

# EUROPEAN EFFORTS TO SOLVE THE CONFLICT OVER IRAN'S NUCLEAR PROGRAMME: HOW HAS THE EUROPEAN UNION PERFORMED?

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## I. INTRODUCTION

Efforts to find a diplomatic solution to the dispute over Iran's nuclear programme are the most ambitious and high-profile action taken by the European Union (EU) to date in the field of non-proliferation. The stakes for international security are high. A nuclear armed Iran could have serious implications for regional and global security as well as for global efforts to prevent the further spread of nuclear weapons. A military strike to prevent or at least delay Iran acquiring nuclear weapons would escalate regional tensions and possibly result in a wider military conflict.

Europeans have taken the lead in finding a peaceful way out of the impasse about Iran's nuclear programme for over 10 years. They have invested considerable political energy and economic resources 'to achieve a comprehensive, negotiated, long-term settlement which restores international confidence in the exclusively peaceful nature of the Iranian nuclear programme, while respecting Iran's legitimate right to the peaceful use of nuclear energy under the Non Proliferation Treaty'.<sup>1</sup>

European efforts to solve the conflict began under exceptional circumstances. In 2003, when the EU was beginning to address Iran's nuclear programme, it was also developing a more active, capable and coherent approach to security issues, including arms control and non-proliferation. In the wake of the United States-led invasion of Iraq, triggered by allegations of Saddam Hussein's illicit pursuit of weapons of mass destruction (WMD), which had divided EU member states and damaged transatlantic relations,

<sup>1</sup> Council of the European Union, 'Factsheet: the European Union and Iran', 5555/3/12 REV 3, Brussels, 23 Apr. 2012, <[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/127511.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/127511.pdf)>.

## SUMMARY

Efforts to find a diplomatic solution to the dispute about Iran's nuclear programme are the most ambitious and high-profile action taken by the European Union (EU) to date in the field of non-proliferation. Over 10 years of engagement, the EU has played an important role in preventing a military escalation of the conflict.

The constancy of European engagement is remarkable. Even though the context of European engagement changed significantly, the EU and the E3 (France, Germany and the United Kingdom) have consistently promoted a non-military solution to the conflict on the basis of improved Iranian guarantees about the peaceful nature of its nuclear programme. The EU has also brought the USA closer to its dual-track approach and thus avoided a repetition of the transatlantic split after the 2003 US-led invasion of Iraq.

In dealing with Iran, the EU has effectively revised its policy of 'effective multilateralism', as described in the 2003 European Security Strategy. As the conflict over Iran's nuclear programme unfolded, the EU and the E3 focused more on maximizing tactical advantages in direct negotiations with Iran, rather than on a diplomatic initiative that would comprehensively address Iranian concerns and interests. In the short-term, the EU should try to capitalize on new opportunities for finding a way out of the deadlock over Iran's nuclear programme by defining what a final deal could look like and outlining steps toward such an agreement.

## ABOUT THE AUTHOR

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EU leaders in June 2003 launched the drafting of the European Security Strategy (ESS) and the EU Strategy against Proliferation of WMD (WMD Strategy). On 12 December 2003, EU leaders endorsed both documents, which provided the basis for EU non-proliferation efforts in relation to Iran.<sup>2</sup>

The ESS stated that the ‘Proliferation of Weapons of Mass Destruction is potentially the greatest threat to [European] security’ and argued that the world was ‘entering a new and dangerous period that raises the possibility of a WMD arms race, especially in the Middle East’.<sup>3</sup> It described three specific ways in which the EU wanted to achieve ‘A More Secure Europe in a Better World’. First, the ESS committed the EU to the goal of pursuing a more coherent foreign and security policy and argued that ‘Greater coherence is needed not only among EU instruments’ but also in terms of embracing ‘the external activities of the individual member states’. Second, the ESS described the transatlantic relationship as the single most important partnership for the EU and labelled it ‘irreplaceable’, stating that the EU would aim for ‘an effective and balanced partnership with the USA’.<sup>4</sup> Third, the ESS committed the EU to pursue an ‘effective multilateralism’, based on ‘a stronger international society, well functioning international institutions and a rule-based international order’.<sup>5</sup> The document stated that the EU should pursue a dual-track approach in dealing with countries that ‘have placed themselves outside the bounds of international society’. Thus, to induce them to ‘rejoin the international community’, the EU should provide assistance but ‘Those who are unwilling to do so should understand that there is a price to be paid, including in their relationship with the European Union’.<sup>6</sup>

In the WMD Strategy, the EU member states promised that they would be ‘ready to act’ when the rules of international organizations, regimes and

treaties are broken and stated that when political dialogue and diplomatic pressure have failed, ‘coercive measures under Chapter VII of the UN Charter and international law (sanctions, selective or global, interceptions of shipments and, as appropriate, the use of force) could be envisioned’. Significantly, the EU stopped short of tying the application of coercive measures to a United Nations Security Council mandate by stating that that ‘The UN Security Council *should* play a central role’.<sup>7</sup> The Iranian crisis provided a first opportunity for the EU to demonstrate that it could live up to these self-articulated ambitions.

This paper describes the EU’s involvement in the Iranian nuclear crisis against the background of these three objectives. It asks three questions. First, how united were the so-called E3 (France, Germany and the United Kingdom) and the rest of the EU in their efforts to convince Iran to increase international confidence in the peaceful nature of its nuclear programme? Second, to what degree was the EU working with the USA in resolving the dispute? Third, how effective was the EU in using multilateral regimes and instruments to pursue a peaceful resolution of the nuclear dispute? These issues are looked at during three main phases of the conflict over Iran’s nuclear programme. The first phase lasted from the unveiling of the clandestine nuclear activities in Iran in August 2002 until the transfer of Iran’s nuclear file to the UN Security Council in February 2006 (section II). The second phase covers the remaining years of the administration of US President George W. Bush (section III). The final phase covers the EU’s efforts to work with the administration of US President Barack Obama and ends with the failed E3+3 June 2012 Moscow meeting (section IV).

This paper does not attempt to cover all developments relevant to the EU’s involvement in the dispute about Iran’s nuclear programme, but rather selectively uses some milestones and key issues to illustrate how the EU members and the EU as a whole attempted to tackle some of the dilemmas facing them on the nuclear issue.<sup>8</sup> Key issues that this paper does *not* address in detail include (a) institutional aspects, including the

<sup>2</sup> Council of the European Union, ‘A secure Europe in a better world: European Security Strategy’, Brussels, 12 Dec. 2003, <<http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>>; and Council of the European Union, ‘EU strategy against proliferation of weapons of mass destruction’, 15708/03, 12 Dec. 2003, <<http://register.consilium.europa.eu/pdf/en/03/st15/st15708.en03.pdf>>.

<sup>3</sup> Council of the European Union, European Security Strategy (note 2), p. 3.

<sup>4</sup> Council of the European Union, European Security Strategy (note 2), pp. 9, 13.

<sup>5</sup> Council of the European Union, European Security Strategy (note 2), p. 9.

<sup>6</sup> Council of the European Union, European Security Strategy (note 2), p. 10.

<sup>7</sup> Council of the European Union, WMD Strategy (note 2), p. 5 (emphasis added).

<sup>8</sup> The findings presented here are partly based on 6 interviews, conducted in Oct.–Nov. 2012 with active and former senior officials and diplomats from the EU, the E3 and the USA. Because of the sensitivity of the subject and the small number of officials involved in the direct talks, the interviewees asked not to be identified.

impact of the 2007 Lisbon Treaty on the EU's ability to deal with non-proliferation crises; (b) regional aspects and the EU's relations with states in the Middle East, particularly Israel; and (c) Iran's domestic nuclear politics and technical issues associated with Iran's nuclear programme.

The EU has played an important role in preventing a military escalation of the conflict. This is a major achievement in itself, given the complexity of the issue and the lack of cooperation of key players, particularly Iran. Mediation and incrementalism were important during the first phases of the conflict, when the primary goal was to slow down an escalatory dynamic. However, partly because of a lack of internal coherence and leadership, the EU and the E3 have been unable to promote an independent vision for the solution to the dispute. Ironically, the more European and US approaches to the Iranian nuclear crisis cohered, the less influence the EU was able to exert. Apparently, some EU member states were content with the EU acting as a mediator, rather than trying to take a lead in defining a solution to the conflict.

## II. THE FIRST PHASE, AUGUST 2002–FEBRUARY 2006: PREVENTING ESCALATION

During a 14 August 2002 press conference in Washington, DC, the National Council of Resistance of Iran, an Iranian opposition group, revealed the clandestine construction in Iran of a large uranium enrichment facility at Natanz and a heavy-water reactor in Arak.<sup>9</sup> Both facilities raised the prospect of Iran producing weapon-grade fissile material—highly enriched uranium (HEU) or plutonium—and Iran's failure to declare the facilities to the International Atomic Energy Agency (IAEA) raised questions about Iran's intentions.

### Coherence: setting up a dialogue

From a European perspective, the disclosure occurred at an awkward time. In 2001, the EU had initiated talks with Iran on a trade and cooperation agreement. By the end of 2002, these talks as well as a political dialogue with Iran were entering a critical stage. Thus, a 12 December 2002 press communiqué on the

first round of negotiations on a trade and cooperation agreement as well as on the political dialogue and cooperation against terrorism between the EU and Iran did not even mention Iran's nuclear programme.<sup>10</sup> Later statements by the EU's High Representative for Common Foreign and Security Policy, Javier Solana, on the nuclear revelation framed the issue in the context of the political and economic dialogue with Iran.

The conflict over Iran's nuclear programme unfolded against the backdrop of two other nuclear crises. On 11 January 2003, North Korea had announced its withdrawal from the 1968 Treaty on the Non-proliferation of Nuclear Weapons (Non-Proliferation Treaty, NPT). At the same time, military action against Iraq, justified by its alleged possession of WMD, appeared to become inevitable. On 21–22 February 2003, the IAEA visited the underground enrichment facility at Natanz for the first time. The IAEA Director General, Mohamed ElBaradei, later said that he found the facility 'stunning' and stated that the size of the facility led the IAEA to reassess Iran's nuclear programme.<sup>11</sup> The Agency inspectors were also unconvinced by Iranian claims that the centrifuge technology they saw was of indigenous origin. Under the impression that Iran had more to hide than it first revealed, the issue moved quickly up the EU's agenda. From the beginning, EU members were not convinced by Iran's claims that the nuclear programme was merely civil in nature. The belief that Iran was pursuing a nuclear weapon option, if not nuclear weapons, grew stronger as more and more indications of a military programme emerged and Iran refused to fully cooperate with the IAEA in clarifying such allegations.

On 19 March 2003, the military action against Iraq began and on 1 May, US President George W. Bush declared the Iraqi 'mission accomplished'. Because Bush had placed Iran and Iraq on the same 'Axis of Evil' in his 2002 State of the Union address, many feared that Iran would be next on the US administration's list of non-proliferation issues to be dealt with by force.

It was against this background that the EU General Affairs and External Relations Council in June 2003 for the first time expressed serious concern about Iran's

<sup>9</sup> US intelligence agencies had known about Natanz and Arak for some time and briefed the IAEA several months before the NCRI press conference about their findings.

<sup>10</sup> European Union, 'EU-Presidency and Commission joint press release on the opening of the negotiations with Iran', 12 Dec. 2002, <[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/er/73726.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/73726.pdf)>.

<sup>11</sup> ElBaradei, M., *The Age of Deception: Nuclear Diplomacy in Treacherous Times* (Bloomsbury: London, 2011), p. 114.

fuel-cycle activities and stressed ‘the need for Iran to answer timely, fully and adequately all questions raised regarding its nuclear programme’. It called on Iran ‘to fully cooperate with the IAEA’.<sup>12</sup> Based on this statement, EU member states became directly involved in the Iranian nuclear dispute. In August 2003, the British, French and German foreign ministers sent a joint letter to Iran, offering technical cooperation if Iran were to halt enrichment and implement an additional protocol to its safeguards agreement.<sup>13</sup> Such a protocol would have enhanced the powers of the IAEA to check the veracity of Iran’s past declarations and investigate undeclared nuclear activities. France, Germany and the UK jointly drafted a resolution for the September IAEA Board of Governors meeting that called on Iran ‘to suspend all further uranium enrichment-related activities, including the further introduction of nuclear material into Natanz, and, as a confidence-building measure, any reprocessing activities’.<sup>14</sup>

Institutionally, a process of cooperation and consultation among the E3 and the EU was set up that has remained basically the same ever since. Cooperation among the E3 on Iran’s nuclear file takes place among the political directors, who are generally in charge of coordinating bilateral and multilateral foreign policy matters for their respective foreign ministries and represent their countries in consultations with like-minded countries. E3 negotiators (and, from 2004, EU officials) regularly brief other EU members through the Political and Security Committee as well as at Council meetings. However, the E3 only consult other EU members on Iran’s nuclear file as and when they believe this to be necessary, particularly on issues that have an impact on the EU as a whole, such as sanctions.

A number of EU member states were initially suspicious of the lead taken by the E3. These concerns were ameliorated to some degree in November 2004

<sup>12</sup> EU General Affairs and External Relations Council, 2518th Council meeting, External Relations, 10369/03 (Presse 166), 16 June 2003, <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/gena/76201.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/gena/76201.pdf)>.

<sup>13</sup> Taylor, P. and Charbonneau, L., ‘EU big three offered Iran carrot for nuclear deal’, Reuters, 19 Sep. 2003, <<http://nuclearno.com/text.asp?6823>>. Some have also suggested that Italy was invited by at least one of the E3 to join the group but turned down the invitation because of its close economic ties to Iran and because it was about to assume the EU Presidency.

<sup>14</sup> International Atomic Energy Agency, Board of Governors, ‘Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran’, Resolution, GOV/2003/69, 12 Sep. 2003, para. 3.

when Solana officially joined—some said ‘bullied his way’ into—the initiative and became its spokesperson.<sup>15</sup> Once this had happened, the E3 did receive formal approval by the EU as a whole.<sup>16</sup> Such comprehensive authorization and recognition was needed so that the E3 could offer Iran incentives, and later also impose trade restrictions, that committed the EU as a whole. The High Representative (and while in office, the High Representative’s personal representative for the non-proliferation of WMD, Annalisa Giannella, and her staff) would coordinate the group and act as its spokesperson. Robert Cooper, Director-General for External and Politico-Military Affairs at Council, played a key role in devising and implementing EU policies on Iran. After her appointment as High Representative of the Union for Foreign Affairs and Security Policy in November 2009, Catherine Ashton took over from Solana the role of chief negotiator, with her deputy Helga Schmid being at the forefront of consultations among EU members and with Iran. However, reservations that the lead by Germany, France and the UK would be a step towards a ‘Big Three’ directorate never disappeared completely among EU members. For example, according to some press reports, by September 2005 ‘About a half-dozen EU member nations—among them Italy, Spain and Portugal—[were] openly questioning the authority of France, Britain and Germany to negotiate a resolution at the board meeting on behalf of the European Union’.<sup>17</sup>

### **Transatlantic cooperation: engaging a reluctant partner**

At the outset, EU members were driven by a fear that the USA could use military force to delay or derail Iran’s nuclear programme. The EU consistently opposed the use of force against Iran, for both legal and practical reasons. Transatlantic differences on how to approach Iran ran deep. They were strategic and not merely related to differences over how best to curtail Iran’s nuclear ambitions. While the EU had been engaging Iran through a range of talks on economic

<sup>15</sup> Bilefsky, D., ‘Solana, EU’s “good cop”, takes stage’, *International Herald Tribune*, 12 Aug. 2006.

<sup>16</sup> Harnisch, S., ‘Minilateral cooperation and transatlantic coalition-building: the E3/EU-3 Iran initiative’, *European Security*, vol. 16, no. 1 (Mar. 2007), p. 9.

<sup>17</sup> Jahn, G., ‘Effort to refer Iran for sanctions opposed’, Associated Press, 15 Sep. 2005, <<http://www.astandforjustice.org/2005/9/09-15-10.htm>>.

and human rights, the USA had for a long time tried to isolate Iran politically and economically.

Initially, the USA tried to dissuade the E3 from engaging Iran on the nuclear issue and discouraged the E3 from sending its August 2003 letter. During the initial phase of the conflict, the USA continued to push the Board of Governors to refer Iran to the UN Security Council for violation of its safeguards and NPT commitments. When the Board in September 2003 issued a 31 October deadline, the USA said that this was 'one last chance for Iran to comply' and threatened that the matter 'should be reported to the Security Council' if Iran failed to fulfil IAEA demands.<sup>18</sup> However, the E3 resisted such efforts, which would have meant an early end to negotiations. Instead, they toned down IAEA resolutions to give diplomacy a chance.<sup>19</sup> During this initial phase, the UK informally tried to play the role of interlocutor between the E3 diplomatic efforts and the USA, and sometimes sought tacit US approval of E3 proposals. Even when these overtures were viewed positively at the working level within the US State Department, they were rejected by those within the Bush administration who opposed engagement and believed that European efforts were likely to fail.<sup>20</sup>

Ignoring US concerns, British, French and German foreign ministers travelled to Tehran on 20 October 2003 to engage Iran in a direct dialogue.<sup>21</sup> From the US perspective, this trip amounted to 'European unilateralism' that undermined multilateral action through the IAEA and the UN Security Council.<sup>22</sup> At the meeting, the E3 and Iran signed the Tehran Declaration, which committed Iran to suspending the enrichment of uranium as well as plutonium-related activities. Iran also promised to sign an additional protocol, and implement its provisions pending ratification.<sup>23</sup> In return, the Europeans pledged that

once international concerns were fully resolved 'Iran could expect easier access to modern technology and supplies in a range of areas'.<sup>24</sup> For the EU, it was difficult to offer other incentives that depended on the USA's support, such as the prospect of World Trade Organization membership. The E3 and the European Commission believed that the EU's major 'carrot'—the Trade and Cooperation Agreement—should only be put on the table when overall relations with Iran, including the nuclear file, had improved.<sup>25</sup> Nevertheless, the Tehran Declaration was an important success for E3 diplomacy because Iran suspended activities at Natanz and for the time being the prospect of a military strike was off the table.

The USA stuck to its policy of sanctions and isolation and made clear that it would not actively support European diplomatic efforts. The Bush administration was specifically opposed to incentivizing Iran and viewed the Tehran Declaration as a 'concessionary side deal with Iran' that delayed UN Security Council referral for several years.<sup>26</sup>

### Effective multilateralism: intentional ambiguities

Although EU member states and the EU had been involved in brokering peace deals and assisting disarmament processes before 2002—for example, in the Balkans—'In the twentieth century the EU generally tried to stay out of what might be called the "hardest" issues of military security in the outside world'.<sup>27</sup> Many observers at the time viewed the E3 engagement on Iran as an important test of the EU's ability to convince a rule-breaker to change its behaviour.<sup>28</sup> Never before had EU member states jointly taken the lead on such a high-profile non-proliferation issue. Conducting direct, collective negotiations with a proliferation state of concern was a new type of activity for EU members.

<sup>18</sup> Kerr, P., 'Concern heats up over Iran's nuclear program', *Arms Control Today*, vol. 33, no. 8 (Oct. 2003).

<sup>19</sup> El Baradei (note 11), p. 128.

<sup>20</sup> Former senior US official, Interview with author, 7 Dec. 2012.

<sup>21</sup> Portela, C., *The Role of the EU in the Non-proliferation of Nuclear Weapons: The Way to Thessaloniki and Beyond*, Peace Research Institute Frankfurt (PRIF) Reports no. 65 (PRIF: Frankfurt am Main, 2003), pp. 17–19.

<sup>22</sup> Christopher A. Ford, US special representative for nuclear non-proliferation and a US Principal Deputy Assistant Secretary of State, later described the E3 activities in this way. See Ford, C. A., 'A new paradigm: shattering obsolete thinking on arms control and nonproliferation', *Arms Control Today*, vol. 38, no. 9 (Nov. 2008), pp. 12–19.

<sup>23</sup> Iran signed an additional protocol in Dec. 2003 but has not ratified it yet and stopped adhering to the protocol in 2006.

<sup>24</sup> International Atomic Energy Agency, 'Statement by the Iranian Government and visiting EU foreign ministers' (Tehran Declaration), 21 Oct. 2003, <[http://www.iaea.org/newscenter/focus/iaeairan/statement\\_iran21102003.shtml](http://www.iaea.org/newscenter/focus/iaeairan/statement_iran21102003.shtml)>.

<sup>25</sup> Kile, S. N., 'Final thoughts on Iran, the EU and the limits of conditionality', ed. S. N. Kile, *Europe and Iran: Perspectives on Non-proliferation*, SIPRI Research Report no. 21 (Oxford University Press: Oxford, 2005), pp. 130–31.

<sup>26</sup> See Ford (note 22), pp. 12–19.

<sup>27</sup> Bailes, A. J. K., 'Europeans fighting proliferation: the test-case of Iran', *Sicherheit und Frieden*, vol. 24, no. 3 (2006), p. 130.

<sup>28</sup> Bailes (note 27); Meier, O. and Quille, G., 'Testing time for Europe's nonproliferation strategy', *Arms Control Today*, vol. 35, no. 4 (May 2005), pp. 4–12.

However, from the beginning it was unclear what yardstick the E3 would use for measuring success, particularly against the goal of pursuing a policy of ‘effective multilateralism’ that had become the catchphrase of the ESS. Ambiguities and differences of opinion around two issues—suspension and the scope of ‘objective guarantees’ on the peaceful nature of Iran’s nuclear programme—complicated European diplomatic efforts.

In its 12 September 2003 resolution, the IAEA Board of Governors had called on Iran not to introduce nuclear material into centrifuges in Natanz and ‘to suspend all further uranium enrichment-related activities’.<sup>29</sup> While the goal of suspension was to gain time for a diplomatic solution, the scope of suspension beyond actual enrichment remained disputed between the E3 and Iran.

In the Tehran Declaration, Iran had reaffirmed its ‘right within the nuclear non-proliferation regime to develop nuclear energy for peaceful purposes’ but also announced that ‘it has decided voluntarily to suspend all uranium enrichment and reprocessing activities as defined by the IAEA’.<sup>30</sup> While Iranian negotiators insisted that ElBaradei had explained to them that suspension was to be understood merely as not introducing nuclear material into centrifuges, the E3 interpreted this promise to mean that all enrichment-related activities were to stop, including the testing and construction of new centrifuges. In return for suspension, the European negotiators promised to oppose referral of Iran’s nuclear file to the UN Security Council.<sup>31</sup>

The IAEA report of 24 February 2004 added a further clarification by noting in detail a range of activities that Iran had promised to put on hold for the period of suspension. Specifically, Iran promised to ‘suspend the assembly and testing of centrifuges, and . . . suspend the domestic manufacture of centrifuge components’.<sup>32</sup>

The Paris Agreement of 15 November 2004 between the E3 and Iran yet again reduced ambiguities about the scope of suspension. In the agreement, Iran promised to suspend

all enrichment related and reprocessing activities, and specifically: the manufacture and import of gas centrifuges and their components; the assembly, installation, testing or operation of gas centrifuges; work to undertake any plutonium separation, or to construct or operate any plutonium separation installation; and all tests or production at any uranium conversion installation.<sup>33</sup>

However, the Paris Agreement introduced another contentious issue by stating that a long-term agreement ‘will provide objective guarantees that Iran’s nuclear programme is exclusively for peaceful purposes’.<sup>34</sup> This reduced transatlantic tensions because the term ‘objective guarantees’ appeared to support the US position ‘that Iran had lost “the privilege to develop full fuel cycle activities”’.<sup>35</sup> European interlocutors avoided a clear statement on Iran’s rights under the NPT to operate the complete fuel-cycle but understood such guarantees to include a commitment by Iran not to conduct fuel-cycle activities. Thus, according to a cable leaked by WikiLeaks, Giannella explained during a visit to the US embassy in Brussels in December 2004 that, from an E3 perspective, ‘permanent cessation of all enrichment activities was non-negotiable, and that no other “objective guarantee” would suffice’. At the same time, she conceded that she had ‘never heard a single Iranian interlocutor even hint at the possibility of giving up the sacred “right” to develop and maintain a nuclear fuel cycle’. The ‘talks are buying time,’ she said.<sup>36</sup> However, in the Paris Agreement, the E3 also explicitly recognized that suspension ‘is a voluntary confidence building measure and not a legal obligation’, which from the Iranian perspective implied that Iran was entitled to conduct all fuel cycle activities.<sup>37</sup>

These ambiguities made it easy for Iran to argue that the West sought to deprive the country of its right under Article IV of the NPT to enrich uranium for

<sup>33</sup> International Atomic Energy Agency, ‘Communication dated 26 November 2004 received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom concerning the agreement signed in Paris on 15 November 2004’, INFCIRC/637, 26 Nov. 2004.

<sup>34</sup> International Atomic Energy Agency, INFCIRC/637 (note 33).

<sup>35</sup> Harnisch (note 16), p. 11.

<sup>36</sup> US Embassy in Brussels, ‘EU/IRAN: WMD Rep Giannella readout on talks, path ahead for EU3–Iran Dialogue’, Cable to US State Department, no. 04BRUSSELS5396, 23 Dec. 2004, <<http://wikileaks.org/cable/2004/12/04BRUSSELS5396.html>>.

<sup>37</sup> International Atomic Energy Agency, INFCIRC/637 (note 33).

<sup>29</sup> International Atomic Energy Agency, GOV/2003/69 (note 14).

<sup>30</sup> International Atomic Energy Agency (note 24).

<sup>31</sup> International Atomic Energy Agency (note 24).

<sup>32</sup> International Atomic Energy Agency, Board of Governors, ‘Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran’, Report by the Director General, GOV/2004/11, 24 Feb. 2004, para. 62.

peaceful purposes. The Iranian allegations were given further credibility by the USA's position that because of the violations of its safeguards obligations (and some said of the NPT) Iran had lost its right to conduct proliferation-sensitive nuclear activities, such as enrichment. Moreover, the USA made the suspension of enrichment a precondition for negotiations with Iran.

These differences over the scope of Iran's permitted nuclear activities—through voluntary suspension of enrichment-related and reprocessing activities during the negotiations and permanent restrictions on such activities after an agreement was reached—proved to be a substantive stumbling block for talks on a resolution of the conflict. The E3 presented a comprehensive, 30-page proposal for a 'Framework for a Long-Term Agreement' to Iran in August 2005.<sup>38</sup> It offered among other things the assured supply of low-enriched uranium (LEU) for light-water reactors (LWRs) and proposed to establish a nuclear fuel reserve in a third country. In return, the EU demanded binding commitments by Iran 'not to pursue fuel cycle activities other than the construction and operation of light water power and research reactors' and an obligation not to withdraw from the NPT. These commitments were to be reviewed every 10 years.<sup>39</sup>

Iran rejected this offer only a few days later, mainly because the E3 proposal did not recognize Iran's right to enrich uranium. Iran insisted that it would never agree to such a restriction of its nuclear activities and 'that in both the October 2003 Tehran agreement and the [November 2004] Paris Agreement, what was agreed by both sides was a suspension of enrichment activities and not their cessation'.<sup>40</sup>

During the course of 2005, the Paris Agreement quickly unravelled. After the election of Mahmoud Ahmadinejad as Iranian President in June 2005, Iran began to disengage from talks with the EU. In August 2005 Iran resumed uranium conversion activities. At the same time, Ahmadinejad removed many reformists from his negotiating team.<sup>41</sup>

<sup>38</sup> International Atomic Energy Agency, 'Communication dated 8 August 2005 received from the Resident Representatives of France, Germany and the United Kingdom to the Agency', INFCIRC/651, 8 Aug. 2005.

<sup>39</sup> International Atomic Energy Agency, INFCIRC/651 (note 38).

<sup>40</sup> Meier, O., 'Interview with Ambassador Ali Asghar Soltanieh, Iran's Permanent Representative to the International Atomic Energy Agency', Arms Control Association, 23 Jan. 2006, <[http://www.armscontrol.org/interviews/20060123\\_Soltanieh](http://www.armscontrol.org/interviews/20060123_Soltanieh)>.

<sup>41</sup> Mousavian, H., *The Iranian Nuclear Crisis: A Memoir* (Carnegie Endowment for International Peace: Washington, DC, 2012), pp. 190–91.

As a consequence of disengagement and the breakdown of negotiations, EU members started to support coercive measures against Iran. In September 2005, EU members voted for a resolution in the IAEA Board of Governors that found Iran in non-compliance with its safeguards obligations and stated that Iran's nuclear activities 'have given rise to questions that are within the competence of the Security Council'.<sup>42</sup> This made the threat of sanctions against Iran imminent. Iran subsequently refused to negotiate with the E3.

On 7 January 2006 the IAEA received a letter from the Iranian Government requesting the removal of Agency seals at several nuclear facilities in Iran, including in Natanz. A 12 January statement by the E3 and Solana called Iran's decision to restart enrichment a 'clear rejection of the process the E3/EU and Iran have been engaged in for over two years with the support of the international community'. Concluding that 'discussions with Iran have reached an impasse', the E3 argued that 'the time has now come for the Security Council to become involved to reinforce the authority of IAEA Resolutions'.<sup>43</sup> On 30 January the foreign ministers of the E3, China, Russia and the USA declared their intention to inform the UN Security Council of their position on Iran's nuclear programme.<sup>44</sup> For all practical purposes, the moratorium was dead and hope of finding an agreement within the IAEA framework was rapidly fading.

### III. THE SECOND PHASE, FEBRUARY 2006–NOVEMBER 2008: THE END OF ENGAGEMENT

The UN Security Council referral opened a new chapter in the EU's dealings with Iran. The E3's efforts to mediate now became part of activities undertaken by the five permanent members of the UN Security Council (China, France, Russia, the UK and the USA)

<sup>42</sup> International Atomic Energy Agency, Board of Governors, 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran', Resolution, GOV/2005/77, 24 Sep. 2005, operational para. 2.

<sup>43</sup> Council of the European Union, 'Statement by Germany, United Kingdom, France and EU High Representative on Iranian nuclear issue', CL06-007EN, 12 Jan. 2006, <[http://www.eu-un.europa.eu/articles/en/article\\_5554\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_5554_en.htm)>.

<sup>44</sup> 'Erklärung der Außenminister der E3/EU sowie Chinas, Russlands und der USA zu Iran', [Declaration of the foreign ministers of the E3/EU as well as China, Russia and the USA on Iran], London, 30 Jan. 2006, <<http://www.auswaertiges-amt.de/cae/servlet/contentblob/337704/publicationFile/3434/E3EU-CHN-RUS-USA-300106.pdf>>.

and Germany, the so-called E3+3 (or P5+1 as they were also known).

### Coherence: from E3 to E3+3

From a European perspective, UN Security Council referral appeared to be a mixed blessing. On the one hand, the E3+3 format had the disadvantage that the E3 now had to coordinate their policies with China and Russia. These two countries were sceptical towards sanctions, partly because of their own economic interests in Iran and partly because they generally view coercive measures as interference in the internal affairs of the target state. On the other hand, European negotiators believed that the referral was a necessary and useful step forward because it enhanced their position in relation to Iran. It provided the E3 with more leverage because the Security Council could impose sanctions—and theoretically authorize the use of force—under Chapter VII of the UN Charter.<sup>45</sup> Even more important for the EU, the USA was now fully engaged in diplomatic efforts on Iran. On balance, most Europeans therefore believed that UN Security Council referral was a good thing.

Diplomatically, little changed. Solana remained in charge of leading the talks with Iran on behalf of the E3+3. Giannella has pointed out that entrusting the High Representative and his representative with this task was convenient for everybody involved in the talks:

the Americans would feel comfortable, since this would spare them the need for being exposed directly—we were under the Bush administration; the Russians and Chinese would feel more comfortable with an EU leadership than with an American one; and the E3 could be sure that important elements needed in the package proposals to be offered to Iran could be delivered.<sup>46</sup>

Once the prospect of multilateral, substantive and binding sanctions materialized, divisions surfaced

<sup>45</sup> In 1992, the UN Security Council had characterized the proliferation of WMD as a threat to peace and international security, opening the way for coercive measures under Chapter VII of the UN Charter to address that threat. United Nations, Security Council, Presidential Statement, S/23500, 31 Jan. 1992.

<sup>46</sup> Giannella, A., Presentation given to the EU Non-Proliferation and Disarmament Conference, Brussels, 4 Feb. 2012, <<http://www.nonproliferation.eu/documents/firstconference/annalisagiannella.pdf>>.

among the E3 on the timing, usefulness and scope of coercive measures. The British Government initially pressed ahead with sanctions. On 16 March 2006 a British diplomat wrote to his French, German and US counterparts that a first UN Security Council resolution on Iran should invoke Chapter VII of the UN Charter in order to signal that ‘more serious measures are likely’.<sup>47</sup> However, at this stage not only China and Russia opposed sanctions. On 18 September 2006, during the debate on the first round of Security Council sanctions, French President Jacques Chirac stated that he did not believe them to be ‘very effective’.<sup>48</sup>

In the event, it took almost a year for the UN Security Council to impose trade restrictions on Iran. As a first step, the Security Council issued a presidential statement on 29 March 2006 calling on Iran to answer the IAEA’s outstanding questions and re-establish the moratorium on fuel-cycle related activities.<sup>49</sup> UN Security Council Resolution 1696, adopted under Chapter VII, demanded that ‘Iran shall suspend all enrichment-related and reprocessing activities, including research and development’ but did not contain sanctions.<sup>50</sup> Nevertheless, from a European perspective the resolution was a double success. First, the Security Council provided an unambiguous legal basis for European calls on Iran to cease enrichment by endorsing the demand for suspension.<sup>51</sup> Second, the resolution specifically endorsed an offer made by the E3+3 to Iran on 6 June 2006 and stated that this proposal ‘would allow for the development of relations and cooperation with Iran based on mutual respect and the establishment of international confidence in the exclusively peaceful nature of Iran’s nuclear programme’.<sup>52</sup> The resolution established a de facto deadline by requesting the IAEA Director General to report by 31 August 2006 on ‘whether Iran has established full and sustained suspension of all activities mentioned in this resolution’.<sup>53</sup> The implication was that without progress, sanctions would be imposed.

<sup>47</sup> Kerr, P., ‘UN urges Iran to halt enrichment’, *Arms Control Today*, vol. 36, no. 3 (Apr. 2006).

<sup>48</sup> Kerr, P., ‘Iran, EU struggle to start nuclear talks’, *Arms Control Today*, vol. 36, no. 8 (Oct. 2006).

<sup>49</sup> United Nations, Security Council, Statement by the President of the Security Council, S/PRST/2006/15, 29 Mar. 2006.

<sup>50</sup> UN Security Council Resolution 1696, 31 July 2006.

<sup>51</sup> Iran continued denying the legality of the UN Security Council’s actions but found few supporters.

<sup>52</sup> UN Security Council Resolution 1696 (note 50).

<sup>53</sup> UN Security Council Resolution 1696 (note 50).

The Director General's report, however, concluded that Iran had not suspended fuel-cycle related activities and had 'not addressed the long outstanding verification issues or provided the necessary transparency to remove uncertainties associated with some of its activities'.<sup>54</sup> On 23 December 2006 the UN Security Council adopted Resolution 1737 and imposed a first round of targeted sanctions. These sanctions primarily restricted trade on goods that could potentially aid Iran's nuclear or missile programmes.<sup>55</sup> UN Security Council Resolution 1747, adopted on 24 March 2007, additionally banned Iranian weapons exports and repeated the Security Council's support for the E3+3's June 2006 proposal. The proposal was even annexed to the resolution.<sup>56</sup>

On 23 April 2007, the EU implemented the first round of UN Security Council sanctions. The assets of over 80 Iranian persons and entities, listed in the annexes of the resolution, were frozen and the EU decided, in the words of an EU spokesman at the time, to be 'a little bit tougher than the UN sanctions' by adding more names to the EU sanctions list.<sup>57</sup> While at the time the EU was not willing to adopt the kind of unilateral sanctions the USA favoured, this robust implementation of UN Security Council resolutions enabled it to unilaterally implement those measures that were supported by the Western members of the E3+3 but were not included in the resolutions because of Chinese or Russian resistance. Generally, however, at this stage EU sanctions remained within the Security Council framework.

The election of Nicolas Sarkozy as French President on 6 May 2007 changed the sanctions dynamic among the E3. The French position remained the same in terms of the goal that France was pursuing—zero enrichment in Iran—but from the beginning Sarkozy favoured stricter sanctions to achieve that goal. Some attribute this approach to Sarkozy's personal conviction that coercion was more promising than

mere talking, others to the priority he placed on protecting Israel's security. The tough line also appears to have been reinforced by Ahmadinejad's anti-French rhetoric.<sup>58</sup> In any case, France quickly began to prepare the ground for unilateral EU sanctions that went beyond the UN framework. In a September 2007 interview, Sarkozy stated that he preferred UN sanctions 'But for the European community itself to apply sanctions, that is not unilateralism, that is an international, a multilateral decision. Therefore, it is fine by me.'<sup>59</sup> The new French Foreign Minister, Bernard Kouchner, even said that 'We have to prepare for the worst, and the worst is war.'<sup>60</sup> This statement was significant because it seemed to call into question the EU's opposition to a military strike. Generally, EU officials had always tried to avoid discussing the prospect of a military strike against Iran's nuclear programme.

Germany—the EU country with the most extensive economic ties to Iran—maintained its more cautious approach and described discussions on the expansion of sanctions outside the UN Security Council as 'premature'.<sup>61</sup> To bolster its case, the German Government even argued that the push from France and the USA for tougher sanctions was disingenuous as long as French and US companies remained economically involved in Iran.<sup>62</sup> However, Germany was increasingly isolated and the balance among the E3 had begun to tip in favour of measures that were more punitive.

### **Transatlantic cooperation: entering the zone of convergence**

Differences between EU and US approaches towards the Iranian nuclear crisis were further reduced after the transfer of the nuclear file to the UN Security Council. Transatlantic convergence had already begun during the February 2005 visit by US

<sup>54</sup> International Atomic Energy Agency, Board of Governors, 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran', Report by the Director General, GOV/2006/53, 31 Aug. 2006.

<sup>55</sup> From the beginning, equipment for the construction of LWRs as well as LEU for their operation was exempted from the sanctions. This was a condition of Russia, which was cooperating with Iran on the construction of the Busheer LWR. UN Security Council Resolution 1737, 27 Dec. 2006, para. 3(b).

<sup>56</sup> UN Security Council Resolution 1747, 24 Mar. 2007.

<sup>57</sup> 'EU ministers agree sanctions against Iran', EUBusiness, 23 Apr. 2007, <<http://www.eubusiness.com/topics/institutions/iran-sanctions.22>>.

<sup>58</sup> Marashi, R. and Parsi, T., 'For the sake of Europe, Sarkozy must stand down', Al Jazeera, 14 Apr. 2012, <<http://www.aljazeera.com/indepth/opinion/2012/04/20124148940676157.html>>.

<sup>59</sup> 'Excerpts from interview with Nicolas Sarkozy', *New York Times*, 23 Sep. 2007.

<sup>60</sup> 'France warning of war with Iran', BBC News, 17 Sep. 2007, <<http://news.bbc.co.uk/2/hi/6997935.stm>>.

<sup>61</sup> Crail, P., 'UN Iran sanctions push thwarted for now', *Arms Control Today*, vol. 37, no. 8 (Oct. 2007).

<sup>62</sup> 'Iran sanctions: Berlin says US and France guilty of hypocrisy', Spiegel Online, 24 Sep. 2007. <<http://www.spiegel.de/international/world/iran-sanctions-berlin-says-us-and-france-guilty-of-hypocrisy-a-507443.html>>.

President Bush to Europe, when for the first time he openly supported European diplomatic efforts.<sup>63</sup> Following this visit, Bush initiated a review of the US position on the European talks. As a result, the USA in principle supported the idea of offering incentives to Iran, including a potential offer to license civilian aircraft parts for sale to Iran on a case-by-case basis and dropping objections to Iranian membership of the World Trade Organization. EU members and EU officials counted this cautious US support for incentivizing Iran as a major success for their diplomacy.

Similarly, European support for UN Security Council referral and sanctions had brought European governments closer to the US position. The preparation of the first E3+3 proposal to Iran in the spring of 2006 was therefore mainly a test for transatlantic coherence and for the ability of the E3 to convince China and Russia of its dual-track approach. The difficulty involved in securing the signature of the US Secretary of State, Condoleezza Rice, on the letter accompanying the offer was an indication of how uncomfortable the USA still was with some of the terms included in the package offered to Iran—and more generally with the European approach of offering incentives. The formal US endorsement of the June 2006 E3+3 offer was then perceived as another achievement of European diplomacy. A European diplomat argued that ‘explicit endorsement’ by China, Russia and the USA constituted ‘one key difference’ between this proposal and the one offered in 2005.<sup>64</sup> The German Foreign Minister, Frank-Walter Steinmeier, said that ‘[the USA]’s participation substantially increases the value of the offer to negotiate, because specific [US] elements can now be incorporated’.<sup>65</sup>

### Effective multilateralism: the step-by-step approach

While the four-page, E3+3 package of 1 June 2006 did not contain many new economic incentives, it did raise the possibility of Iran’s ‘participation as a partner in an international facility in Russia to provide enrichment services for a reliable supply of fuel to Iran’s nuclear

reactors’.<sup>66</sup> This offer was based on a last-ditch effort by Russia to prevent UN Security Council referral in late 2005, by offering Iran part-ownership of a plant in Russia to enrich Iranian-produced uranium.<sup>67</sup> However, Iran’s response to the Russian proposal at the time had been ambiguous and Russia subsequently supported referral to the UN Security Council.<sup>68</sup> The June 2006 E3+3 proposal repeated the idea and for the first time the USA endorsed such a proposal. Iran did not reject the concept of enrichment in a consortium with other countries in principle, but insisted that such a consortium would also have to operate an enrichment facility in Iran.<sup>69</sup> This, however, was unacceptable to the Western members of the E3+3.

Subsequently, the EU supported four UN Security Council resolutions that imposed sanctions on Iran.<sup>70</sup> As the EU shifted its dual-track approach towards a more coercive set of instruments, the distance between the EU and the IAEA also grew. Initially, relations between the E3 and the IAEA had been good. Both were pursuing the same goal of a diplomatic solution to the conflict. However, over the summer of 2007, ElBaradei agreed on a work plan to resolve outstanding issues with Iran, in an attempt to break the political deadlock that had developed since 2005. The Bush administration, which had been highly critical of the IAEA’s role in the run-up to the invasion of Iraq, criticized ElBaradei for overstepping his mandate by trying to resolve political differences with Iran. The USA clearly rejected the work plan.<sup>71</sup> The E3 also feared that it would undermine unity among the E3+3 and make it more difficult to implement the sanctions

<sup>66</sup> Council of the European Union, ‘Elements of a proposal to Iran as approved on 1 June 2006 at the meeting in Vienna of China, France, Germany, the Russian Federation, the United Kingdom, the United States of America and the European Union’, S202/06, 1 June 2006, <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/reports/90569.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/reports/90569.pdf)>.

<sup>67</sup> Kerr, P., ‘New Iran talks set, but prospects gloomy’, *Arms Control Today*, vol. 36, no. 1 (Jan./Feb. 2006).

<sup>68</sup> Kerr (note 47).

<sup>69</sup> Kerr (note 48); and Forden, G. and Thomson, J., ‘Iran as a pioneer case for multilateral nuclear arrangements’, Technology and Global Security Working Group, Massachusetts Institute of Technology, 24 May 2007, <<http://mit.edu/stgs/iranecrisis.html>>.

<sup>70</sup> UN Security Council Resolution 1737, 27 Dec. 2006; UN Security Council Resolution 1747, 24 Mar. 2007; UN Security Council Resolution 1803, 3 Mar. 2008; and UN Security Council Resolution 1929, 9 June 2010. See also the UN Security Council’s Iran Sanctions Committee website, <<http://www.un.org/sc/committees/1737>>.

<sup>71</sup> Hibbs, M. and Persbo, A., ‘The ElBaradei legacy’, *Bulletin of the Atomic Scientists*, vol. 65, no. 5 (2009), pp. 10–23.

<sup>63</sup> Russell, A., ‘Bush hints at talks rather than threats to rein in Iran’, *Daily Telegraph*, 24 Feb. 2005.

<sup>64</sup> Cited in Crail, P., ‘US offers Iran direct talks’, *Arms Control Today*, vol. 36, no. 5 (June 2006).

<sup>65</sup> Kerr, P., ‘U.S., allies await Iran’s response to nuclear offer’, *Arms Control Today*, vol. 36, no. 6 (July/Aug. 2006).

agreed in March 2007.<sup>72</sup> Germany, in a statement delivered 10 September 2007 to the Board of Governors, stated that the E3 were 'concerned by the sequential nature of the work plan as it may possibly be used to delay the clarification of the outstanding questions'.<sup>73</sup> European diplomats were concerned that ElBaradei's work plan would allow the Iranians to sidestep the UN sanctions and the E3+3 negotiations. They were also worried that in the end the IAEA might issue Iran with a clean bill of health. On 14 April 2008, a senior official from an EU member state argued that even if the programme of work agreed between the agency and Iran were completed, it would not be possible 'to close Iran's nuclear file'. In addition to resolving questions related to past Iranian activities, the official stated, it was also necessary to build confidence in the exclusively peaceful nature of Iran's current nuclear programme.<sup>74</sup>

Concerns that Iran might receive the benefit of the doubt had been reinforced by the November 2007 US National Intelligence Estimate, which judged 'with high confidence that in fall 2003, Tehran halted its nuclear weapons program' but was keeping open the option of resuming that programme.<sup>75</sup> This joint analysis by US intelligence agencies supported the European case for negotiations with Iran because it made clear that there was no imminent danger of Iran developing a nuclear weapon. At the same time, there was a fear that the report could undermine efforts to gain UN Security Council approval for a third round of sanctions, which were underway in late 2007. France in particular argued that the National Intelligence Estimate would not affect the E3+3 position because Iran remained in non-compliance with Security Council demands.<sup>76</sup> As it turned out, UN Security Council Resolution 1803 approved a third round of sanctions. The resolution broadened trade restrictions on dual-use technology and called on all states to exercise vigilance with regard to financial transactions

<sup>72</sup> Kerr, P., 'Iran agrees on work plan with IAEA', *Arms Control Today*, vol. 37, no. 7 (Sep. 2007).

<sup>73</sup> Crail (note 61).

<sup>74</sup> Meier, O., 'The EU's nonproliferation efforts: limited success', *Arms Control Today*, vol. 38, no. 4 (May 2008), pp. 20–26.

<sup>75</sup> US National Intelligence Council, 'Iran: nuclear intentions and capabilities', National Intelligence Estimate, Nov. 2007, <[http://dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/20071203\\_release.pdf](http://dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/20071203_release.pdf)>.

<sup>76</sup> See e.g. French Ministry of Foreign Affairs, 'Daily press briefing by French Foreign Ministry spokesman on U.S. National Intelligence Estimate', 4 Dec. 2007, <<http://www.iranwatch.org/government/France/france-mfa-usniereaction-120407.htm>>.

with Iran that might support nuclear or missile activities and to inspect cargoes going to or coming from Iran as long as such inspections did not violate international or national laws.<sup>77</sup>

#### IV. THE THIRD PHASE, NOVEMBER 2008–JUNE 2012: FROM BAD TO WORSE

The third phase of the EU's involvement in the nuclear conflict with Iran began with much hope for a fresh approach with the election of Barack Obama as US President. While Obama promised to revive diplomacy, however, hopes for a confidence-building process quickly faded. By 2012, European governments were taking a tougher line towards Iran and had all but given up hopes of finding a solution to the nuclear conflict through engagement.

##### Transatlantic cooperation: the fuel swap proposal

European diplomats were relieved by Obama's November 2008 election because he had promised to talk to Iran directly, without preconditions. After taking office, the Obama administration spent its first months developing a new Iran policy. By April 2009, the USA had finalized its new approach and indicated that it would directly join the E3+3 talks, all but giving up the previous administration's policy of making a suspension of enrichment a precondition of such talks. Obama also used more conciliatory rhetoric towards Iran and tried to directly approach Iran's Supreme Leader, Ayatollah Khamenei, through two personal letters. In Brussels and in EU capitals, these changes were welcomed because they brought the USA closer to the European dual-track policy.<sup>78</sup>

However, it appears that some EU members were also worried about the possible drawbacks of full US engagement.<sup>79</sup> There was a concern that a more prominent US role might reduce Europe's leverage to prevent a military escalation. At the same time, some EU states feared that the USA might shift the goalposts for a diplomatic solution. France particularly opposed any softening of policy on Iran.<sup>80</sup> As the Obama

<sup>77</sup> UN Security Council Resolution 1803, 3 Mar. 2008.

<sup>78</sup> Crail, P., 'U.S. still committed to engaging Iran', *Arms Control Today*, vol. 39, no. 6 (July/Aug. 2009).

<sup>79</sup> These concerns had already surfaced during Obama's campaign. See Kessler, G., 'Europe fears Obama might undercut progress with Iran', *Washington Post*, 22 June 2008.

<sup>80</sup> Parsi, T., *A Single Roll of the Dice: Obama's Diplomacy with Iran* (Yale University Press: New Haven, CT, 2012), pp. 10–11.

administration was becoming privately convinced that the goal of zero enrichment as part of a final agreement with Iran was probably unrealistic, France continued to insist that Iran should not be allowed any enrichment under a future agreement.<sup>81</sup> In June 2009 the British Minister of State for Foreign and Commonwealth Affairs, Bill Rammell, emphasized that while the UK welcomed Obama's commitment to engage in a dialogue with the Iranians, this was 'not an open-ended offer'. Should Iran not be ready to fulfil international conditions by the end of 2009, Rammell said, 'we're going to be in a much tougher position on sanctions'.<sup>82</sup>

Thus, ironically, 'as [the USA] was ready to move toward diplomacy, the enthusiasm for engagement in parts of Europe was waning'.<sup>83</sup> From an Iranian perspective, these developments amounted to a change of roles for its Western interlocutors. After the US elections, the EU had become an advocate of tougher sanctions. At the same time, Ahmadinejad's confrontational style towards Europe, including his persistent denial of the holocaust and personal insults of European leaders, contributed to the worsening of EU–Iranian relations.<sup>84</sup> In any case, Iran appeared not to be ready to respond positively to US overtures, in part because of divisions within the Iranian elite about the right approach towards the West and the USA specifically.

As Iran's nuclear programme advanced, the focus of diplomatic activities shifted from promoting the goal of 'zero enrichment' to preventing enrichment to higher levels. In part, this was a reflection of advances in Iran's nuclear programme. By early 2009 Iran had produced about 1000 kilograms of LEU, more than 3000 centrifuges were spinning in Natanz and the facility was continuously expanding.<sup>85</sup> It became increasingly unrealistic to expect Iran to dismantle these capabilities under a final agreement.

Obama's new Iran strategy was first tested after 2 June 2009, when Iran requested IAEA assistance in providing replacement fuel for the Tehran Research Reactor (TRR). The reactor fuel is made of 19.75 per cent-enriched uranium. In the West, the request triggered alarm bells because such material requires comparatively little additional enrichment in order to be turned into weapon-grade fissile material.<sup>86</sup>

After an intense internal debate, the Obama administration decided that the Iranian request for assistance should be taken at face value in order to test Iran's willingness to engage in real cooperation. The USA suggested an agreement that would require Iran to export some of its LEU to a third party where the material would be enriched further and returned as ready-made fuel for the TRR, which would be more difficult to turn into weapon-grade material. On the one hand, such a 'fuel swap' would reduce the amount of LEU in Iran—the USA proposed to turn 1200 kg of the 1600 kg LEU Iran had produced by October 2009 into TRR fuel—and increase the amount of time Iran would need to cross the nuclear threshold. On the other hand, Iran would gain access to fuel for the TRR without having to produce it domestically. Most of all, however, the measure was viewed as a confidence-building measure that would allow cooperation on a specific issue of relevance to the solution to the nuclear crisis and initiate a period of trust building.<sup>87</sup>

The proposal was discussed on 1 October 2009 at a meeting in Geneva of the E3+3 and Iran. The US Under Secretary of State, William Burns, and Saeed Jalili, Iran's top negotiator and secretary of Iran's Supreme National Security Council, met for bilateral discussions on the sidelines of the meeting. This marked the highest level direct talks between the two countries in over 30 years and the first active participation of a US official in negotiations since the beginning of the nuclear conflict.<sup>88</sup> To the surprise of some, Iran

<sup>81</sup> Parsi (note 80), p. 57.

<sup>82</sup> Abramson, J. and Horner, D., 'Interview With British Minister of State for Foreign and Commonwealth Affairs Bill Rammell', Arms Control Association, 5 June 2009, <<http://www.armscontrol.org/node/3702>>.

<sup>83</sup> Parsi (note 80), p. 12.

<sup>84</sup> Mousavian (note 41), pp. 328–30.

<sup>85</sup> International Atomic Energy Agency, Board of Governors, 'Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran', GOV/2009/8, 19 Feb. 2009.

<sup>86</sup> See e.g. Jeffrey L., 'Iran to enrich 20 percent LEU', Arms Control Wonk, 9 Feb. 2010, <<http://lewis.armscontrolwonk.com/archive/2620/iran-to-enrich-20-percent-leu>>.

<sup>87</sup> Fitzpatrick, M., 'Containing the Iranian Nuclear Crisis: the useful precedent of a fuel swap', *Perceptions*, vol. 16, no. 2 (summer 2011), p. 29.

<sup>88</sup> Borger, J., 'Nuclear talks lead to rare meeting between US and Iran', *The Guardian*, 1 Oct. 2009, <<http://www.guardian.co.uk/world/2009/oct/01/iran-nuclear-geneva-talks>>. Burns had already participated as a passive 'observer' in the 19 July 2008 Geneva talks. However, that gesture had not changed the Bush administration's opposition to direct talks with Iran. See Sciolino, E., 'Nuclear talks with Iran end in a deadlock', *New York Times*, 20 July 2008.

appeared to generally accept the US proposal. Javier Solana stated afterwards that

in consultations with the IAEA and on the margins of today's meeting, it was agreed in principle that low enriched uranium produced in Iran would be transported to third countries for further enrichment and fabrication into fuel assemblies for the Tehran Research Reactor, which produces isotopes for medical applications.<sup>89</sup>

After the Geneva meeting, however, it became clear that the swap deal had encountered domestic opposition in Iran and divided the Iranian elite. While Ahmadinejad appeared to support the fuel swap his political rivals denounced the proposal as a sell-out of Iranian interests.

Implementing the proposal would require the active involvement of Russia, which was to enrich the uranium to 20 per cent, and France, which had the capability to manufacture the TRR fuel rods.<sup>90</sup> On 19–21 October, the IAEA, France, Russia and the USA (the Vienna Group) met with Iran in Vienna.<sup>91</sup> Not all of the E3 were excited about the deal. Since Iran would be allowed to continue producing nuclear fuel for its LWR, some in Europe argued that the deal would also legitimize Iranian enrichment.<sup>92</sup> France and the UK 'saw a one-time fuel-swap as being of little value and were unenthusiastic about the amendments that would have been required to UN Security Council resolutions forbidding Iranian export of LEU. Given [the USA]'s keenness for the deal, however, the allies went along with it.'<sup>93</sup> Germany, in contrast, viewed the fuel swap proposal as an opportunity to buy time 'and transcend the entrenched positions'.<sup>94</sup>

In contrast, Iran initially rejected French involvement in the proposed fuel swap, mainly because of the historical legacy of involvement in the

multilateral Eurodif enrichment plant, which ended after the Iranian revolution in 1979.<sup>95</sup> Iran viewed the deal as a way to engage the USA directly and suggested that France and Russia be cut out of the deal. The USA, however, rejected such proposals.<sup>96</sup>

The lack of enthusiasm and competing motivations on both sides facilitated disagreements between Iran and the Vienna Group over procedures and details of the proposed deal. France insisted that the fuel be swapped in a single exchange.<sup>97</sup> Iran called into question the outlines of the agreement reached in Geneva and proposed simultaneous exchanges of LEU for TRR fuel in several instalments. While the IAEA Director General made a last attempt to save the agreement, the proposal did not hold up to opposition in Iran.<sup>98</sup>

The breakdown of the deal in November over disagreements on procedure and legal guarantees was particularly disappointing for those EU members who had argued that the refusal of the Bush administration to engage Iran had been the main factor behind the lack of progress of diplomatic efforts. The swap deal was an example of a substantive proposal that had the full support of the USA—and, yet again, there was no progress.<sup>99</sup>

Subsequently, the Obama administration focused on coercive measures and 'once the sanctions track was activated, it became the only track'.<sup>100</sup> On 9 February 2010, Iran began enriching uranium to a level of 20 per cent at its Pilot Fuel Enrichment Plant in Natanz and justified the action by the need to fuel the TRR.<sup>101</sup> While Iran offered other ideas in March to save the fuel swap idea, the proposal appeared to have failed.

As the Western position hardened, Brazil and Turkey attempted to fill the diplomatic void. They tried to revive the fuel swap but these attempts were 'not warmly welcomed in Western capitals'.<sup>102</sup> To the

<sup>89</sup> Council of the European Union, 'Remarks by EUHR Solana following meeting with Iranian Supreme National Security Council Secretary Jalili', 1 Oct. 2009, <[http://www.eu-un.europa.eu/articles/en/article\\_9050\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_9050_en.htm)>.

<sup>90</sup> Apart from France, only Argentina reportedly possesses facilities that would be able to produce TRR fuel at short notice.

<sup>91</sup> Crail, P., 'Iranian response to LEU fuel deal unclear', *Arms Control Today*, vol. 39, no. 9 (Nov. 2009).

<sup>92</sup> Fitzpatrick (note 87), p. 31; and Parsi (note 80), pp. 117–18.

<sup>93</sup> Fitzpatrick (note 87), p. 31.

<sup>94</sup> Peter Wittig, German ambassador to the United Nations, cited in Parsi (note 80), p. 116.

<sup>95</sup> Mousavian (note 41), p. 357. See also Meier, O., 'Iran and foreign enrichment: a troubled model', *Arms Control Today*, vol. 36, no. 1 (Jan./Feb. 2006), pp. 26–27.

<sup>96</sup> Mousavian (note 41), pp. 359–61.

<sup>97</sup> Fitzpatrick (note 87), pp. 27–42.

<sup>98</sup> ElBaradei suggested sending the LEU in an escrow to Turkey. See Crail, P., 'Brazil, Turkey broker fuel swap with Iran', *Arms Control Today*, vol. 40, no. 5 (June 2010). See also Mousavian (note 41), pp. 359–60; and Fitzpatrick (note 87), pp. 32–33.

<sup>99</sup> Parsi (note 80), pp. 142–43.

<sup>100</sup> Parsi (note 80), p. 152.

<sup>101</sup> Fissile material enriched to 20% uranium is used in the TRR but can also more easily be converted to weapon-grade material than material enriched to a level of 5%.

<sup>102</sup> Fitzpatrick (note 87), p. 35.

surprise of many, Brazilian President Lula da Silva and the Turkish Prime Minister, Recep Tayyip Erdogan, met with Ahmadinejad in Tehran on 17 May and signed a joint declaration in which Iran promised to send 1200 kg of LEU to Turkey ‘within one month’ after the Vienna Group had accepted the proposal.<sup>103</sup> The material would then be returned as fuel for the TRR to Iran within one year. The idea of depositing the Iranian LEU in an ‘escrow’ in Turkey had been specifically mentioned in a letter that US President Obama had sent to Lula on 20 April.<sup>104</sup> When the USA rejected the offer, Brazil and Turkey were furious.

There were many reasons why the West objected to the Tehran Declaration. Some were tactical, including an unwillingness to accept the involvement of new actors in the talks; some were strategic, such as the lack of commitment by Iran to end 20 per cent enrichment; and others were technical, for example the difficulty of providing TRR fuel within a year. Critics also pointed out that by May 2010 Iran’s stockpile of 20 per cent-enriched uranium had grown to about 2400 kg, which lessened the deal’s value as a confidence-building measure. Therefore, on 25 May the British Prime Minister, David Cameron, told the British Parliament that ‘even if Iran were to complete the deal proposed in their recent agreement with Turkey and Brazil, it would still retain around 50 percent of its stockpile of low-enriched uranium, and it is this stockpile that could be enriched to weapons-grade uranium’.<sup>105</sup> However, the agreement was also concluded at an inopportune time. In New York, the P5 had just reached agreement on the outlines of a new UN Security Council resolution that would impose a fourth round of sanctions on Iran, while the NPT Review Conference of 3–28 May 2010 was entering its final stages, with Iran’s nuclear programme as one of the critical issues to be addressed. For many in the West, these were too many reasons that spoke against taking the risk of supporting the Tehran Declaration.

### **Coherence: the end of engagement**

The deepening crisis with Iran tested E3 unity. The repression of the opposition movement in Iran after the

June 2009 Iranian presidential elections cast a heavy shadow over the nuclear dialogue. The EU was faced with the question of whether to link the human rights situation to a solution to the nuclear question. In the end, the USA and the E3 decided to prioritize nuclear talks over human rights and tone down criticism of human rights violations to avoid damage to the nuclear file.<sup>106</sup>

Nevertheless, the two issues could not be completely de-linked. In July 2009 the UK asked its European partners to temporarily withdraw diplomatic staff from Tehran to protest the detention of nine British embassy staff members accused of inciting election protests. Other EU members (including Germany) initially did not support the UK, but when Iran threatened to put some embassy staff on trial, the positions of EU members converged.<sup>107</sup> Events came to a head in July 2009 when Iran argued that the EU had ‘lost its qualification to hold nuclear talks’ because of alleged interference in the protests against the re-election of President Ahmadinejad.<sup>108</sup>

Against the background of the lack of progress on the nuclear file, the debate on whether to expand sanctions beyond those adopted by the UN Security Council resurfaced. France, which by now had become an advocate of isolating Iran, again took the lead. However, diplomats from other European capitals and Brussels were also frustrated by Iran’s perceived unwillingness or inability to pursue constructive and coherent negotiations.

After the failure of the fuel swap deal and against the votes of Brazil and Turkey, on 9 June 2010 the UN Security Council adopted Resolution 1929, which prohibited Iranian activities aimed at developing nuclear weapon-capable ballistic missiles, imposed an embargo on the import of heavy weapon systems and added more individuals and Iranian companies to the sanctions list. The resolution also explicitly acknowledged the EU’s diplomatic lead by encouraging the EU’s High Representative ‘to continue communication with Iran in support of political and diplomatic efforts to find a negotiated solution’.<sup>109</sup>

On 17 June 2010 the EU approved a new set of restrictive measures that were based on—but went

<sup>103</sup> ‘Joint Declaration by Iran, Turkey and Brazil’, BBC News, 17 May 2010, <<http://news.bbc.co.uk/2/hi/8686728.stm>>.

<sup>104</sup> Letter from President Barack Obama to President Luiz Inácio Lula da Silva, 20 Apr. 2010, <<http://www.politicaexterna.com/11023/brazil-iran-turkey-nuclear-negotiations-obamas-letter-to-lula>>.

<sup>105</sup> Cited in Crail (note 98).

<sup>106</sup> Parsi (note 80), pp. 100–101.

<sup>107</sup> Charter, D., ‘British calls for diplomatic walkout from Iran are rejected by EU partners’, *The Times*, 3 July 2009.

<sup>108</sup> Blitz, J. ‘“Interference” rules EU out of nuclear talks, says Iran’, *Financial Times*, 2 July 2009.

<sup>109</sup> UN Security Council Resolution 1929, 9 June 2010, para. 33.

beyond—the list of UN-agreed restrictive measures. The EU now also imposed economic sanctions (e.g. by prohibiting investments of EU members in Iranian oil and gas projects, as well as the transfer of technology and equipment for the energy sector). The rationale for EU sanctions also evolved. Targeted sanctions had previously been justified mainly with their effect on Iran's nuclear and missile activities. Now, the EU made the more general argument that economic sanctions were to affect the cost-benefit calculations of the Iranian leadership. Thus, the Spanish Minister for Foreign Affairs, Miguel Ángel Moratinos, speaking for the EU Presidency, stated that EU sanctions had the goal 'to encourage the Teheran regime to return to the negotiating table'.<sup>110</sup>

The hardening of EU policy on Iran coincided with a change of EU leadership. With the entry into force of the Lisbon Treaty, Catherine Ashton took over from Javier Solana as High Representative in November 2009. While Giannella kept her post for the time being, her influence on operative policy was considerably reduced. Ashton introduced a different style to the talks with Iran, being more sober and reserved compared to the outgoing and at times temperamental Solana. Assessments of the impact of these changes on the E3+3 and EU talks with Iran differ. Some of those in charge of the nuclear file in Brussels and in member state capitals highlight Ashton's successes in engaging Iranian officials and maintaining E3+3 coherence. Others emphasize her lack of leadership and bureaucratic style in dealing with Iran.<sup>111</sup>

The release on 8 November 2011 of the IAEA's report on Iran's nuclear activities further worsened the already bad relations with Iran.<sup>112</sup> The report contained a 15-page annex devoted entirely to the suspected military dimension of Iran's nuclear programme. The report was based on several sources of information and summarized and corroborated information on Iran's efforts to weaponize nuclear

technology, mostly between 1998 and 2003. The Agency concluded that it found information on weaponization efforts—including nuclear explosive development indicators, the past existence of a structured nuclear weapon programme, procurement and nuclear material-acquisition efforts as well as efforts to acquire and test components for a nuclear warhead—to be 'overall, credible'.<sup>113</sup> The Agency thus confirmed, four years later, the core findings of the 2007 US National Intelligence Estimate.

While China and Russia argued that the report did not provide a basis for new sanctions, Western states did use the IAEA assessment as an opportunity to call for additional trade restrictions. On 21 November, French President Sarkozy sent a letter to his British and German counterparts as well as to the leaders of Canada, Japan, the USA and to the EU proposing an import ban on Iranian oil.<sup>114</sup>

The November 2011 IAEA report provided the last impetus for the EU to break with its policy of keeping its own sanctions generally within the scope of trade restrictions imposed by the UN Security Council. On 1 December 2011, EU foreign and defence ministers decided that

given the seriousness of the situation, including the acceleration of the near 20% uranium enrichment activities by Iran, in violation of six [UN Security Council] resolutions and eleven IAEA Board resolutions, and the installation of centrifuges at a previously undeclared and deeply buried site near Qom, as detailed in the IAEA report, the EU should extend the scope of its restrictive measures against Iran.<sup>115</sup>

On 23 January 2012, the EU Foreign Affairs Council imposed an import ban on Iranian crude oil and froze the assets of the Iranian Central Bank within the EU. These trade restrictions, which would take effect on 1 July, were the most far-reaching against an individual country adopted by the EU since the sanctions on Iraq in the 1990s and the broadest unilateral sanctions

<sup>110</sup> EU Presidency, 'The EU approves new sanctions against Iran', 17 June 2010, <[http://www.eu-un.europa.eu/articles/en/article\\_9871\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_9871_en.htm)>.

<sup>111</sup> von Mittelstaedt, J., Neukirch, R. and Schult, C., 'Playing for time: Europeans take lead on Iran nuclear negotiations', Spiegel Online, 12 Mar. 2012, <<http://www.spiegel.de/international/world/playing-for-time-europeans-take-lead-on-iran-nuclear-negotiations-a-820852.html>>.

<sup>112</sup> International Atomic Energy Agency, Board of Governors, 'Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran', GOV/2011/65, 8 Nov. 2011.

<sup>113</sup> International Atomic Energy Agency (note 112).

<sup>114</sup> Fuquet, H., 'Sarkozy calls for freeze of Iran's central assets, new sanctions', Bloomberg, 21 Nov. 2011, <<http://www.bloomberg.com/news/2011-11-21/sarkozy-calls-for-freeze-of-iran-s-central-assets-new-sanctions.html>>.

<sup>115</sup> Council of the European Union, '3130th Foreign Affairs Council conclusions on Iran', Brussels, 1 Dec. 2011, <[http://www.eu-un.europa.eu/articles/en/article\\_11647\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_11647_en.htm)>.

regime ever adopted by the EU.<sup>116</sup> The purpose of sanctions was now also clearly political. David Cameron, Angela Merkel and Nicolas Sarkozy in a joint statement argued that EU sanctions were designed ‘to undermine the regime’s ability to fund its nuclear programme, and to demonstrate the cost of a path that threatens the peace and security of us all’.<sup>117</sup>

Nevertheless, the EU stopped short of adopting the blanket trade embargo favoured by the USA. In principle, EU companies and individuals were still allowed to conduct business with Iran. However, such cooperation became increasingly difficult, particularly after 15 October 2012, when the EU further tightened existing trade restrictions and expanded sanctions by prohibiting ‘all transactions between European and Iranian banks, unless authorised in advance under strict conditions with exemptions for humanitarian needs’, and by strengthening restrictive measures against the Central Bank of Iran.<sup>118</sup>

At the height of the global financial crisis, Italy, Spain and particularly Greece (which has a favourable oil deal with Iran) were reluctant to extend trade restrictions to oil imports. In the end, however, they did not prevent agreement on new sanctions. Despite its importance as a supplier of oil and gas, Iran is economically far more dependent on the EU than the other way around. In 2010 the EU accounted for 19.2 per cent of Iran’s foreign trade (17.8 per cent of all exports and 21.5 per cent of all imports), making the EU Iran’s most important trading partner. In contrast, Iran is ranked 27th on the list of the EU’s major trading partners. In 2011 only 0.9 per cent of all EU imports came from Iran, while 0.7 per cent of all EU exports were sold to Iran. Ninety per cent of EU imports from Iran are oil and related products.<sup>119</sup>

<sup>116</sup> Council of the European Union, Council Decision 2012/35/CFSP of 23 January 2012 amending Decision 2010/413/CFSP concerning restrictive measures against Iran, *Official Journal of the European Union*, L19, 24 Jan. 2012.

<sup>117</sup> British Prime Minister’s Office, ‘PM, Chancellor Merkel and President Sarkozy statement on Iran sanctions’, 23 Jan. 2012, <<http://www.number10.gov.uk/news/iran-sanctions>>.

<sup>118</sup> Council of the European Union, ‘Council conclusions on Iran’, 3191st Foreign Affairs Council meeting’, Luxembourg, 15 Oct. 2012, <[https://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/132833.pdf](https://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/132833.pdf)>.

<sup>119</sup> The EU was followed by the United Arab Emirates (14.3%) and China (13.7%). Directorate-General Trade, ‘EU bilateral trade and trade with the world: Iran’, 21 Mar. 2012, <[http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc\\_113392.pdf](http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113392.pdf)>.

### Effective multilateralism: diplomatic failures

After the violent suppression of the Green opposition movement in the summer of 2009, the next low point came with the announcement in September 2009 by France, the UK and the USA that a previously undeclared enrichment facility had been discovered in Iran near Qom.<sup>120</sup> The facility, later designated the Fordow Fuel Enrichment Plant (FFEP), was built deep underground and thus difficult to destroy in a military strike. Iran declared that the facility would house about 3000 centrifuges and changed the explanation about its purpose several times. In the end, Iran stated that the plant would produce 20 per cent-enriched uranium for the TRR.

Western intelligence services, including those of France and the UK, had had knowledge of the site since 2006.<sup>121</sup> In early 2009 indications emerged that the facility was indeed a nuclear site. The fact that Iran had been constructing the facility clandestinely shook the confidence in many European capitals that Iran was indeed interested in pursuing a diplomatic solution. The Obama administration wanted to use knowledge of the secret enrichment site as a bargaining chip to bring Iran to the negotiating table, while France pressed for early disclosure.<sup>122</sup> Not least because of the revelation of the Fordow plant, it took until the end of 2010 for talks between the E3+3 and Iran to resume. However, the talks in Geneva on 6–7 December 2010 and the 20–21 January 2011 round of negotiations in Istanbul ended without specific results and participants were unable to even agree on a next round of talks.<sup>123</sup>

The EU’s January 2012 decision to impose an oil embargo on Iran appeared to bring Iran back to the negotiating table. On 15 February 2012, Jalili replied positively to Ashton’s October 2011 offer to resume talks. In the letter, Iran signalled that it was ready to discuss the nuclear issue directly, something it

<sup>120</sup> Crail, P., ‘Secret Iranian enrichment facility revealed’, *Arms Control Today*, vol. 39, no. 8 (Oct. 2009).

<sup>121</sup> German intelligence agencies were apparently kept out of the loop by their partners on the existence of Fordow.

<sup>122</sup> Ghosh, B., ‘CIA knew about Iran’s secret nuclear site for three years’, *Time*, 7 Oct. 2009.

<sup>123</sup> Crail, P., ‘Major powers to hold more talks with Iran’, *Arms Control Today*, vol. 41, no. 1 (Jan./Feb. 2011); and Crail, P., ‘After the Istanbul meeting with Iran: maintaining persistent diplomacy’, *Arms Control Association Issue Brief* no. 2/1, 3 Feb. 2011, <<http://www.armscontrol.org/issuebriefs/AfterIstanbulIran>>.

had avoided doing previously.<sup>124</sup> Both sides agreed to meet on 14 April in Istanbul for the first talks in over 15 months. Many viewed this new round of negotiations as the last opportunity to reach a deal before the November 2012 US presidential election campaign, which would dominate US politics.

European diplomats hoped that the threat of new economic sanctions would provide them with additional leverage. Indeed, in Istanbul Iran emphasized the importance of avoiding the new sanctions that were to come into effect on 1 July. Both sides judged the atmosphere at the Istanbul meeting as positive and agreed to meet again in Baghdad on 23 May.<sup>125</sup> At that meeting, the E3+3 offered a proposal titled 'stop, shut and ship', under which Iran, in return for a gradual lifting of sanctions, would end production of 20 per cent enriched uranium, close the FFEP and ship its stockpile of 20 per cent-enriched uranium outside the country for production of fuel for the TRR. Iran delivered its response to the proposal in Moscow on 18 June.<sup>126</sup> Iran did not exclude the possibility of restricting its 20 per cent enrichment but insisted that all sanctions first had to be lifted and that the E3+3 had to explicitly recognize Iran's right to enrichment.<sup>127</sup> In the end, it proved impossible to resolve differences over limits on 20 per cent enrichment. Ashton, speaking for the E3+3, summed up dryly by noting that after lengthy discussions 'it remains clear that there are significant gaps between the substance of the two positions'.<sup>128</sup> While participants agreed to continue discussions at a technical level, no further meetings at the political level were scheduled. The E3+3 consultations had reached a new low point.

<sup>124</sup> Crail, P., 'Iran responds to call for talks', *Arms Control Today*, vol. 42, no. 2 (Mar. 2012).

<sup>125</sup> Crail, P., 'P5+1 and Iran hold "positive" talks', *Arms Control Today*, vol. 42, no. 4 (May 2012).

<sup>126</sup> Borger, J., 'Iran nuclear talks: settling for confusion in Baghdad, hoping for clarity in Moscow', *The Guardian*, 29 May 2012, <<http://www.guardian.co.uk/world/julian-borger-global-security-blog/2012/may/29/iran-nuclear-talks-baghdad-moscow>>.

<sup>127</sup> 'Full text of Iran's proposals to six world powers in Moscow talks', Fars News Agency, 7 July 2012, <<http://english.farsnews.com/printable.php?nn=9103085486>>.

<sup>128</sup> Ashton, C., 'Statement by European Union High Representative for Foreign Affairs and Security Policy Catherine Ashton on behalf of the E3+3 following talks with Iran in Moscow, 18–19 June', Brussels, 19 June 2012, <[http://www.eu-un.europa.eu/articles/en/article\\_12318\\_en.htm](http://www.eu-un.europa.eu/articles/en/article_12318_en.htm)>.

## V. LESSONS AND OUTLOOK

The EU's efforts to resolve the conflict over Iran's nuclear programme stand out as the EU's most important and most persistent direct engagement in a high-profile non-proliferation crisis. It is still too early to pass final judgment on its success: while the conflict itself remains unresolved, diplomatic efforts have not yet failed completely. However, based on a decade of nuclear diplomacy with Iran, some observations on the effectiveness of European efforts from the perspectives of coherence, transatlantic cooperation and multilateralism can be offered.

### Coherence

The constancy of European engagement is remarkable. Over 10 years of engagement, European diplomats and officials involved in efforts to resolve the conflict over Iran's nuclear programme have had to deal with dramatically changing circumstances. This period has seen radical changes in government in the USA and Iran; the events of the Arab Spring; and a major overhaul of the EU's Common Foreign and Security Policy machinery as a result of the implementation of the Lisbon Treaty. Despite this, and even though the context of the European engagement has changed significantly, the E3 and the EU have consistently promoted a non-military solution to the conflict on the basis of improved Iranian guarantees about the peaceful nature of its nuclear programme.

The style of Europe's engagement is also extraordinary. While other EU members may have expressed reservations about the E3 format, its engagement with Iran 'met with few suspicions and with no significant resistance within the EU'. Importantly, 'the spectre of a Directoire leading the EU's foreign and security policy did not raise its head, confirming a tacit agreement that something had to be done to avoid a new European imbroglio à la Iraq'.<sup>129</sup>

While EU members were united on what they wanted to avoid (i.e. a nuclear-armed Iran and military conflict), the definition of a positive agenda for negotiating with Iran proved to be more difficult. France, Germany and the UK were united and

<sup>129</sup> Van Ham, P., 'The European Union's WMD Strategy and the CFSP: a critical analysis', Non-proliferation Papers no. 2, EU Non-Proliferation Consortium, Sep. 2011, <<http://www.nonproliferation.eu/activities/activities.php>>, p. 11.

successful in mediating between two hard line administrations, in the USA and in Iran. Yet, as the Bush administration around 2005–2006 itself became involved in the European dual-track approach, such an intermediary role became less important. As it turned out, the E3 were (and probably still are) unsure what kind of eventual agreement with Iran they would promote. Ambiguities around the definition of suspension and the nature of the ‘objective guarantees’ that Iran was expected to give were indicators of the lack of vision that continued to plague European negotiation efforts. When opportunities arose to take the lead on an agreement—for example when the newly elected Obama administration articulated its Iran policy or when Brazil and Turkey negotiated an agreement with Iran on a fuel swap—the E3 remained passive, watching from the sidelines, unable or unwilling to inject their own ideas on the outlines of a resolution of the conflict.

### Transatlantic cooperation

The story of transatlantic relations in the conflict over Iran’s nuclear programme is one of convergence. As early as 2005, the EU successfully drew the USA into the negotiations. Once the nuclear file was referred to the UN Security Council and the E3 supported sanctions, transatlantic differences were further minimized. The final step towards transatlantic unity was the change in US administration. President Obama pursued a strategy that—at least initially—put less emphasis on isolating and pressuring Iran than his predecessor. By early 2012, transatlantic differences on how to deal with Iran had all but disappeared.

While the E3 and the EU can take credit for avoiding a repetition of the transatlantic split after the 2003 US-led invasion of Iraq, they were not able to capitalize on opportunities that arose from Obama’s election in late 2008. Once the USA was willing to engage Iran, the E3 and the EU happily conceded the diplomatic lead. Thus, the E3 half-heartedly supported US proposals on the fuel swap. This is unfortunate, given the fact that some EU members had a lot to bring to the table on the idea of multilateralizing fuel-cycle activities.<sup>130</sup> In the event, in 2009 the triple shock of suppression of the Iranian opposition after the presidential elections,

the revelation of the Fordow enrichment plant and the failure of the fuel swap proposal brought the EU firmly on the sanctions track. The systematic approach that the E3 and the EU were pursuing put the question of the shape and form of a final agreement with Iran far into the future and further aligned European and US policy towards Iran.

### Effective multilateralism

As the conflict over Iran’s nuclear programme unfolded, the EU became more frustrated with Iranian intransigence, increasingly pessimistic about the prospects of success of the dual-track approach and subsequently less interested in engaging Iran. The E3 and the EU became tougher, more single minded and less flexible. They increasingly focused on maximizing tactical advantages in direct negotiations with Iran, rather than on a diplomatic initiative that would comprehensively address Iranian concerns and interests.

European demands on Iran were no longer framed primarily in terms of the nuclear non-proliferation regime. Iran was treated as a special case. E3+3 proposals and demands derived their legitimacy mainly from UN Security Council resolutions. The EU never formally defined at what stage international confidence in the peaceful nature of Iran’s nuclear programme would be restored and never stipulated what nuclear activities Iran would be entitled to conduct.

The EU’s approach to sanctions has evolved since 2003. Up until 2007, EU members agreed that sanctions on Iran should only be imposed through the UN Security Council. This consensus began to erode as a result of French pressure and the lack of diplomatic progress. Once the EU had imposed unilateral, economic sanctions that went beyond the UN’s mandate in 2010, sanctions took on their own life. Today, it appears as if the EU is pursuing economic sanctions less out of conviction that these will actually force Iran to change its nuclear policy and more because economic trade restrictions are the only instrument left in the diplomatic toolbox after the failure of engagement. After 10 years of tedious talks with Iran, the speed with which the EU adopted an oil embargo and financial trade restrictions in 2012 were perceived as proof that the EU is a serious actor on the international scene that can ‘deliver’. These rationales for coercive measures, however, have little to do with the ESS, which described sanctions

<sup>130</sup> See Meier, O., ‘European efforts to control the spread of enrichment and reprocessing technologies’, UNISCI Discussion Papers no. 30, Oct. 2012, <[http://www.ucm.es/info/unisci/revistas/UNISCI DP 30 - MEIER.pdf](http://www.ucm.es/info/unisci/revistas/UNISCI%20DP%2030-MEIER.pdf)>, pp. 27–43.

as a last opportunity to strengthen multilateral non-proliferation instruments.

Based on the experience of involvement in Iran's nuclear programme, three lessons for future European engagement can be offered.

1. EU members and the EU should be clear about what they want from Iran and communicate this to its international partners and Iran. To be sure, this would reduce the flexibility of E3 negotiators but at this advanced stage of the diplomatic process, such flexibility has already lost importance. The focus of negotiations has shifted from comprehensive solutions to restricting 20 per cent enrichment, and there is an implicit recognition that the zero-enrichment goal is no longer attainable.<sup>131</sup> The outlines of a possible final agreement with Iran are already detectable and the difficulty lies more in defining the steps on the way to such an agreement.<sup>132</sup> At least in part, European ambiguity about the preferred outcome of the nuclear talk appears to be caused by differences among the E3 themselves (as well as other EU members) about Iran's rights and obligations under the NPT. The general lesson might be that, before getting involved in the next major non-proliferation crisis, EU member state governments would want to clarify among themselves what goals they are pursuing. While ambiguities about the preferred outcome can give tactical advantages in direct negotiations, differences among negotiators can undermine the coherence and credibility of the European position.

2. Based on the EU's Iran diplomacy, it appears unlikely that the E3 format could serve as a model to overcome difficulties in other policy areas, as has sometimes been suggested.<sup>133</sup> While the E3 have been

<sup>131</sup> Sometimes, this is explicitly acknowledged. Thus, US Secretary of State Hillary Clinton said in Dec. 2010 that 'Iran has to come to the table recognizing that they have lost the confidence of even longtime supporters and allies or those who believed them, took them at face value. They can do this, and then they can enrich uranium at some future date once they have demonstrated that they can do so in a responsible manner in accordance with international obligations.' US State Department, 'Interview With Kim Ghattas of BBC', 3 Dec. 2010, <<http://www.state.gov/secretary/rm/2010/12/152339.htm>>.

<sup>132</sup> Brzoska, M., Meier, O. and Neuneck, G., 'Seven steps on the way towards a peaceful resolution of the conflict over Iran's nuclear activities', *Arms Control Now*, 20 Apr. 2012, <<http://armscontrolnow.org/2012/04/20/>>.

<sup>133</sup> Bendiek, A. and Kempin R., 'Europe's foreign and security policy adrift: strengthening the role of the EU-3', *Stiftung Wissenschaft und Politik (SWP) Comments no. 39*, Dec. 2011, <[http://www.swp-berlin.org/fileadmin/contents/products/comments/2011C39\\_bdk\\_kmp\\_ks.pdf](http://www.swp-berlin.org/fileadmin/contents/products/comments/2011C39_bdk_kmp_ks.pdf)>.

able to engage Iran in a way that the EU27 probably could not have, other EU members never gave up reservations about the E3 taking the lead. Whenever the triumvirate offered incentives that involved the EU as a whole or wanted to impose sanctions, all 27 EU members were needed. However, the reform of Europe's foreign security policy under the Lisbon Treaty and the creation of the European External Action Service offer opportunities to bring together several tools at the disposal of the EU to prevent and roll-back proliferation. Catherine Ashton, in her dual role as Vice-President of the Commission and High Representative of the Union for Foreign Affairs and Security Policy, would be in a good position to reintegrate the human rights and economic dimensions into the EU's approach to Iran. It is to be hoped that the newly appointed EU Special Envoy for Non-proliferation and Disarmament, Jacek Bylica, will be able to provide such a focus.<sup>134</sup>

3. While EU governments and the EU were extremely successful in re-establishing transatlantic unity on efforts to stop the spread of WMD, European officials and diplomats would be well advised to create broader international support for their non-proliferation efforts. Any effective non-proliferation policy today requires the involvement and active support of emerging economies such as Brazil, India and South Africa. When it comes to controlling dual-use technologies, these countries are major players, as the attempt by Brazil and Turkey to salvage the fuel swap deal demonstrated. However, the EU has been neither consistent nor very successful in convincing others to support its approach to arms control, disarmament and non-proliferation, as the EU's efforts to implement a non-proliferation clause in trade and cooperation agreements with third countries have shown.<sup>135</sup>

The immediate future is likely to offer new opportunities to find a way out of the deadlock over Iran's nuclear programme. The recently re-elected Obama administration is aware of the importance of resolving the crisis and there are indications that it

<sup>134</sup> Polish Ministry of Foreign Affairs, Press Office, 'Jacek Bylica becomes EU Special Envoy for Non-proliferation and Disarmament', Warsaw, 12 Nov. 2012, <[http://www.mfa.gov.pl/en/news/jacek\\_bylica\\_becomes\\_eu\\_special\\_envoy\\_for\\_non\\_proliferation\\_and\\_disarmament](http://www.mfa.gov.pl/en/news/jacek_bylica_becomes_eu_special_envoy_for_non_proliferation_and_disarmament)>.

<sup>135</sup> See Quille, G., 'A new transatlantic approach? A view from Europe', eds O. Meier and C. Daase, *Arms Control in the 21st Century: Between Coercion and Cooperation* (Routledge: New York, 2012), pp. 190–207.

might be willing to engage in direct, bilateral talks with Iran.<sup>136</sup> French President François Hollande has softened the French line towards Iran and has brought France back into the European mainstream.<sup>137</sup> The Arab Spring has shattered assumptions about regional stability. Syria in the future may no longer be Iran's ally and there are uncertainties about Egypt's role as a partner in Israel's quest for a stable regional order. Because Iran has converted part of its stockpile of 20 per cent enriched uranium into fuel for the TRR, Israel has stated that it believes that there is a fresh window of opportunity for talks to succeed.<sup>138</sup> In Iran, a new president will be elected in June 2013, with President Ahmadinejad having served the two terms permitted under the constitution. Finally, economic sanctions are having serious effects on Iran's economy.

The E3 and the EU can play a prominent role in fostering an agreement. Europe's most important role has been to caution against the consequences of a military strike against Iran's nuclear programme. This needs to remain a clear priority for the EU. Based on the history of negotiations, however, the E3+3 should go further in defining what a final deal could look like, and provide leadership by outlining steps toward such an agreement. The EU also has a special role to play because, unlike the USA, it can offer step-by-step sanctions relief as an incentive for Iran.<sup>139</sup> Finally, the EU is well placed to frame the conflict over Iran's nuclear programme in a regional context. The EU has tried hard to be an honest broker to prepare a conference on a WMD-free zone that was planned for 2012. Despite the decision to postpone the meeting, it remains one of the best opportunities to address many of the divergent interests that make a resolution of the conflict over Iran's nuclear programme so difficult.

<sup>136</sup> Landler, H. and Cooper, M., 'U.S. officials say Iran has agreed to nuclear talks', *New York Times*, 20 Oct. 2012.

<sup>137</sup> 'Hollande urges Israel to favour diplomacy with Iran', Agence France-Presse, 12 Sep. 2012.

<sup>138</sup> 'Iran temporarily put nuclear bomb ambitions on hold: Barak', Agence France-Presse, 30 Oct. 2012; and Borger, J., 'Window for nuclear diplomacy on Iran is now open but not for long', *The Guardian*, 23 Nov. 2012, <<http://www.guardian.co.uk/world/julian-borger-global-security-blog/2012/nov/23/>>.

<sup>139</sup> US Congress has established high hurdles for the USA to lift sanctions. Under the Iran sanctions act, sanctions can only be terminated 'if the Administration determines that Iran has ceased its efforts to acquire WMD; is removed from the U.S. list of state sponsors of terrorism; and no longer "poses a significant threat" to U.S. national security and U.S. allies'. Katzman, K., *Iran Sanctions*, Congressional Research Service (CRS) Report for Congress RS20871 (US Congress, CRS: Washington, DC, 15 Oct. 2012), p. 9. The EU is under no such domestic limitations.

**ABBREVIATIONS**

E3	France, Germany and the United Kingdom
E3+3	China, France, Russia, the UK, the USA and Germany
ESS	European Security Strategy
FFEP	Fordow Fuel Enrichment Plant
HEU	Highly enriched uranium
IAEA	International Atomic Energy Agency
LEU	Low-enriched uranium
LWR	Light-water reactor
NPT	Non-Proliferation Treaty
TRR	Tehran Research Reactor
WMD	Weapons of mass destruction

## A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

## STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

## MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>



## FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>



## PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>



## INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>



## STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>