

NUCLEAR NEGOTIATIONS: IRAN, THE EU (AND THE US)

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Introduction

Intense and ambitious negotiations between Iran and the European Union (first led by France, Germany and the United Kingdom, and later joined by the high commissioner of the European Union (the “E3/EU”)) beginning in 2003 have so far failed to persuade Iran to cancel plans to develop its own nuclear fuel cycle¹ in exchange for European economic incentives and other cooperation. Despite obtaining unprecedented Iranian cooperation with the International Atomic Energy Agency (IAEA), and even a temporary suspension of Iran’s early work on enriching uranium for use as nuclear reactor fuel, the negotiations have failed to result in a long-term comprehensive agreement between the EU and Iran.

At the heart of the conflict is Iran’s strategy of attaining self-sufficiency regarding the production of nuclear fuel used to generate electricity from nuclear power plants. In this chapter we look at the negotiations between the parties from an analytical standpoint, rather than a polemic one. The negotiations held early promise and proceeded from confidence-building measures to more comprehensive proposals. Despite early optimism, as of this writing, the process has shifted from problem-solving negotiation into outright confrontation. Data on the negotiations comes from primary source documents, and selected secondary sources. A more detailed analysis must await the emergence of a robust record of these current negotiations, which—it is hoped—will eventually result in agreement. Multiple theoretical interpretations for the current negotiation failure to date are possible and several are offered in this volume.

The NPT and IAEA regime: context of the E3/EU-Iran Negotiations

¹ The capacity to create and manage a nuclear fuel cycle refers to the ability to obtain, extract and enrich nuclear fissile materials, such as uranium, so that they can be used to generate nuclear energy. The cycle also includes the ability to store, transport, reprocess, and dispose of depleted nuclear materials and waste generated by the creation of nuclear energy.

Iran, like nearly all other states, is a party to the nuclear Nonproliferation Treaty (NPT) that explicitly guarantees the “inalienable right” to peaceful nuclear energy (Art. IV). This ‘right’, for “non-nuclear weapons states,” is contingent upon the renunciation of any possible quest to obtain nuclear weapons and become one of the “nuclear weapons states” (Art. II). The NPT is, at least on paper, a two-edged sword: it also commits the nuclear weapons states to pursue nuclear disarmament (Art. VI) and to refrain from transferring nuclear weapons or weapons technology to the “non-nuclear weapons states” (Art. I).² NPT signatories also sign separate agreements with the IAEA; ‘safeguard agreements’ and ‘additional protocols’ under which they commit to put their nuclear facilities and materials under IAEA supervision to prevent the “diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices” (IAEA 1974).

In the post-Cold War period, the challenges to the NPT regime have grown: ostensible nuclear weapons states such as Israel have not signed the treaty, and others such as North Korea have withdrawn after developing their own nuclear arsenal. Pakistan and India have recently declared themselves to be nuclear weapons states. Others have renounced their quest for such weapons, such as Libya and South Africa. Nuclear weapons states have succeeded at keeping WMD-related discourse focused on the nonproliferation side of the equation while avoiding the disarmament side.

Iran, the EU and the US

The United States has had no diplomatic relations with Iran since April 1980, as a result of the Iranian Revolution and the US Embassy hostage crisis of 1979. The US wants Iran to abandon its quest for a self-sufficient nuclear energy program because of concerns that Iran would either enrich uranium to weapons-grade levels or divert for weapons use the plutonium that civilian reactors yield as a byproduct. But without any formal channels of communication, the US is constrained in its ability to influence Iran. There has been little clear policy direction from Washington regarding Iran, with hardliners and pragmatists vying for influence. Iran, for its part, has sent out mixed signals to the international community, defending its right to civil nuclear

² Treaty on the Non-Proliferation of Nuclear Weapons, 729 U.N.T.S. 161, July 1, 1968 (entered into force March 5, 1970)

power and energy self-sufficiency, while pursuing clandestine nuclear research programs over previous decades.

Iran conveys a sense of historic grievance that contextualizes the current conflict, but which is overlooked by pundits, journalists and analysts. Iranian communications to the IAEA, when noting Iran's support for nonproliferation, cite the brutal 8 year Iraqi war against Iran, and note that Saddam Hussein's regime used chemical weapons against Iran with tacit or overt US approval. The Iranians constantly remind the international community too of having suffered a US-backed coup in 1953 that brought the Shah of Iran to power, Iran's pre-Revolution investments in US and European nuclear fuel contracts and consortia, from which they have to date allegedly received neither refunds nor fuel, the July 1988 downing of an Iranian civilian airliner by the USS Vincennes, and other events in the historical memory of Iran. (Government of Iran 2006a, Government of Iran 2006c).

In the wake of the US-led war in Afghanistan to defeat the Taliban regime there, Iraq, Iran and North Korea were described as the "Axis of Evil" by President George W. Bush in his January 2002 State of the Union Address despite Iranian support the post-9/11 war on terror. The language used mirrors the rhetoric used by Iranian policymakers who have called the United States the "Great Satan." The Bush speech heralded the eventual US-led war against Iraq, based—at least in part—on the alleged Iraqi quest to acquire weapons of mass destruction (WMD), including nuclear weapons. The lack of evidence for the any Iraqi WMD program has not prevented the US from looking at Iran through a similar lens. Sandwiched between two volatile countries, Iraq and Afghanistan, both of which have experienced violent internal conflict, Iran now finds itself contemplating US-led coalition forces on its eastern and western borders and occasional rumors of impending invasion plans.

Shared interests between the US and Iran on issues including strategies for countering *al-Qaeda*, Shiite politics in Iraq, and stability in Afghanistan, have led to some briefly successful attempts at informal consultation between the US and Iran in various forums. These included an informal group of countries that meets to discuss Afghanistan issues: the Group of '6+2'; the six countries surrounding Afghanistan,

plus the US and Russia (Muir 2003). Such informal consultations have not blossomed into broader contacts.

Not all the world's players see Iran in the same light. Iranian policymakers consider the "acquiring, development and use of nuclear weapons inhuman, immoral, illegal and against its very basic principles. They have no place in Iran's defence doctrine. They do not add to Iran's security nor do they help rid the Middle East of weapons of mass destruction" (Government of Iran 2003, also see the Tehran Declaration, IAEA 2003c). The EU, as a multilateral entity and as member states within it, has been listening.

EU Diplomacy and The Tehran Declaration

In marked contrast with US foreign policy, EU diplomacy recognized that "it is very much in the EU's interest, as part of a foreign policy strategy for conflict prevention, that Iran should become a factor for stability in the region" (EU 2001). The EU is Iran's top commercial trading partner (with much of that trade in the form of Iranian exports of oil to the EU), and the EU desires positive public diplomacy with Arab and Islamic countries. The EU has also transparently expressed its concern for the human rights situation in Iran, the use of Iranian territory as a transshipment point for the Afghanistan drug trade to the EU and openly sought a constructive role for Iran in resolving the Palestinian-Israeli conflict and the Israel-Hezbollah/Lebanon conflict (EU 2001). By the end of 2001, the EU and Iran had launched negotiations over several issues of mutual concern, all under the banner of improving EU-Iran ties (EU and EC 2002).

By March 2003, a US/UK-led coalition had invaded Iraq and overthrown the government of Saddam Hussein, beginning a long military occupation and counterinsurgency that continues as of this writing. Iraq has also brought the US into an increasingly intimate hostility with Iran (and in early 2007, US forces and its allies were targeting Iranian interests, diplomats and agents in Iraq, while openly accusing Iran of arming certain Iraqi Shiite militias) with armor-piercing shells.

At the beginning of the US occupation of Iraq, Iran is reported to have sent out a feeler to the US using the Swiss government as a "back channel," offering to

accommodate US concerns on proliferation, coordinate with the US on Middle East peace and Iraq, in exchange for security assurances and re-establishment of diplomatic relations. Washington appears to have been unable to craft a coherent policy response. (On the Iranian offer, see Samore 2005; on back channel negotiations generally, see Wanis-St. John 2006). In the absence of US leadership, European leaders asserted themselves.

In mid-2003, the Europeans explicitly requested of Iran that it not introduce nuclear material into its pilot uranium enrichment plant and went before the IAEA with this demand when it appeared that Iran would not comply.³ The Director General of the IAEA, Dr. Mohammed el-Baradei, in his June 2003 report to the IAEA Board of Governors, noted that Iran had “failed to meet its obligations under its Safeguards Agreement under the NPT” with particular regard to its acquisition of uranium and information on the enrichment, processing and storage of its nuclear materials (IAEA 2003a). The US, meanwhile also sought to use the IAEA as a forum to pressure Iran. At its September 2003 meeting, the IAEA Board of Governors issued a resolution that affirmed NPT member states rights to develop peaceful atomic energy, but also issued stern warnings to Iran to provide more cooperation and transparency about its past and ongoing nuclear activities (IAEA 2003b). The resolution stopped short of referring the matter to the UN Security Council, as the US wished. Nor did the IAEA issue an “immediate finding of non-compliance by Iran with its safeguards violations” as the US believed was justified (Government of the USA 2003).

Quiet diplomacy continued however. Jack Straw, Dominique Villepin and Joschka Fischer, the Foreign Ministers of the UK, France and Germany respectively, were “engaged in a secretive effort to convince Iran to sign” the Additional Protocol to the NPT, and thus de-escalate the brewing crisis (BBC 2003b). They went public with their negotiations and held a summit with Iranian President Mohammad Khatami in late October 2003 in Tehran. Thus the “E3,” the UK, France and Germany—the three European powers taking the lead in negotiations with Iran—had emerged as a diplomatic coalition that could act in a quasi-unified way regarding negotiations with Iran.

³ Enrichment is part of the process of converting uranium from its natural mined state into a usable nuclear fuel, whether for peaceful or military purposes.

On October 21, 2003, the negotiations began yielding positive results. The E3 issued what became known as the “Tehran Declaration.” It was not an agreement between the E3 and Iran, but rather a joint statement by the E3 Foreign Ministers at the end of their trip to Iran. By persistent, secret as well as open negotiations, the E3 had persuaded Iran “voluntarily to suspend all uranium enrichment and reprocessing activities as defined by the IAEA” (IAEA 2003c). Curiously, the IAEA, already deeply involved in its own negotiations to gain more information about Iran’s nuclear research, and negotiating access for its inspectors, barely mentioned the Tehran Declaration in a footnote on the fourth page of the Director General’s Report to the Board of Governors of November 26, 2003 (IAEA 2003d).

In exchange for Iran’s substantive concession to voluntarily suspend enrichment and reprocessing of uranium, the European negotiators made ambiguous commitments to help Iran obtain “easier access to modern technology and supplies in a range of areas” (IAEA 2003c). The Tehran Declaration also paved the way for further, more intense negotiations between the parties. The political purpose of such moves was to build the confidence of international community that Iran was serious about its intention to develop nuclear energy for civilian uses only. Iran also committed itself to sign an “Additional Protocol” to its existing IAEA Safeguards Agreement, which could facilitate the discovery and monitoring of any ‘undeclared’ nuclear activities that could be weapons-related. In this case, the Additional Protocol permits the IAEA to begin more intrusive inspections of Iran’s nuclear facilities, which became more salient after allegations of a longstanding clandestine nuclear program in Iran began coming to light in 2002. Despite the Tehran Declaration, Iran continued to work on its gas centrifuge program, which is one of the methods used to ‘enrich’ uranium so that it can be used as a nuclear reactor fuel.

On December 18, 2003, Iran signed the Additional Protocol. During early 2004, Iran affirmed that it was extending the scope of its suspensions of nuclear enrichment activities, and applying them to all of its facilities. At the same time, Iran acknowledged to the IAEA that it had previously failed to declare that it had obtained designs for more advanced uranium enrichment equipment (known as “P-2” centrifuges). IAEA inspectors had, in September 2003, discovered that Iran had

experimented with irradiating the metal bismuth (which itself is not a proliferation concern, but which can be used to produce polonium-210, a radioactive isotope used in civilian applications as well as some nuclear weapon designs, according to the IAEA (2004a). Allegations surfaced that Iran had obtained unsolicited information on the assembly of a nuclear weapon from Pakistan's notorious "A.Q." (Abdul Qadeer) Khan, who had spearheaded his country's nuclear weapons program.

Iran steadily maintained that Khan's information was unsolicited and that nuclear weapons had no place in Iran's national security doctrine. Iran was actively cooperating with the IAEA in its intensified inspections, verification and sealing activities, but new questions about the past and present of Iran's nuclear program continued to arise, quickly eroding some of the good will the E3 and Iran had built up with the Tehran Declaration.

The Paris Agreement

Negotiations between the Europeans and Iran continued the year after the Tehran Declaration, and the negotiators met for at least seven negotiation sessions in September and November 2003, and February, March, June, September and November 2004. Perhaps to allay EU member states' fears that the E3 were monopolizing European foreign policy and sidestepping formal European policymaking procedures, and perhaps also to gain more credibility and multilateral clout as official representatives of the entire EU community, the E3 were joined in 2004 by the High Representative of the European Union, Javier Solana. Thus the troika became a quartet of sorts and came to be known as the E3/EU. While the added diplomatic muscle did not assure that negotiations with Iran would be any easier, it would, in theory, permit the European negotiators to make credible commitments and bind the EU when the time came to provide technical assistance, trade agreements, humanitarian assistance or other *quid pro quo*.

According to the reports of the Director General of the IAEA, the E3/EU negotiators sought to commit Iran to a more comprehensive voluntary suspension of enrichment activities, including a cessation of work on the construction of uranium-enrichment centrifuges (IAEA 2004b). Iran threatened to unilaterally reverse its voluntary additional measures of suspension in June 2004. According to Iranian perspectives on

the negotiations, the European negotiators' demands escalated from the simple voluntary suspension of enrichment activities to encompass a whole range of further concessions, including the "testing, assembling of the machines, manufacturing of centrifuge components, production of UF₆ (uranium hexafluoride gas which is fed into centrifuges for enrichment), and finally to suspend complete uranium conversion at UCF (Iran's Uranium Conversion Facility), and not to conduct R&D" (Government of Iran 2005c). Despite tensions, these negotiations indeed resulted in a more formal framework agreement between the E3/EU and Iran: the "Paris Agreement" of November 15, 2004 (IAEA 2004c).

Negotiations Toward a Long-Term Agreement

In the Paris Agreement, Iran conceded to more vigorous IAEA verification of its suspended research and development activities. But the suspension and the Paris Agreement itself were but the framework within which Iran and the E3/EU were supposed to negotiate *another separate agreement* on long term arrangements regarding Iran's nuclear program:

... Iran has decided, on a voluntary basis, to continue and extend its *suspension to include all enrichment related and reprocessing activities*, and specifically: ... the assembly, installation, testing or operation of gas centrifuges... plutonium separation...and...uranium conversion... The IAEA will be notified of this suspension and invited to verify and monitor it... The *suspension will be sustained while negotiations proceed on a mutually acceptable agreement on long-term arrangements* (IAEA 2004c, emphasis added).

A Steering Committee was set up, as well as subsidiary working groups that were to actually conduct negotiations on the interrelated nuclear, economic and security issues. And the suspensions, once verified by the IAEA, were to trigger renewed negotiations on a Trade and Cooperation Agreement. The E3/EU specifically committed itself to actively "support the opening of Iranian accession negotiations at the WTO." The Paris Agreement received very mixed reviews in the Iranian press, which strongly asserted the Iranian national right to a peaceful energy program under the NPT, even if it resulted in referral to the UN Security Council (BBC 2004). The US expressed support for the Paris Agreement in February 2005, and made helpful

offers of further trade assistance to Iran, in the form of spare parts for Iran's ageing civilian airliner fleet, and hinted at flexibility on Iran's bid for WTO membership.

Follow-up E3/EU-Iran negotiations appear to have started with an Iranian framework proposal, followed up by an E3/EU counter-proposal. Iran put together its proposal at the end of March 2005, which included technical limitations on its enrichment program in order to eliminate nuclear proliferation possibilities; legislative and regulatory measures to meet the E3/EU and IAEA interests; and enhanced monitoring (Government of Iran 2005a). The proposal itself, captured in a document entitled "General Framework for "Objective Guarantees, Firm Guarantees, and Firm Commitments" is brief but structured in two columns that propose simultaneous actions by both the E3/EU in the right column and Iran on the left, with milestones including the establishment of a joint counterterrorism task force, guarantees that uranium would only be enriched at the non-weapons grade 'low' level and immediately converted to fuel rods for civilian reactors, and that the E3/EU countries would themselves bid, contract for and ultimately construct a series of new nuclear reactors in Iran. Iran would supplement its own domestically-produced supply of nuclear fuel with guaranteed supplies purchased from the EU (Government of Iran 2005a).

Negotiations after the Paris Agreement, according to one secondary source, were thought to be "in trouble" as both sides' positions on the possible resumption of uranium enrichment activities appeared to harden in the run-up to Iran's June 17, 2005 presidential election (Beehner 2005). Unable to widen their zone of possible agreement, both sides reminded each other of what would happen if they walked away from the negotiations. The Iranian negotiators insisted that Iran would accelerate enrichment efforts, and the EU negotiators threatened to refer the matter to the UN Security Council for possible enforcement action in that forum.

A "last ditch" negotiation session was set for May 25, 2005 in Geneva. That meeting resulted in an E3/EU commitment for the late July to early August delivery of a detailed European counter-proposal for the long term framework agreement. According the Iranian disclosures on the negotiations, "Iran made it clear in Geneva that any proposal by the E3/EU must incorporate "E3/EU's perception of objective

guarantees for the gradual resumption of the Iranian enrichment program, and that any attempt to turn objective guarantees into cessation or long-term suspension were ...unacceptable to Iran” (Government of Iran 2005b). On July 14, Mahmood Ahmedinejad was elected President of Iran and lost no time casting doubt on the eventuality of a successful conclusion to the negotiations with the E3/EU.

In the days before the E3/EU proposal was submitted to the Iranian side, some of its content was communicated in a letter from the E3 Foreign Ministers to Iran dated July 25. Iran saw the E3/EU “offers and incentives as demeaning and totally incommensurate with Iran and its vast capabilities, potentials and requirements” (Government of Iran 2005d). Before the European proposal was even conveyed formally, Iran stated that the E3/EU had tried to prolong negotiations in order to turn the voluntary and temporary suspension into a permanent abandonment of the Iranian fuel cycle. Communication from Iran underlined its sense of historical grievance that had in part driven the Iranian quest for dominance of the full fuel cycle. Past Iranian experience in relying on other countries for nuclear fuel had led, according to Iran, to Iran making investments in nuclear fuel consortia without ever getting access to the fuel, and to Iran making contractual payments for nuclear fuel that was never delivered. (See for example, the Iranian recitations of these events (Government of Iran 2005b)). The European proposal was finally delivered to Iran’s representatives on August 5, 2005, but Iran, on August 1, had already indicated to the IAEA that it was going to resume uranium conversion activities, while continuing to suspend other enrichment-related activities (Government of Iran 2005b). This move was condemned by the IAEA Board of Governors in its statement of August 9, 2005 (Government of the UK 2005).

While an available version of the proposed framework agreement reads like a very tentative draft, it contains the key trade-offs a final agreement would entail (EU 2005). Eight of the most important aspects of the E3/EU proposal are included here:

1. “an assured supply of fuel over the coming years” in exchange for “a binding commitment not to pursue fuel cycle activities other than the construction and operation of light water power and research reactors” (III.34)
2. “E3/EU recognize Iran’s right to develop a civil nuclear power generation programme” (III.15)

3. Iran would give up its desire to develop an independent fuel cycle in exchange for “sustained access to nuclear fuel for the Light Water Reactors forming Iran’s civil nuclear industry” (III.22)
4. “any fuel provided would be under normal market conditions...and...subject to proliferation-proof arrangements...including the return of all spent fuel” (III.25)
5. E3/EU commit themselves to “the establishment of a buffer store of fuel, sufficient to maintain supplies...for a period of 5 years...located in a mutually acceptable third country” (III.25)
6. Stop construction of Iran’s “Heavy Water Research Reactor at Arak” in exchange for an E3/EU expert mission to help identify “research requirements and the most suitable type of equipment to meet those requirements” (III.37)
7. E3/EU would provide “continued political support for Iranian accession to the WTO (World Trade Organization)” and “technical support to assist Iran in making the necessary adjustments to its economy” (IV.46)
8. “E3/EU would continue to promote the sale of aircraft parts to Iran and be willing to enter into discussion about open procurement of the sale of civil passenger aircraft to Iran” (IV.49)

Negotiations to save the negotiations and the drift toward coercive diplomacy

Crisis negotiations after Iran rejected the EU proposal took place, but could not alter the fundamental defects in the negotiation structure itself. The official response from Iran characterized the proposal as “extremely long on demands from Iran and absurdly short on offers to Iran,” and claims that the proposal did not amount to anything different from a previous proposal the E3 had floated prior to the Paris Agreement, and which Iran rejected at that time. Iran demanded an apology (Government of Iran 2005d). The Iranian Parliament, in November 2005 took measures to reduce the negotiation scope of the government, passing a law requiring the government to stop Iran’s voluntary inspections by the IAEA and resume its pursuit of a nuclear fuel cycle under the NPT, in case the IAEA referred the Iran portfolio to the UN Security Council. The IAEA Director General el-Baradei seemed to sound a note of calm optimism in affirming “that Iran continues to fulfill its obligations under the safeguards agreement and additional protocol by providing timely access to nuclear material, facilities and other locations. This is, however, a special verification case that requires ...the Agency’s investigation to go beyond the confines of the safeguards agreement and the additional protocol.” He ended his statement by noting, almost in passing, that Iran had resumed enrichment of uranium at its Isfahan Uranium Conversion Facility, but that “other aspects of Iran’s suspension remain intact” (IAEA 2005b).

By the end of 2005 it appeared that all further E3/EU-Iran negotiations would be futile. There seemed little left to discuss unless flexibility and creativity could help the parties find more optimal outcomes. One such possibility lay in a Russian proposal to sell Iran most of the enriched fuel it would need for civilian nuclear energy while letting Iran retain the capacity for small amounts of enrichment for research purposes. In late November 2005 the E3/EU agreed to renew negotiations with Iran if the latter would engage with the Russians on their proposal. But the US was continuing to push for UN Security Council action unless Iran renounced all enrichment possibilities, and by early 2006, with Iran continuing to reinitiate its enrichment activities at numerous facilities (albeit under continued IAEA supervision), the E3/EU began openly supporting the US on its bid to refer the matter to the UN Security Council (Center for Non Proliferation Studies 2006) and called off negotiations.

The year 2006 contained few diplomatic surprises regarding Iran. Instead of substantive negotiations, the year marked a return to coercive diplomacy: use of diplomatic instruments to force Iran to modify its policies and actions. These were remarkable mostly for their futility. The IAEA Board of Governors in an emergency meeting indeed voted to refer the Iran matter to the UN Security Council (IAEA 2006a). Predictably, this only hardened Iran's resolve to pursue an enrichment capability and Iran responded by threatening to roll back the additional IAEA monitoring and fully resume enrichment activities (Government of Iran 2006b). In February President Ahmedinejad suspended Iran's voluntary implementation of the Additional Protocol it had signed as a result of the Paris Agreement. The IAEA continued to find no evidence of nuclear weapons programs but remained concerned about a number of issues that had not been clarified, including contamination caused by weapons grade highly enriched uranium found on imported hardware: "Although the Agency has not seen any diversion of nuclear material to nuclear weapons or other nuclear explosive devices, the Agency is not at this point in time in a position to conclude that there are no undeclared nuclear materials or activities in Iran" (IAEA 2006b: ¶53). The UN Security Council, as perhaps the Iranians foresaw, immediately revealed its structural weaknesses as an enforcement forum. In late March, a feeble UNSC Presidential Statement was issued calling on Iran to re-establish "full and sustained suspension of all enrichment-related and reprocessing activities" (UNSC

2006a).

In April 2006, Condoleeza Rice, in response to a press inquiry about possible US military action against Iran, said: “Look, the President isn't going to take any of his options off the table. We are on a diplomatic course...But the President doesn't take any of his options off the table” (US Department of State 2006a). Investigative reporter Seymour Hersh, in allegations that were widely repeated, wrote in the April 17, 2006 *New Yorker* that civilian appointees in the US administration were promoting plans for far-reaching military campaigns against Iran, including the possible use of tactical nuclear weapons that could penetrate underground facilities (Hersh 2006). US covert plans to invade Iran and topple the regime were also reported by archival historian James Bamford, known for his two exposés on the secretive National Security Agency (Bamford 1982, 2001). According to Bamford, civilians at the Pentagon were working with pro-Israel lobbyists to push a regime change agenda at the White House, until they were caught by the FBI and put on trial (Bamford 2006). The individuals involved on the government side were part of the ‘neo-con’ group close to the Vice President’s office but may not have enjoyed the support of either the President or the rest of the cabinet.

The Security Council’s internal negotiations on what to do about Iran proceeded throughout the first part of the year, supplemented by “P5+Germany” talks aimed at creating a unified posture against Iran, and a unified negotiation proposal that could build on the additional credibility of the new, larger coalition. In May 2006 Iran once again reached out to the US in the form of a lengthy letter to US President Bush (Government of Iran 2006c), conveyed through their Swiss back channel and in which the Iranians hoped to ignite interest in direct bilateral contact. Little or no response appears to have been made by the US. In early May an Anglo-French draft UN Security Council resolution calling upon Iran to halt enrichment and construction of a heavy water nuclear plant was rejected by China and Russia, ostensibly because of disagreement among the P5 over the specification of a deadline for Iranian compliance (Governments of UK and France 2006).

In what appeared on the surface to be an innovative return to negotiation in a year of strategies of coercion, on May 31, Condoleeza Rice declared that “as soon as Iran

fully and verifiably suspends its enrichment and reprocessing activities, the United States will come to the table with our EU-3 colleagues [Britain, France and Germany] and meet with Iran's representatives" (Government of the USA 2006b). But Rice's move was either a classic case of 'too little, too late', or the US was making a high profile bargaining offer that it hoped might earn international good-will but never be accepted by Iran.

In June 2006, EU High Representative Javier Solana also presented an incentive package to Tehran on behalf of the "E3+3" (the E3 plus Russia, US and China, or, if one is attached to classic terminology, the "P5+1") meant to induce Iran into resuming suspension in exchange for suspending UN Security Council discussions of the Iran issue (Government of France 2006). The E3+3 proposal was designed to exchange one suspension (uranium enrichment) for another (UN Security Council action on Iran) only as the backdrop to a resumption of negotiations toward comprehensive agreement. By including Russia, China and the US, the new proposal bore more weight than the E3/EU's mid-2005 proposal and also laid less emphasis on Iran's implied permanent renunciation of enrichment in exchange for a wide range of political and economic concessions, including access to US and European civilian aircraft manufacturers. The proposal also made explicit recognition of Iran's right to civilian nuclear power, incorporated a concrete offer for Russia to enrich all of Iran's UF₆ and for the E3+3 to help Iran build new light water nuclear reactors.

But Iran sought 'termination' (not mere 'suspension') of the UNSC's consideration of the Iran dossier, an end to the intimidation of Iran, and also linked Iran's cooperation to a commitment from the E3+3 to make progress on nuclear disarmament regarding Israel in the pursuit of a Middle East Nuclear Free Zone. Among other things, the Iranian response described the trade sanctions imposed by the US against Iran and enforced against third party states as something the US and its allies needed to sort out for themselves, not something Iran had to bargain over (Government of Iran 2006d). Nevertheless US officials, rather flexibly, told media outlets that, in the long run, a deal along the lines of the E3+3 proposal could result in the international community 'allowing' Iran to eventually conduct its own enrichment (BBC 2006a).

Javier Solana held several follow-up sessions with Iran's top nuclear negotiator, Ali Larijani, to clarify the E3+3 proposal, and the US asked for a formal Iranian reply by the June 29 start of the G8 meetings that were coming up. Iran declined to give an answer before August 22. Iran sent Larijani back to Europe to continue negotiations with Solana and the EU member state governments, and then declared that Iran would give a response before the G8 Summit of July 15. This is the point at which the E3+3 proposal's real contours needed to be framed and reframed by the negotiators as a mutually acceptable path toward principled compromise. Instead the Iranians continued to see the proposal as one in which they were being asked to give up something concrete in exchange for new negotiations, rather than for a reciprocal concession. This may have been one of the key structural defects of this renewed attempt at negotiation.

The start of the Hezbollah-Israel war in mid-July helped dampen Iranian enthusiasm for the proposal and negotiations over it began to founder. Iran's longtime role as an ally and supplier of weapons to Hezbollah helped to complicate the regional context of Iran's nuclear diplomacy and cast compromise in increasingly negative terms. Even Iranian moderates began to say openly that further nuclear negotiations would be "humiliating". By the end of July, Iran definitively took suspension of enrichment off the table as a negotiation issue and simply refused to restart comprehensive negotiations as long as they were contingent on prior suspension (BBC 2006b). The European/US bargaining move to obtain renewed suspension, as a precondition for comprehensive negotiations had not only failed, it had utterly backfired, *entrenching the very Iranian action it was meant to dissuade*.

Cynical observers might be tempted to interpret the US overture as having been easy to make since it was almost certainly guaranteed to fail. Indeed one could, from a negotiation perspective, look at the entire UNSC dimension as a US attempt to gain bargaining leverage by worsening the no-agreement outcome of the E3-led negotiations, essentially to get Iran to make concessions in exchange for the end of UN sanctions, (which is precisely what the E3+3 proposal suggested). It took the UNSC until July 31, 2006 to issue a binding Resolution 1696 (UNSC 2006b) under the UN Charter's muscular Ch. VII provisions, threatening "appropriate measures" against Iran if it did not suspend enrichment by August 31. This was followed up only

at the end of 2006 by UNSC Resolution 1737 (UNSC 2006c), which actually imposed the sanctions on Iran. The sanctions specifically called on all member states to prohibit the sale or provision of nuclear-related technology to Iran, to block related Iranian exports. The resolution also names Iranian officials and agencies involved in Iran's nuclear research and construction efforts and requires member states to freeze the assets of and report on any travel to or through their territories by such persons. Sanctions can be suspended if enrichment is suspended, but further enforcement measures are also envisioned if Iran does not comply with the resolution by the end of February 2007 (as this chapter went to publication). In any case, the Iranians have made significant progress on their technical capacity to enrich uranium and, while they continuously say they are ready for negotiations, they also affirm that enrichment will never be suspended, a declaration which has the effect of *significantly reducing or eliminating any possibility of agreement* along the terms the parties entertained during prior years.

Neither the enforcement mechanisms nor the crisis negotiations that began in late 2005 and continued into 2006 yielded any positive change in the current state of confrontation, nor do they seem likely to. IAEA Director General Mohammed el-Baradei, expressed his consternation with all parties: "Iran should take a timeout from its enrichment activities, the international community a timeout from its application of sanctions and the parties should go immediately to the negotiating table" (IAEA 2007).

Incrementalism in Negotiation

Why have these overlapping sets of negotiations so far failed to result in a long-term, comprehensive agreement? Numerous variables help explain it. Two are singled out here: the incrementalist negotiation processes used, and the deceptively narrow zone of possible agreement. Incrementalism in negotiation refers to the reliance on a series of ever-more specific agreements leading to a final agreement. Early agreements are reached precisely because they do not address the issues in conflict. Rather, they begin with declarations of principles and gradually proceed to steps requiring positive implementation. The dilemma with incrementalist negotiations is precisely this: if early agreements are meant to generate breakthroughs and build confidence gradually, any real or perceived failures or lack of compliance by the parties will greatly erode

confidence and trust, and leave the parties perhaps worse off than before the negotiations.

The principles embedded in the Tehran Declaration and the Paris Agreement were sufficiently general as to be acceptable to all the parties, but not specific enough to build the confidence each side required of the other. The Framework for a Long Term Agreement also seemed unnecessarily tentative, rather than being a fully comprehensive draft. This was surprising, given the time that had passed from the initiation of the negotiations until the delivery of the proposed Agreement. Nevertheless this incrementalism had as a consequence the absence of a shared vision of the final outcome of the negotiations, which leads to discussion of the second candidate cause of failure.

Ambiguity, Uncertainty and the (non-existent) ZOPA?

Numerous actions by Iran, the EU and even the mostly absent party, the US, helped to reduce or eliminate a zone of possible agreement. The parties also seem to have failed to understand the fundamentals of uncertainty and ambiguity as they impact negotiations. The EU mistakenly concluded that Iran would permanently forego the development of a nuclear fuel cycle in exchange for the opportunity *to apply to the WTO and to negotiate trade and other accords with Europe*. The open statements of Iran consistently contradict any willingness to give up something so certain for something so tentative, and until the confidential records of the negotiations are made available to researchers, it makes sense to assume that Iran was not hedging its bets. The election of a hard-line president during the negotiations period as well as the reactions of some elements of Iranian civil society and the Parliament all reflect a strong interest in self-sufficiency in terms of nuclear fuel. Nowhere does one find any wavering on this central item. Similarly, the Iranian side at no time appears to have appreciated that the E3/EU were not contemplating *any* long term arrangements in which Iran maintained its own fuel cycle. Again, the confidential records of the negotiators and draft documents are sorely needed to corroborate this, but on the available documentation, there is little reason to believe otherwise. More recent negotiation proposals, particularly those advanced by Russia, appear to have modified this and even hinted at a limited Iranian enrichment capacity. The good will shown by

all sides early on was necessary perhaps, but not sufficient to create a true zone of possible agreement.

Given the choice between uncertain cooperation with past adversaries and certain mastery of the nuclear fuel cycle, it should not surprise us that Iran preferred the latter. Similarly, given a choice between the uncertain lifting of US/UN sanctions and the certainty of enrichment, the same conclusions hold. Facing all three choices with some degree of simultaneity and thus evaluating them in comparative fashion, the degree of ambiguity in the US and EU ‘offers’ only intensifies and we could expect Iranian confidence in its preferred path to only increase. What is surprising is that EU and US diplomats would have believed their inducements (EU) or coercion (US) could otherwise persuade Iran (see Fox and Tversky 1995 for thinking on ambiguity aversion).

The analysis contained in this chapter in no way prejudices the good faith and intentions of the European and Iranian negotiators. It is not, however, surprising that they have not reached a comprehensive agreement to date. The failure of the E3/EU-Iran negotiations to date presages a likely long-term stalemate. At the same time, it is not at all inevitable that the current state of affairs will lead inexorably to further confrontation. Breakthroughs are still possible given political will, creativity and skill in negotiations in which the parties discover that their interests in international peace, energy security, sovereignty and multilateralism are indeed complementary.

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