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Hanging Together or Hanging Separately? The EU3, the United States and Iran's Nuclear Quest



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IRAN'S NUCLEAR PROGRAM has become the centre of international attention, since the IAEA discovered in 2003 that Iran had been breaching its 'Comprehensive Safeguards Agreement' (CSA) over an extended period of 18 years. As a consequence, starting in August 2003 the French, German and British Foreign Ministers (E3), who were joined in autumn 2004 by Javier Solana (EU3), sought to restore international confidence in the peaceful nature of the Iranian nuclear program. Yet, the European mediation encountered a serious setback in August 2005 when Tehran restarted its uranium enrichment activities after almost two years of suspension, thereby drawing potentially closer to a military application. As a result, the EU3 shifted gear from mediation to coalition building for a sanctions-based strategy.¹

In January 2006, the former EU3 minilateralism was joined by the United States, China and Russia and rechristened the EU3+3. Up to now, this new format has failed to stop Iran's pursuit of a full nuclear fuel cycle capacity, i.e. the ability to enrich uranium and reprocess plutonium. The sanctions imposed in Security Council Resolutions 1737 and 1747 have not altered Tehran's course. Instead, hard

line President Ahmadinejad has tried to inflame Iranian nationalism by making excessive claims about Iran's technical prowess. While this Iranian strategy may eventually backfire, it has already abated the room of manoeuvre for a diplomatic settlement considerably.

In this context, the following article explores the question of which lessons can be drawn from the EU3+3 with Iran experience. Originally, the E3 and EU-3 sought to resolve the conflict over Tehran's suspicious civilian program by restoring confidence in its peaceful nature through suspension of sensitive activities and providing transparency concerning its past transgressions. However, that mediation strategy was doomed to failure because it was inconsistent with basic assumptions about successful mediation in international conflict. Threats and benefits do not, as a rule, generate a stable conflict resolution, if these are not supported by all the major powers concerned, in this case the United States.² Secondly, the EU-3+3 paid insufficient attention to the underspecification of Art IV (Non-proliferation Treaty) that is the inalienable right to engage in full fuel cycle activities by non-nuclear weapon states. In particular, the

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EU-3 did not forge a legally binding consensus on how this norm should be interpreted in the case of an IAEA member state that is in non-compliance with its Comprehensive Safeguards Agreement. Thirdly, and more recently, the EU3 + 3 failed to understand the internal regime dynamics in Tehran with regard to suspension of uranium enrichment as a precondition for a comprehensive settlement.

The argument proceeds in three steps: The first section briefly touches upon the achievements of the EU-3, i.e. suspension, coherence among the major powers concerned, and the restraint imposed/exercised by third parties. The second section is focused on the failures, in order to learn from past experience. The final section concludes that the EU3 and Washington must forge a more consistent diplomatic strategy based on security assurances, limited compromises and strong verification mechanisms, to successfully test Tehran's willingness to cooperate or to lay the groundwork for more and serious economic sanctions. Thus, if the EU3 + 3 fail to hang together more closely, in the end they may hang separately.

Achievements

The first and most important achievement of the E3 has been the so called Tehran

Declaration. Although this was only a one-sided declaration by the E3, it successfully persuaded Iran to sign and implement the additional protocol, to commit itself to answer all outstanding questions with regard to its nuclear past, and most importantly, to temporarily suspend sensitive full-fuel cycle activities. This was all the more significant because the E3 backing by the EU and from the US was limited at the time. In addition, when the Iranians started to back-pedal on their suspension commitment in spring 2004, the E3, through a harshly worded but consensual IAEA Board of Governors' resolution, gained the necessary international backing to press Tehran a bit further. In the resulting Paris Agreement, the now EU-3 tried to reinstate a more comprehensive suspension and effectively succeeded in persuading Iran to postpone enrichment activities for another year.

Some critics of the EU-3 mediation effort argue that suspension was a price the Iranians were happy to pay at the time, because suspension was crucial to persuade the E3 to keep the Iranian case out of the UN Security Council and to complete their uranium conversion program:

'While we were talking with the Europeans in Tehran, we were installing equipment in

parts of the facility in Isfahan... in fact by creating a calm environment, we were able to complete the work in Isfahan. Today, we can covert yellowcake into UF4 and UF6, and this is a very important matter.'³

Delaying Security Council referral while advancing its technical capacity may well have been part of the Iranian calculus, as the interview with Iran's chief nuclear negotiator Rowhani suggests. But three objections to this assertion can be raised: first, technically the Iranians most probably did not advance their enrichment effort as fast as they would have done without suspension; secondly, suspension could also be read as a European delaying tactic. After the Iraq split, the E3 were neither willing nor able to refer Iran in late 2003 to the UN SC anyway. Thirdly, the Rohani interview claim can also be read as trying to cover up the domestic struggle inside Iran between those factions that were willing to take the Europeans/Americans head-on and the more cautious faction that thought that a negotiated settlement was still possible.⁴ In sum, the lesson learned here is that the E3 had been able to build a growing international coalition to prevent the conflict from escalating earlier by considerably slowing down the Iranian enrichment effort.⁵

The second major achievement of the E3 initiative was the growing coherence between the E3, EU-3 and finally the EU3 + 3 position and the signatories of the NPT. To begin with, in late summer 2003 neither all EU member states nor the Bush administration as a whole supported the E3 publicly or pri-

vately. While some European governments suspected another attempt to form a *directoire* (after the 2002 London dinner), the Pentagon, National Security Council and Vice-Presidency were highly sceptical if not hostile vis-à-vis negotiations with the Iranian regime. And yet, in the months to follow the E3 were able to forge an ever more coherent international coalition. Starting with the U.S. Secretary of State Powell, the Big Three persuaded most members of the IAEA Board of Governors to support the E3 mediation effort in 2004 and finally coopted Condoleezza Rice and Stephen Hadley in the winter of 2004. As a consequence, the EU-3 tabled an enhanced negotiation proposal that contained some limited lifting of US sanctions in August 2005.

After Iran had restarted uranium enrichment in January 2006, the EU-3 were joined by Russia and China. Most notably, and despite earlier vocal opposition, Russia supported UN SC 1737 and 1747 that ban, amongst other things, technical and financial assistance to Iran's enrichment, reprocessing, heavy-water and ballistic missile programs. In addition, while the resolution did not touch Russian-Iranian cooperation in finalising the LWR plant in Bushehr, Moscow subsequently did suspend its support for the project. In sum, the E3 proved its capacity as a coalition builder while maintaining some of its credibility as a mediator between that coalition and Iran.

The last major achievement of the EU-3 and the EU-3+3 multilateralism is the continued restraint by third parties, most

importantly Israel but also Saudi-Arabia and Egypt. Some policymakers and pundits argue that Iran can be deterred from attacking its neighbours, but it is hard to imagine any Israeli government agreeing. As a consequence, one conclusion is that past and current Israeli governments have not used pre-emption, as in the case of the Osirak reactor, at least in part because they hoped that the EU-3 (+3) may ultimately succeed in resolving the conflict peacefully. Of course, several considerations factor in the Israeli decision-making process: private US security assurances, the technical status of the Iranian program, the ongoing asymmetrical conflict with Iran's proxy Hezbollah in Lebanon and the stability of the governing coalition in Israel itself. However, it is reasonable to conclude that Israel as well as many other countries were pleased that the E3 prevented a rapid escalation during the period from 2003 to 2005. The same 'buying time' argument also applies to Saudi-Arabia and Egypt, because both have ambitions for regional leadership and a troubled history with the Shiite Islamic regime in Tehran. In the case of an open Iranian nuclear weapons capacity, these states would then face a very difficult choice. Either they acquiesce to a nuclear Iran or they will have to balance that capacity through internal means, i.e. going nuclear themselves, or external means, i.e. acquiring security assurances from a nuclear weapons state such as the US. As both options would involve substantial domestic or foreign costs for the regimes, governments in Cairo and Riyadh sup-

ported the suspension negotiated and extended by the EU-3. In addition, as most Arab states are weary, sceptical or even hostile about US motives in Iraq and the Gulf, Arab neighbours of Iran tend to appreciate the moderating influence of the EU-3 vis-à-vis Washington.

As a consequence, the EU-3+3 through their mediation effort have so far blocked a nuclear domino effect. Notably, starting with the E3, the EU has proven its crisis prevention capacity in the non-proliferation field where its formal competences have been very limited and divisions between non-nuclear weapon states and nuclear weapon states have prevented joint actions and policies in the past.

Failures

Despite these important successes, the EU-3 + 3 initiative has obviously failed to stop the evolving Iranian capacity to enrich uranium, which may be used for military purposes in the medium-term future.⁶

The most important deficit of the EU3+3 initiative has been a lack policy consistency as a precondition for successful mediation. It is worth noting that the E3 got off the ground only after the USG rejected an Iranian offer (through the Swiss government) for a comprehensive settlement. Hence, the E3 filled a vacuum created by the Bush administration that was split in early 2003 between a faction of policy makers who were willing to consider bilateral talks and a majority faction opposed to it. Since then, the EU-3 has been able to slightly shift that balance in Washington's Iran policy.⁷ But several actions taken by the Bush administration

have compromised the EU3's ability to formulate a consistent negotiating position: first, despite repeated Iranian calls, the Bush administration could not agree upon security assurances for the Islamic Republic, even on a contingent basis; second, by negotiating a nuclear cooperation with India, which legitimises a non-NPT member state to pursue nuclear weapons production (with active US support) and hold considerable fissile material outside international safeguards, Washington has made it much harder for the EU-3 to argue that Iran, as an NPT member state without nuclear weapons, must suspend or even forego uranium enrichment and plutonium reprocessing which it had already agreed to place under IAEA safeguards a long time ago. Third, while supporting the EU3 negotiations in general, the Bush Administration has stepped up its diplomatic and military efforts to isolate Iran in the Gulf region. Trying to form an alliance of moderate Arab countries, i.e. Egypt, Jordan, Saudi-Arabia and the Gulf monarchies, arming them with modern weapons systems, ratcheting up the economic pressure on Iran, funding Iranian opposition groups in exile and deploying additional military capacities to the region, may well be a rational and appropriate course of action considering Iran's involvement in Iraq and Lebanon. And yet, it is plausible that these measures did not improve the chances of a negotiated settlement when taken together with the rejection of security assurances for the regime in Tehran. In sum, the lesson to be drawn is that while the E3 was able start a mediation effort and form an impressive

consensus, the EU3 simply cannot guarantee that the United States will not take advantage of Iran's disarmament, if it were to happen, to pursue regime change by force or subversion.⁸

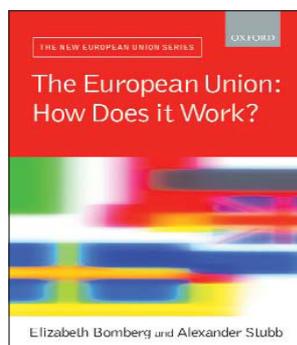
The second major deficit of the EU3+3 effort deals with the ambiguous nature of the norm in Art. IV. To begin with, in both the Tehran statement and Paris Agreement, the EU3 agreed that the Iranian suspension of enrichment and reprocessing were voluntary and non-legally binding. Yet during the negotiations the EU3 also stressed that uranium enrichment and conversion as well as plutonium reprocessing activities were not 'normal activities' in the case of Iran, because it had concealed a lot of activities from the IAEA that could be used to produce nuclear weapons.⁹ In short, in the EU3 reading of Article IV, 1, the inalienable right of all NPT parties to carry out peaceful nuclear activities must be curtailed in cases of non-compliance. The deficit of the EU-3's approach lies in the inability or unwillingness to specify the concrete terms of this curtailment between 2003 and 2006 while the Iranians lacked the technical capacity to enrich uranium. In November 2004, Teheran requested the exemption of 20 centrifuges from the voluntary suspension while reportedly offering to put off uranium hexafluoride (UF₆)

production. In spring 2005, Tehran requested permission to run a 64-centrifuge cascade in exchange for putting off industrial scale enrichment for 10 years. In spring 2006, Iran may have settled for an extended freeze of uranium enrichment with only a 164-centrifuge cascade running.¹⁰ Thus, between 2003 and 2006 there were various opportunities to limit Iran's enrichment effort. While this was certainly a less desirable outcome than the zero-enrichment position taken, zero enrichment, as the mother of all options, has now been overtaken by the technical progress Iran has made.

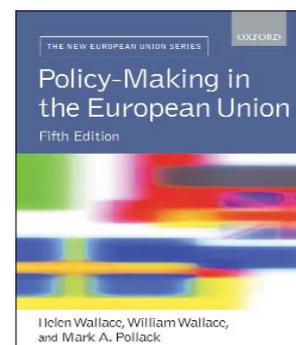
As a consequence, the EU-3+3 have raised the legal bar above which Iran may restart its proliferation sensitive activities at some point in the future. Security Council Resolutions 1696 (31 July 2006), 1737 (23 December 2006), 1747 (24 March 2007) require Iran (under Chapt. VII) to suspend all 'enrichment-related and reprocessing activities, including research and development and work on all heavy-water related projects, including the construction of a research reactor moderated by heavy water' (i.e. Arak).¹¹ A negotiated settlement has become much harder, because, amongst other things, these legally binding council demands require another council resolution by the council

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permitting Iran to restart enrichment and reprocessing. Iran has voiced deep scepticism that the Security Council would ever permit it to recommence these sensitive activities.¹²

Third, now that Iran has at least partially mastered the process to enrich uranium¹³, it is implausible that Tehran will agree to a zero enrichment position, even on a temporary basis: First, there is a broad domestic consensus in Iran that enrichment (and reprocessing) is an inalienable right that cannot and has not been forfeited by Iran. Second, while some policy makers, Rohani and Rafsanjani, have suggested that they may agree to another temporary curtailment of proliferation prone activities, the conservative faction around Ahmadinejad has ruled this out.¹⁴ Finally, as the

conservative forces lost considerable domestic support in the last elections due to their poor economic performance, they are even more inclined to use external conflicts to improve their domestic political standing. The seizure of British soldiers in the Gulf is a case in point here. In sum, and considering the latest compromise proposal in the Larijani-Solana talks in February and April 2007, this reading of the domestic regime dynamics in Tehran suggests that a moratorium on additional centrifuge instalments seems plausible but a 'double suspension' – suspension of all enrichment activities in exchange for the suspension of sanctions¹⁵ – during multilateral talks over an extended period will be much more difficult to implement.

Conclusions: Lessons to be drawn

What does this analysis suggest for the future course of action? First, the EU3 has bought some time for negotiations, but it was ill-prepared to strike a deal. The EU3 simply did not have the 'negotiation power' with all essential positive and negative incentives at its disposal. The lesson for transatlantic cooperation here is: either the EU3 and Washington will hang together even more closely or they will hang separately when diplomacy fails. As a minimum, the EU3+3 need at least Washington's approval of security assurances for the regime. Second, the other important factor to bolster transatlantic cooperation is the ability of the Bush administration to forge a consistent course on Iran. This would

limit Iran's ability to manipulate public opinion and the policies of the non-aligned movement and it would strengthen Europe's confidence in the Bush administration's decision making process. So far that has not been the case. Third, Iran's

technical progress since August 2005 has considerably inflated the price for a negotiated settlement. The EU3+3 sanctions-based strategy may succeed in stopping that progress through Security Council action, but external sanctions will not roll

back the Iranian enrichment effort. Hence, zero-enrichment is no longer a viable policy. The EU3+3 should negotiate 'limited enrichment options' with extensive safeguards and sequential steps to rebuild trust in Iran's nuclear dealings.

Endnotes

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¹⁴ See International Crisis Group (2006): 'Iran: Is there a Way out of the Nuclear Impasse?', *Middle East Report*, no. 51, pp.8-10, http://www.crisisgroup.org/library/documents/middle_east___north_africa/iraq_iran_gulf/51_an_its_there_a_way_out_of_the_nuclear_impasse.pdf [17.06.2007]. See Kane, Chen (2006): 'Nuclear Decision Making in Iran: A rare Glimpse', *Middle East Brief*, Brandeis University, no.5, <http://www.brandeis.edu/centers/crown/publications/MEB/MEB5.pdf> [13.06.2007].

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