Iran. In March 2005, Rice announced that the United States would “make an effort to actively support the EU-3’s negotiations with the Iranians” and that in this context they would lift their objection to an Iranian application to join the World Trade Organisation.[5]

The administration has insisted that the EU3 must support a resolution to the IAEA to refer Iran to the UNSC in the event that Iran resumes any enrichment-related activity. In a statement before the US Senate Foreign Relations Committee on 19 May, R. Nicholas Burns, Under Secretary for Political Affairs, described US policy as follows:

We support the EU3 in their commitment to the Paris Agreement signed in November and believe that, if it is breached, the United States and the EU3 must support a resolution in the IAEA Board of Governors reporting Iran to the UN Security Council... Our message to Tehran today is: adhere to the Paris Agreement, maintain suspension of all nuclear-related activities, and negotiate in good faith the eventual cessation and dismantling of all sensitive nuclear fuel cycle activities.[6]

In May 2005, following the most recent EU3 talks with Iran, President Bush gave his backing to the talks, but stated that:

Iranians violated the NPT agreement; we found out they violated the agreement, and, therefore, they’re not to be trusted when it comes to highly-enriched uranium -- or highly-enriching uranium. And, therefore, our policy is to prevent them from having the capacity to develop enriched uranium to the point where they’re able to make a nuclear weapon.[7]

The US position was underlined in Ambassador Jackie Sander’s statement to the IAEA’s June meeting. Sanders said that Iran had a covert programme to acquire nuclear weapons and had deceived the Agency with late, partial and misleading declarations, which could not be explained by inadvertent error. She repeated the demand that Iran “cease and dismantle all nuclear fuel cycle activities”, including uranium conversion and enrichment, all heavy water reactor-related activities and any plutonium reprocessing activities. Iran must ratify and fully implement an Additional Protocol and agree to IAEA inspection when and where deemed necessary.[8]

In truth the US attitude to the negotiations is highly sceptical. Yet, there is strong recognition within Washington that it is not in US interests to pursue a confrontation with Iran, and that the negotiations need to be given a clear chance.

EU3 - Britain, France and Germany

The EU3 have positioned themselves between the protagonists in an effort to seek a diplomatic solution and avoid what is likely to be a counterproductive and inconclusive exchange at the UNSC.

In the November 2004 Paris agreement, the EU3 agreed to pursue negotiations with Iran to “provide objective guarantees that Iran’s nuclear programme is exclusively for peaceful purposes. It will equally provide firm guarantees on nuclear, technological and economic cooperation and firm commitments on security issues”. [9] Iran agreed to extend its temporary voluntary suspension of all enrichment related and reprocessing activities to facilitate the discussions.

The EU3 is to some extent limited in what they can offer Iran by what the Bush administration will accept. Following talks with the United States, the EU3 appear to have less room for manoeuvre. In exchange for US concessions the EU3 have agreed to a position of outright opposition to Iran’s resumption of uranium enrichment and to support a resolution of referral to the UNSC, via the IAEA Board of Governors, should the Iranians resume enrichment. This position was reiterated in statements from the June 20 EU-US summit meeting, which called on Iran to “suspend fully and verifiably all enrichment-related and reprocessing activities” and the G8 Foreign Ministers meeting of June 23, which stated that Iran should keep “all fuel cycle activities fully suspended”. [10]

The problem for the EU3 is that Iran has already publicly and firmly rejected a complete suspension of fuel cycle activities. Referring to the G8 statement, Foreign Ministry Spokesman Hamid Reza Asefi said that such a thing was utterly out of the question and noted that Iran was now waiting to receive Europe’s proposals before deciding whether to continue the cycle of negotiations. [11]

The EU3 are now in the difficult position of having to consider whether to agree to some form of

limited uranium enrichment in order to secure a settlement. In addition to the problem of securing US support for such a position, this raises the question of whether the EU3 have the confidence that Iran does not intend to develop a nuclear weapons programme using its enrichment technology.

For its part, Iran appears to have recognised the dilemma, and was reported in May to have asked the EU3 to consider accepting Iran's right to convert uranium (a prior stage before enrichment).[12] Under this scenario, uranium hexafluoride would be shipped to Russia for enrichment and returned to Iran as finished nuclear fuel elements. The spent fuel would then be shipped back to Russia.

The EU3's threat to automatically support a resolution of referral to the UNSC in the event that talks break down may be counterproductive. First it is by no means certain that the IAEA Board would support such a referral, even with the support of the United States and the EU3. Many non-nuclear-weapon states support Iran's position on Article IV, even though they may be sceptical about Iran's ultimate intentions.

Second, it is unclear what would happen even if the matter were referred to the UNSC. It is unlikely that all permanent members would support US demands for sanctions. Russia, in particular, has an interest in continuing to supply Iran's nuclear programme. Both Russia and China have significant interests in Iran's strategic oil and gas reserves, relationships that are becoming increasingly important to both countries. Further it is not certain that all of the EU3 would support sanctions. Iran is aware of this, and may therefore be tempted to risk brinkmanship in the negotiations when confronted with a threat that it does not believe is credible. The EU3 must therefore focus on what they can offer Iran in the diplomatic, economic and security spheres.

The International Atomic Energy Agency

In his opening statement to the IAEA Board of Governors on 14 June 2005, Dr ElBaradei, Director General of the International Atomic Energy Agency (IAEA), gave a short report on the implementation of safeguards in Iran for the previous three months. He said:

- Iran has facilitated Agency access to nuclear material and facilities under its safeguards agreement and additional protocol;
- the Agency had continued to monitor all aspects of Iran's voluntary suspension of enrichment related and reprocessing activities;
- the Agency was making progress on the origin of the low and highly enriched uranium contamination on equipment at various locations in Iran. In May, the Agency received a number of centrifuge components from another Member State which were subjected to environmental sampling;
- Iran has provided some additional documentation and information about its centrifuge enrichment programmes, but they were not sufficient to answer several remaining questions. The Agency continued to press for additional documentation regarding offers of equipment made to Iran, as well as for information on associated technical discussions between Iran and intermediaries in the procurement network;
- the Agency wished to pursue its investigation of the Lavisan-Shian and Parchin sites that would provide them with access to dual-use equipment and other information; and
- he intended to report on progress to the next Board meeting in September and, with the co-operation of all parties, reach a conclusion on some of these outstanding issues.[13]

IAEA Deputy Director General for Safeguards, Dr Goldschmidt, submitted a more detailed report to the Board that was not made publicly available but seen by BASIC. To Dr ElBaradei's list, he added that Iran was "modifying one of the underground structures at Natanz for safe storage of equipment, in connection with which Iran has already submitted updated design information." Dr Goldschmidt said that the analysis of the swipe samples taken from contaminated centrifuge components would take approximately two months to complete.

The Agency, he said, has continued its investigation into the outstanding questions of Iran's P-1

and P-2 centrifuge programme with the emphasis on:

- a 1987 offer for centrifuge related design, technology and sample components;
- technical discussions between Iran and the intermediaries between 1987 and 1993;
- a mid-1990s offer for P-1 centrifuge documentation and components; and
- shipping documents related to the delivery of those documents and components.

Dr Goldschmidt also detailed the exchange of letters between the Agency and Iran in order to clarify the timing and extent of assistance given to Iran by “a foreign intermediary”. He expressed the Agency’s frustration in not being able to gather sufficient information to make a confident assessment. He referred to Iran’s unwillingness to be fully open as a “confidence deficit”.

Further information about the mining and milling activities at Gchine and Saghand are being undertaken. Iran’s declaration of the conversion of approximately 37 tons of uranium ore concentrate at the Uranium Conversion Facility (UCF) appeared to be accurate, but further work was required before figures could be finalised. The Agency was still attempting to establish the chronology of Iran’s plutonium separation work. Inspectors had visited the Arak site in March 2005 and noted the Heavy Water Research Reactor was under construction and the Heavy Water Production Plant was being commissioned.

The Implications for International Security

The case of Iran highlights weaknesses and discrepancies in the international nuclear non-proliferation regime that must be addressed if more countries are to be dissuaded from trying to acquire nuclear weapons.

Strengthening the NPT

The NPT currently allows states to develop all aspects of nuclear technology, providing that they do not seek to manufacture or acquire any actual nuclear weapons. Article X allows states to withdraw from the NPT with three months notice, citing extraordinary events that have jeopardised national security. North Korea has already invoked this clause, in order to withdraw and develop a nuclear weapon capability, although the legality of this action is questionable. Others could also acquire weapons-related technology gained through their civil programme under the NPT, leave and develop their military capability.

At the 2005 NPT Review Conference earlier this year a number of states proposed measures to close this loophole, but delegations were unable to reach any agreement. Canada proposed the establishment of a bureau to oversee the Treaty with the power to convene extraordinary conferences of States Parties in the event of states giving notification of intent to withdraw.[14]

Australia and New Zealand proposed:

- that notice of withdrawal should trigger automatic referral to the UNSC;
- that withdrawal from the Treaty does not absolve a State Party from meeting obligations it had not met at the time of withdrawal; and
- that nuclear materials, equipment and technology acquired by a State remain subject to peaceful use obligations with verification even if a State withdraws from the Treaty.[15]

The EU’s proposals supported this last point in particular. IAEA Director Dr ElBaradei has also proposed that verification efforts must be backed by an effective mechanism for dealing with non-compliance, telling the Review Conference that:

Whether it is a case of non-compliance or of withdrawal from the NPT, the Council must consider promptly the implications for international peace and security, and take the appropriate measures.[16]

These proposals are vital to preventing future breakout from the Treaty, notwithstanding the NPT Review Conference failure to agree them, and States Parties must now find other ways to take these proposals forward.

Middle East Nuclear Weapon-Free Zone

Iran often points to Israel's nuclear weapon capability which is seen as a long standing threat by most other Middle Eastern countries. Tolerance of Israel's nuclear weapon programme is a significant obstacle to preventing proliferation of weapons of mass destruction in the Middle East, as many states in the region perceive a double standard.

As talks get underway on the Middle East peace process, many Arab states want Israel to give up its nuclear capability as part of comprehensive peace talks. Israel, however, insists the peace process must be completed before it considers relinquishing its nuclear capability. Dr ElBaradei suggests that the two should be pursued "together in tandem" - that all parties should pursue "a dialogue on regional security as part of the peace process. One goal of this dialogue would be to make the Middle East a nuclear-weapons-free zone".[17]

Limiting the proliferation potential of nuclear programmes

Iran cites the scientific achievements of its nuclear power programme, but it must deal with all the associated problems experienced by other countries. The impact of spent fuel and nuclear waste on the environment is potentially disastrous. To date, there has been no indication of substantive talks about the negative consequences of developing a full nuclear fuel cycle. Does Iran have any plans for spent fuel and nuclear waste management - or could this be a profitable area for discussions to explore in a possible trade off for Iran foregoing uranium enrichment?

France, Germany and the UK are all well placed to speak of the difficulties they have experienced and cost they have incurred in attempting to deal with the less attractive end of the nuclear fuel cycle. Starting negotiations from here could be a productive way of promoting multilateral approaches to nuclear power generation and spent fuel and waste management options.

The United States has proposed that the Nuclear Suppliers Group should refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment and reprocessing plants. However, this measure is seen as discriminatory as it would allow the nuclear-weapon states and states outside the NPT to continue with enrichment. Iran argues that it merely seeks to do what others including Britain, France, Brazil and Japan already do. In the long term a non-discriminatory approach is likely to be more effective involving significant changes in established nuclear power programmes, but this would mean a change of attitude from the countries that currently seek to keep open their own options to pursue uranium enrichment and reprocessing.

What is clear from the current impasse with Iran is that far greater global control is needed over sensitive parts of the nuclear fuel cycle. Dr ElBaradei proposes:

- negotiations under the IAEA statute for the Agency to serve as a guarantor of the supply of fissile material for fuel, and the reprocessing of spent fuel; and
- that a voluntary time-limited moratorium on new fuel cycle facilities be put in place in the interim whilst IAEA experts examine various approaches for the future management of the fuel cycle.[18]

This would go some way to address the current vulnerabilities in the NPT regime.

The way forward: reciprocal confidence-building measures

In the long term Iran needs to be persuaded that its security will not be enhanced by maintaining the option to develop nuclear weapons. Iran should recognise its security resides in developing a positive relationship with the rest of the world, entailing an improved record on nuclear non-proliferation and human rights, and an end to its links with groups engaged in terrorist acts.

The US and the EU3 must also recognise that actions that serve only to further isolate Iran are likely to be counterproductive. They need to work with Iran to decrease its sense of isolation and insecurity. They also must reconsider their own civil and military nuclear programmes and their

impact on others' efforts to acquire the dangerous capabilities.

Iran should:

- Ratify its Additional Protocol agreement with the IAEA without delay;
- Provide information on its nuclear activities to the IAEA in a timely manner;
- Forego any consideration of reprocessing spent fuel elements and extracting plutonium;
- Strengthen its legal export control mechanisms;
- Declare a ceiling on uranium enrichment level (unsuitable for weapons purposes) and that all enriched uranium will be used in fuel assemblies;
- Introduce national legislation making any research and development work on nuclear weapons illegal;
- Accept that any plans to move forward with a nuclear power programme must be considered alongside the issues of spent fuel management, facility and material security, nuclear waste disposal and environmental consequences for loss of control and containment.

The EU3 should:

- Make a formal commitment at the highest level to oppose any threats of military action against Iranian nuclear facilities;
- Acknowledge that Iran can enrich uranium for fabrication into fuel elements for power generation in nuclear reactors - provided that it is in strict compliance with all safeguards agreements with the IAEA;
- Make explicit their continued support for a resolution of this disagreement to be sought via the good offices of the IAEA and around the table in Vienna;
- Commit to enabling Iran access to European markets and financial institutions;
- Guarantee the supply of uranium fuel for Iranian nuclear power reactors (with the agreement and oversight of the IAEA);
- Continue to actively press for the establishment of a nuclear weapon-free zone in the Middle East;
- Take forward proposals to strengthen Article X of the NPT; and
- Support IAEA efforts to control proliferation sensitive parts of the nuclear fuel cycle.

The United States should:

- Desist from inflammatory rhetoric from afar and move to support the diplomatic process;
- Consider further options to support diplomacy, eg resuming direct diplomatic contact with Iran; considering appropriate security assurances for Iran in exchange for progress on nuclear non-proliferation;
- Support IAEA efforts to control proliferation sensitive parts of the nuclear fuel cycle;
- Exert pressure on Israel to desist from threats to Iran and to include Israeli nuclear weapons in the Middle East Peace talks.

Endnotes

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