

Preventing crisis militarization: the European Union, the United States and the Iranian nuclear program

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Introduction

To prevent another major transatlantic rift besides that over the US-led Iraq intervention, three European states in the summer of 2003 embarked on negotiations with Iran, seeking to impose strict limits on the Iranian nuclear program. The Iraq War, which began in March 2003, had generated an intense debate about when it is legitimate to use force to prevent the proliferation of weapons of mass destruction (WMD), and about what the use of force can accomplish. The debate has often been described as a conflict between the United States, which charted a new unilateral course undermining the UN-based international order, and the rest of the world, which preferred a multilateral approach. Many authors also saw a transatlantic dimension in this debate, pitting European governments as leading protagonists of multilateralism against growing U.S. unilateralism (Fehl 2012; Cronberg 2017).

These depictions are partially wrong and potentially misleading. Historically, the United States, while sometimes resisting multilateral fora, has always actively endorsed other mini- and multilateral fora. This is true for the Bush Jr. administration, the U.S. administration most critical of multilateral rules (Skidmore 2010; Thimm 2016) as well as for the Obama administration (Skidmore 2012). In the non-proliferation realm, the United States has worked through the Nuclear Suppliers Group (NSG) or the newly founded Proliferation Security Initiative (PSI) when it felt the Non-Proliferation Treaty (NPT) was not working (Rathbun 2014). Similarly, when North Korea declared its withdrawal from the NPT in 2003, the U.S. State Department urged the Chinese government to launch the Six-Party process to prevent the crisis from escalating (Harnisch/Roesch 2011). The US has it also launched unilateral cyberattacks against Pyongyang’s ballistic missile program in 2014 (Sanger/Broad 2017).

The current disputes over the instruments to stem proliferation thus look are less about uni-, mini- or multilateralism, and more about what the non-proliferation requires or should require. Similarly, the controversy over the use of force is not only—or even primarily—a transatlantic one. As the analysis below will show, there are many disparate views on this question: within the European Union, within the U.S. administration, and across the international community (Dee 2015). Disagreements about when and under what conditions force should be used are the norm, not the exception (Sarvarian 2014). The more interesting questions are: What do the transatlantic partners think the rules governing the conflict over the Iranian nuclear program are? How have they reconciled potentially diverging interpretations of those rules?

To answer these questions, this chapter explores the disagreements between the transatlantic partners as well as between them and the Iranian and other governments, such as Russia and China. Analytically, this brief survey of transatlantic conflicts begin by identifying three distinct phases of transatlantic discord and cooperation on the Iran portfolio. This is followed

by a discussion of the mechanisms used to solve those disagreements. Many of these were related to two broad problems: First, the scope of Iran's permitted nuclear activities in the past, present, and future. Second, the role of the UN Security Council as a mechanism to legitimize sanctions, both positive and negative. The chapter closes by outlining the implications of this case for the wider question of transatlantic crisis resilience in a period of uncertainty under the Trump administration.

E3/EU and the prevention of crisis escalation

Conflict over non-proliferation policies vis-à-vis Iran have been a constant feature of transatlantic relations for almost four decades (Kemp 1999). Episodes of disagreements have been particularly frequent since 1992, when the EU adopted a strategy of “constructive engagement” vis-à-vis Tehran (Rudolf 1999). The recent, starting in 2002, has been especially virulent, because in 2003 the United States and its coalition partners (among them several European nations) used military force (allegedly) to prevent Saddam Hussein's regime from acquiring WMD. This raised the specter of using military force against other proliferators (Smeland 2004).¹ Moreover, the ongoing disagreement over the meaning and consequences of global non-proliferation norms in the conflict over Iran's nuclear activities is likely to shape the future of the non-proliferation regime, as all major NPT member states have participated directly or indirectly in the P5+1 negotiations (Reardon 2014).

Episode 1: Disagreement over NPT Obligations and UN Involvement

The transatlantic schism over Iran occurred after the National Council of Resistance, an Iranian opposition group, publicized the clandestine construction of a large uranium enrichment facility in Natanz and a heavy-water reactor in Arak. Both facilities could be used for producing weapons-grade material (Uranium-235 and Plutonium-239). Iran had declared neither facility to the International Atomic Energy Agency (IAEA). When IAEA Director El Baradei visited Natanz in late February 2003, just one month before the military intervention in Iraq, he described the facility as “stunning,” prompting the IAEA to reassess Iran's nuclear program (Baradei 2011: 114).

In early May 2003, Teheran reportedly sent a message to Washington through the Swiss government that it was prepared to negotiate a “grand bargain.” Iran offered to address, among other things, concerns about its nuclear program and support for terrorism in exchange for establishing diplomatic relations and lifting economic sanctions. The Bush administration did not respond to the Iranian initiative because it was deeply divided over the question of whether to seek regime-change in Iran (Parsi 2007: 243-257). Instead, Washington called for a non-compliance resolution in the run-up to the September 2003 IAEA Board of Governors meeting (Samore 2005: 2).

The escalating crises in Iraq and Iran (and North Korea) hit the European Union hard in the summer of 2003. Not only were EU member states still of very different minds about the US-led intervention in Iraq—the EU was also in the middle of negotiating a trade and cooperation agreement with Tehran. The European Union addressed the proliferation challenges at a European Council meeting in April and the then General Affairs and External Relations

¹ In addition, the Israeli bombardment of a Syrian nuclear facility in 2007 once again made clear that Jerusalem would use any means to prohibit any Arab state in its neighborhood from acquiring nuclear weapons (Spector/Cohen 2008).

Council meeting in June (Hertwig 2009). Both decisions led directly to the development of the Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction (EU Basic Principles 2003), the adoption of the EU's WMD strategy in the Declaration of the European Council (European Council 2003b), and the first-ever European security strategy titled "A Secure Europe in a Better World" (ESS 2003).

Against this background, British Foreign Secretary Jack Straw contacted his German and French counterparts in the summer of 2003 to discuss the simmering situation in Iran (House of Lords 2005: 20). The so-called E3 would become directly involved in the negotiation process with Iran, taking the lead least in the first period. At the time, the Bush administration, emboldened by initial military success in Iraq, called on the IAEA Board of Governors to directly refer the Iran portfolio to the UN Security Council. Meanwhile, the E3 drafted a compromise resolution, which urged Tehran to accelerate its cooperation with the IAEA and to provide full transparency about its undeclared past activities (Cronberg 2017: Pos. 505). The draft resolution also demanded Tehran accept the Additional Protocol and "suspend all further uranium enrichment-related activities, including the further introduction of nuclear material into Natanz." Moreover, as a confidence building measure, the resolution called for the suspension of any reprocessing activities pending provision by the Director General of the assurances required by Member States and pending satisfactory application of the provisions of the Additional Protocol (IAEA Governors Board 2003).

In this period, the E3 initiative had its critics among EU member states (Corriere della Serra 2004; European Voice 2004a, 2004b). The E3, who coordinated at the level of political directors before, during, and after each meeting with Iran, the United States, Russia, and China, did regularly brief other EU member states. EU documents at the time never officially supported the initiative. And yet, skeptical EU member states, such as Italy, Spain and Portugal, toned down their reservations after EU High Representative Javier Solana joined the E3 in late 2004 to formally represent all other EU members in the E3 group (Harnisch 2007: 9). This became all the more important after Solana (and his successors) started to negotiate with the support of the EU in various fora, including the IAEA Governors Board, and once the EU started to sanction Iran collectively (Hill 2011; Meier 2013).

Senior policymakers in the Bush administration were among the staunchest critics of the E3 initiative. In September 2003, the U.S. administration openly tried to frustrate E3 efforts to enter into direct talks with Tehran while suspending the referral of the Iran dossier to the UN Security Council by the IAEA Board of Governors.² The E3, however, stuck to its "diplomacy-first" approach and persuaded other Board members to forego the referral. For the upper echelons in Washington, the Tehran talks amounted to "European unilateralism" (Ford 2008). While not all decision makers in Washington agreed with Vice-President Cheney, who stated bluntly "we do not negotiate with evil, we defeat it", up until President Bush's trip to Europe in early February 2005, the US at best tolerated the E3's activities (Parsi 2007: 243-257).

In October 2003, the E3 foreign ministers travelled to Tehran. The trip resulted in a joint statement (October 21, 2003), the so-called Teheran Declaration. In it, Iran promised three things: First, it would cooperate fully with the IAEA and resolve all outstanding safeguard

² Working level relations between the EU and the US administration were less contentious; e.g. in May 2003, John Wolf, US Assistant Secretary of State for Non-proliferation, called upon Europeans to use their diplomatic weight to convince Iran to give up its fuel cycle activities (Agence Europe 2005: 7).

issues concerning its nuclear past. Second, it would sign the Additional Protocol, begin the ratification process, and adhere to its provisions pending ratification. Third, Tehran promised to “voluntarily suspend all uranium enrichment and reprocessing activities as defined by the IAEA”.³ In return, the E3 noted that Iran’s compliance with its commitments in the Tehran Declaration, confirmed by the IAEA, would allow for the resolution of the conflict in the IAEA. The E3 also agreed that the full resolution of all outstanding safeguard issues would open the way for longer-term cooperation, potentially including Iranian access to modern technology in a variety of areas (Samore 2005: 4). Moreover, the Europeans also committed themselves to promoting security and stability in the region, including the establishment of a WMD- free zone in the Middle East (Joint Statement 2003).

E3 efforts were not bound to last. By mid-2004, the Iranian side had reneged on two critical promises in the Tehran Declaration: first, Iran resumed the manufacture and assembly of centrifuges and began producing feed material for enrichment, thereby undercutting the E3 interpretation that “all enrichment activities were to stop, including preparatory activities.” Second, Iranian negotiators made clear that the suspension of fuel-cycle activities was only temporary, thereby undercutting the E3’s view that “objective guarantees” of the peaceful intentions of Iran meant the “permanent cessation of all enrichment activities” (Meier 2013: 6).

This put the E3 in an awkward position between Tehran and Washington as the latter two drifted apart. The Bush administration argued that Iran, having repeatedly violated its IAEA safeguard obligations, had permanently forfeited the right to conduct sensitive fuel-cycle activities, including all stages of the enrichment process (Mousavian 2014: 202). The E3 eventually brokered another diplomatic settlement, while remaining reluctant to refer the Iran dossier to the UN Security Council.

The subsequent Paris Agreement (PA) drew important lessons from the failure of the Tehran accord: First, it was a two-sided “agreement” that included the Iranian side. Secondly, the terms and scope of the suspension of uranium enrichment and plutonium reprocessing were much more detailed, and now included procurement, conversion, assembly, production, and testing activities. Thirdly, the agreement called for “objective guarantees” that Iran would not use its nuclear program for military purposes. Fourthly, the PA stipulated that suspension would be essential “while negotiations on a longer-term agreement are under way.” Fifthly, the E3/EU offered more detailed benefits in case of Iranian cooperation, including political and economic inducements such as the resumption of talks on a Trade and Cooperation Agreement (TCA). Finally, the accord committed the parties to setting up a steering committee, which in turn was to convene three working groups on political and security issues (subsequently chaired by the UK), on technology and cooperation (subsequently chaired by Germany), and on nuclear issues (subsequently chaired by France) (IAEA 2004).

The PA temporarily smoothed the ruffled feathers on both sides: Iran again fully suspended enrichment, reprocessing, and all related activities. Now European negotiators could successfully persuade the Bush administration to explicitly support European mediation. Thus, Washington agreed to widen the E3/EU’s room for maneuver by allowing Europeans to offer spare parts for Iran’s dilapidated civilian aircraft fleet and to start negotiations on Iran’s

³ The Teheran Joint Statement did not elaborate on the duration and scope of the suspension, thus leading to conflicting interpretations between Iran and the EU3. Hence, the so-called “Paris Accord” (see below) in December 2004, specified the terms of the Teheran Statement in greater detail.

accession to the WTO (Harnisch/Linden 2005). However, the diplomatic route eventually failed when the conservative administration of the newly elected Mahmoud Ahmadinejad took office and escalated Iran's nuclear activities.

In sum, the E3 primarily served as an agenda-setter, privileging a diplomatic solution for the Iran issue while the United States (and several EU member states) sought a military solution in Iraq. The United States' tolerance for the initiative hinged on the strategic trust that the E3 would fall in line with a more robust policy once diplomatic negotiations had run their course. In the EU, 'domestic opposition' by other member states was overcome by including the High Representative in the negotiations team and by insuring close consultation in the EU Council.

Episode 2: Transatlantic Convergence and Collective Bargaining (2005-2012)

During the second phase, transatlantic approaches towards Iran converged significantly.⁴ Three factors were decisive for this. First, after much haggling, the Bush-administration, under the impression of the worsening security situation in Iraq and the lack of significant Iraqi WMD activities legitimizing the intervention, changed its approach vis-à-vis the EU3 initiative. Beginning in early 2005, Washington gave limited support by offering to partially lift economic sanctions on the delivery of aircraft spares to Iran (Seaboyer/Thranert 2007: 111-114). Second, following the negotiations and agreements in Tehran and Paris, the EU3 and other EU members became convinced that their incentive-based approach needed to be supplemented with more robust instruments and the participation of UN Security Council members. Thirdly, is Iran's growing intransigence, which started already under President Khatami but escalated profoundly after the election of the conservative Mahmoud Ahmadinejad in July 2005 (Harnisch 2007).

Right after the election of President Ahmadinejad, the EU3 in August 2005 tabled a detailed "Framework for a Long-Term Agreement." The plan offered assurances for the supply of low-enriched uranium (LEU) for light-water reactors and proposed to establish a nuclear fuel reserve in a third country. In exchange, the EU3 demanded a binding commitment "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 (Art. 10) (IAEA 2005).

Iran, however, immediately rejected the proposal, arguing that it did not recognize its inalienable right to enrich uranium, and subsequently started further uranium conversion activities. In consequence, the EU and the United States supported a September 2005 IAEA Board of Governors resolution stating Iran's recent nuclear activities "have given rise to questions that are within the competences of the Security Council" (IAEA BoG 2005). When Iran requested the removal of IAEA surveillance equipment from Natanz in early 2006 in order to resume uranium enrichment, EU High representative Javier Solana noted Iran had clearly rejected the EU3 process and the time had thus come for the UN Security Council to reinforce the authority of IAEA resolutions (Meier 2013: 7).

The EU3 became the P-5+1 when the United States, China, and Russia joined, suggesting the added clout of the UN Security Council. In parallel, the EU3's incentive-based strategy shifted towards a dual-track approach of diplomatic offers by the P-5 as well as UN-based and bilateral economic sanctions. With Iran increasing both the quantity and quality of its

⁴ Arguably, the US shifted its position much further into the EU3 direction than the other way around. It follows that critics of the EU position misinterpret the historical data, cf. Kaussler 2012; Sauer 2008.

production capacity and uranium derivatives, the EU3's role also changed. First, the P-5 offered much more diplomatic leverage to the EU3. In turn, the EU3 became a major diplomatic conduit between the Bush and incoming Obama administrations and the much more cautious Russian and Chinese positions (Gianella 2012). As one of Iran's major trading partners, sanctions by the EU and its member states not only hurt the Iranian economy but also signaled European resolve, since several Southern European member states, among them Italy and Greece, had long opposed sanctions due to their extensive economic ties with Tehran (Portela 2015).

Following a Presidential Statement in late March 2006, the UN Security Council adopted Res. 1696 under Chapter VII (July 31), giving the Iranian regime a deadline until August to meet the Council's requests and suspend sensitive fuel-cycle work. Upon Iran's non-compliance, the Council imposed a first round of sanctions in December 2006 (UN SC Res. 1737), which focused on dual-use items for Iran's nuclear and ballistic missile program. The EU and its member states implemented these sanctions, and those imposed by UN Security Council Res. 1747 under Chapter VII, Art. 41 (March), in April 2007. They targeted over 80 Iranian individuals and entities, so that the EU again positioned itself between the "sceptics in the Council" (China and Russia) and the "protagonists in the Council" (the US and partially the UK) (Santoro 2016: 277).

Supplementing the drive towards sanctions was a new EU3+3 offer (June 1, 2006), which had the support of all P-5 states including the United States. The plan had two important novelties: it demanded the suspension of fuel-cycle activities during negotiations, but "offered" a review of that suspension once Iran meets its IAEA obligations. Further, the plan offered Iran part-ownership of a plant in Russia to enrich Iranian-produced uranium (Council of the European Union 2006). Whilst Iran rejected the proposal, setting in motion the Council's sanction regime, Tehran in principle accepted the idea of a consortium handling sensitive fuel-cycle activities to build trust among the parties.

As the EU3's facilitation of convergence among UN Security Council members began to bear fruits with the agreement on Chapter VII resolutions, IAEA Director El Baradei assessed in mid-2007 that Iran was making technical headway, while policymakers especially in the US were set on a sanction-based approach. Therefore, El Baradei signaled, on Iran's initiative, that the IAEA was ready to negotiate a "work plan" to settle some of the outstanding issues in the Iran dossier (Baradei 2011: Chapt. 11). Further ambivalence emerged when a U.S. National Intelligence Estimate became public in November 2007. It suggested Iran "had halted its nuclear weapons program in 2003 while keeping its options open to resume it." On both accounts, the EU3, particularly the UK and France, insisted that even if the plan worked, the dossier could not be closed. Rather, the international community would have to follow through on the dual-track approach (Meier 2013: 11).

The coalition forged in the UN Security Council by the EU3 stuck to its double-track strategy. In March 2008, the UN Security Council adopted Resolution 1803, addressing past weaponization studies and ongoing centrifuge tests. In June, on China's initiative, the P5+1 tabled another proposal, focusing on trading a "freeze of enrichment" against a "freeze of sanctions" to be followed by a suspension of both (US State Dept. 2008). When the Iranian regime finally rejected the proposal, the UN Security Council reaffirmed all previous resolutions by adopting Res. 1835.

The 2008 U.S. presidential elections changed the transatlantic dynamics. The incoming Obama administration supported direct negotiations with Iran without preconditions, bringing the US much closer to the EU3 position. The UK and, under its newly elected President Sarkozy, France became concerned with the US moving to a more conciliatory stance, i.e. allowing for some enrichment as part of a final settlement (Parsi 2012: 10-12). Iran's expanded nuclear capacities, i.e. the number of centrifuges installed at Natanz and the stockpile of 20% enriched uranium, shifted the attention from "zero enrichment" to preventing enrichment to higher levels. In turn, the initiative moved to the U.S. delegation in the summer of 2009, when Iran requested IAEA assistance with the replacement of fuel for its Tehran Research Reactor (TRR), producing uranium enriched almost to 20% (Meier 2013: 12).

After intense internal deliberations, the Obama administration proposed turning much of the low-enriched uranium Iran had produced by October 2009 into fuel for the TRR, so as to increase the time span Tehran would need to produce enough weapons-grade material for a nuclear weapon. And yet, despite crippling economic sanctions, Iranian negotiators could not secure domestic support for this proposal (Fitzpatrick 2011). After intensive negotiations between Iran and the so-called Vienna Group—the IAEA, Russia, France, and the US—, talks on the "October proposal" eventually collapsed over legal and technical concerns, and the initiative fell to Brazil and Turkey (Parsi 2012: 142-143).

In May 2010, Brazilian President Lula da Silva and Turkish Prime Minister Recep Tayyip Erdogan met with Iranian President Ahmadinejad and signed a joint declaration, which obligated Tehran to send 1,200 kg of LEU to Turkey. This LEU was then to be returned as nuclear fuel for the TRR within one year. This time, Western countries objected, arguing that the arrangement would leave Iran with a stockpile large enough to produce a nuclear weapon after additional enrichment. Against the backdrop of Iran's ongoing nuclear activities as well as human rights concerns after the Presidential election protests in the fall of 2009, the UN Security Council adopted a new, harsh resolution on June 9, 2010. It targeted Iran's ballistic missile program and the import of heavy weapons, and also imposed asset freezes and travel bans on additional individuals and companies involved in illicit activities (UNSC Res. 1929).

The situation escalated further before stabilizing in 2013. Unsatisfied with the remit of Res. 1929, the US, the EU, and several other states imposed additional uni- and plurilateral sanctions against the Iranian nuclear, oil, and financial sectors, targeting e.g. the Iranian Central Bank. In addition, in September 2009, the US, the UK, and France revealed that Iran had clandestinely built a Fuel Enrichment Plant in Fordow (FFEP), which was hardened against military strikes. In early 2010, the Israeli government let it be known that it was ready to attack Iranian nuclear facilities. Therefore, U.S. and EU officials had to engage their Israeli counterparts in order to calm the situation (Gibson 2015: 10). After several rounds of talks in Geneva and Istanbul, the EU imposed an oil embargo, hitting Iran hard and triggering the next meeting of the parties in April 2012 (Anthony et al. 2016). At a subsequent meeting in Baghdad, the EU3, now led by High Representative Catherine Ashton, tabled a "stop, shut, and ship" plan. It included the obligation for Iran to cease the production of 20% enriched uranium, close the FFEP, and ship the remaining 20% stockpile out of the country to be turned into fuel for the TRR. And yet, substantial differences remained and no further political negotiations were scheduled (Fabius 2016: 9-10).

Episode 3: Transatlantic “divisions of labor” and the JCPOA (2013-2017)

The situation improved in June 2013 after Hassan Rouhani, an experienced nuclear negotiator and moderate candidate, won the Iranian presidential elections (Gibson 2015: 9). Already in November 2013, the P5+1 and Iran had agreed on a “Joint Plan of Action” (JPA). Under it, Iran was to freeze some of its most sensitive nuclear activities in exchange for a partial sanctions relief. This would buy the parties time for negotiating a more comprehensive agreement. At the time, Iran’s stock of uranium hexafluoride, containing up to 5% uranium-235, would after further enrichment have yielded enough weapons-grade material for as many as eight nuclear weapons. Also, the stockpile of uranium already enriched to 20% meant an even shorter timeframe within which Iran could have amassed sufficient fissile material for a nuclear weapon. Implementing the JPA, Iran converted much of that material for use as fuel in a research reactor located in Tehran (TRR) or diluted it to levels below 5% of uranium-235, thereby exponentially reducing its breakout capacity (Katzmann/Kerr 2017: 5).

After extending the “suspension period” several times, the parties in June 2015 finally announced the “Joint Comprehensive Plan of Action” (JCPOA). The JCPOA limits Iran’s enrichment and heavy water reactor programs for up to 15 years. It also establishes an elaborate monitoring system designed to detect Iranian efforts to produce nuclear weapons in declared or covert facilities. Moreover, the JCPOA also indefinitely prohibits Iranian “activities which could contribute to the design and development of a nuclear explosive device,” including research and diagnostic activities.⁵

An intense back and forth between Iran and the P5+1 as well as among the transatlantic partners characterized the negotiations leading to the JCPOA. Negotiations resumed in earnest only after the election of Hassan Rouhani and the establishment of a common front against the rise of the so-called Islamic State, which created favorable international conditions for subsequent talks (Gibson 2015). In late 2013, while P5+1 experts held technical talks on the first-phase of a settlement, the US and Iran held secret bilateral talks in Oman. There, the US delegation tabled a new framework integrating major parts of a former Iranian proposal, the Zarif-Plan. French Foreign Minister Fabius intervened, criticizing harshly both the content and the procedure of the U.S. proposal. While the P5+1 eventually accepted a revised version of the original proposal, this “backchannel episode” set a competitive tone between the French and the U.S. administration, complicating common EU3 leadership (Fabius 2016: 15-18).

The “backchannel episode” changed the structure of the negotiations. On the one hand, talks between technical experts and principals, i.e. foreign ministers, increased, often involving several meetings in major cities across Europe and the Middle East, e.g. EU-Iran talks in Jerusalem. On the other hand, while national officials, most importantly U.S., British, French and Iranian, now pushed ahead the negotiations, an intricate division of labor emerged among the P5+1 and the EU negotiation teams, including the EU lead negotiator Helga Schmid (de la Baume 2015). While the U.S. team, now supported by U.S. Secretary of Energy Ernest Moniz, an experienced nuclear scientist, focused on Iran’s enrichment capacity and the French team covered “possible military dimensions” issues, the Russian and Chinese negotiators assessed the options for an international consortium to swap parts of the LEU/HEU stockpile in exchange for nuclear fuel and the conversion of the plutonium-based

⁵ The JCPOA and its various annexes are available at: <http://www.consilium.europa.eu/en/policies/sanctions/iran/jcpoa-restrictive-measures/>

reactor in Arak. In the final three months, however, the EU3 negotiating team led by Federica Mogherini and Helga Schmid directed the drafting and final revisions of the JCPOA, which also included in-depth consultations with the IAEA (Fabius 2016).⁶

Resisting crisis: mechanism to cope with transatlantic discord

One persistent source of conflict among transatlantic partners before the Iranian nuclear crisis had been the use and effectiveness of multilateral institutions against proliferation. It follows that one of the key goals of the E3/EU3 initiative was to make “multilateralism effective” again (Portela 2015; Santoro 2016). This meant, on the one hand, the E3 initiative had to ensure convergence between the positions in the European Union, which still suffered from deep divisions over the Iraq conflict. In this exercise, it was crucial that the E3 evolved into the EU3 over the course of 2004 so as to represent other EU member states and to mediate between their diverse positions towards a more robust policy vis-à-vis Tehran. This included both cleavages over non-proliferation norms, e.g. whether Iran had foregone its right to the whole spectrum of fuel-cycle activities forever (Germany opposed vs. France and the UK leaning towards it), and certain policy instruments, most notably economic sanctions (Southern members with extensive business ties opposed vs. northern members in favor). While arguments persisted over the entire period of the negotiations, the EU3 initiative as a new informal institution succeeded, especially in the final phase, in making “EU multilateralism” work, so that it could take over the international leadership function over the course of these events.

Effectuating the EU as a non-proliferation actor allowed the EU3 to ensure several national and international institutions to function in the way the EU intended. First, and most importantly, the EU3 enabled the growing number of skeptics of the Iraq intervention in the Bush administration to first call for tolerance and then express cautious support for the EU’s diplomacy-first strategy. As the fall-out from the ill-conceived Iraq intervention grew, the EU3 provided a promising alternative to the United States’ unilateral course. Then, after the Tehran and Paris agreements had run their course, EU3 engagement provided crucial legitimacy for a more forceful course, ultimately joined, albeit cautiously, by Russia and China.

As David Santoro (2016) has shown, the EU3 also effectuated the IAEA-based compliance procedures of the nuclear non-proliferation regime beginning with the IAEA safeguard procedures, the involvement of the IAEA Board of Governors, and the referral to the UN Security Council, which may in turn use Chapter VII to impose coercive economic and military sanctions (Santoro 2016). Yet in doing so, the EU3 has also shaped a new consensus on the specific meaning of the nuclear non-proliferation norm: What does it mean to prevent a state from becoming a nuclear weapon state? Traditionally, as Hymans and Gratias (2013) have shown, this meant preventing a state from conducting a successful nuclear weapons test. However, over the course of the Iraq, North Korean and Iranian crises, this goalpost has shifted to a new, higher standard: preventing a state from holding a “significant quantity” (SQ) of weapons-grade material.

⁶ On the role of the UN Security Council and Res. 2231 in the implementation process of the JCPOA, cf. Haupt 2016; On the role of the IAEA in negotiating and implementing the JCPOA, cf. Martinelli/Zucchetti 2016.

In the Iranian case, the EU3 has defined the SQ-metric – in close coordination with the US and others – in terms of the timeframe within which a nuclear-capable state can acquire enough weapons-grade material for at least one nuclear device, thereby situating the SQ-metric squarely between the different interpretations of that norm.⁷ On the one hand, restrictive interpretations voiced by the Bush administration's neoconservative faction and Israel hold that Iran and other potential proliferators should be barred from full fuel-cycle activities (uranium enrichment and plutonium reprocessing) that would enable them to produce significant quantities of weapons-grade material.⁸ On the other hand, according to the Russian and Chinese interpretation, while Iran must not have a significant quantity of weapons-grade material, it may conduct full fuel-cycle activities under IAEA safeguards even before past safeguard violations have been clarified. It follows that the JCPOA spells out specific limitations for centrifuge design, the number of centrifuges and centrifuge facilities, levels of enrichment, centrifuge production, and R&D as well as the size of the stockpile and quality of enriched uranium (Katzmann/Kerr 2017: 10-11).

By effectuating the standing procedure of the non-proliferation regime, the EU3 and the Obama administration not only prevented an Israeli strike against the Natanz and Fordow facilities.⁹ The EU3 also set the non-proliferation agenda by developing a public good for the international community in its conflict with Iran. Against the backdrop of the Iraq War and the Libya intervention, non-aligned states have become considerably more skeptical of Western countries' goals, most notably regime change or favorable economic relations. Iran's regime, by quelling opposition forces in 2009 or by kidnapping diplomatic staff, has tried to change the negotiation agenda and to take advantage of it. To resist these and other efforts has therefore been a major achievement of the EU3 initiative.

Another persistent point of contention between the transatlantic partners has been the division of labor and of the costs of leadership (Sperling 2015). After the Iraq debacle, the Bush administration and the Russian and Chinese governments were prepared to cede the policy initiative to the EU so as to avoid more controversy with each other. This was particularly apparent in the UN Security Council. For the Bush administration, the EU initiative posed a small risk: Washington thought the initiative was likely to falter soon and then bring other permanent members around to more robust action against Iran. For China and Russia, the EU3 promised to bring the US back to commit to the UN Security Council, thereby reducing the risk that both nations would have to oppose the US (militarily) outside the Council.

Legitimate leadership goes hand in hand with accepted rules and procedures as well as bearing the costs of rule compliance. So by “gold plating” UN-based sanctions, i.e. adding more severe restrictions when transposing UN-based sanctions into EU law, the EU3 displayed its willingness to pay a (domestic) price for improving the odds of tougher sanctions changing Iran's strategic calculus (Portela 2015: 191). Going beyond UN sanctions certainly helped the EU3 gain acceptance with the US. It may also have signaled to Iran, China, and Russia that the EU3 is not merely a commercial actor when its collective non-

⁷ The timeframe of about one year is related to the time needed for a preemptive strike, the threat thereof, and the preparation for the military consequences of such a strike.

⁸ Over the course of the Iranian crisis, the Israeli government under Prime Minister Netanyahu set the limit at 200 kg of 20% enriched uranium as an intervention point for a preemptive strike against respective Iranian facilities.

⁹ Israel has recently pursued a “preemptive campaign” against a similar, but less advanced nuclear site in Syria.

proliferation interests are concerned. Moreover, to prepare for the worst, e.g. military action, the EU3 had to “create a trail of legitimacy” by demonstrating that diplomacy had run its course and that all other instruments had been tried and retried.

Over the course of the crisis, the division of labor among the P5+1 increased as mutual trust was reestablished after the backchannel episode (see above). Not only did the P5 and Germany agree on an informal division of labor among national governments, e.g. France focusing on PMD and Russia on “nuclear swap mechanisms,” but the EU3 and the High Representative also provided continuous leadership functions. This included the integration of the IAEA and its leadership, after the Agency under Mohammed El Baradei had initiated its own crisis resolution mechanism (the work plan mentioned above) as well as the final drafting of the JCPOA with the Iranian delegation in numerous expert meetings.¹⁰

Applying our third mechanism to resolve transatlantic conflicts—the expansion of the sphere of democracies—to the Iranian case may seem odd. To a large extent, the EU3 initiative has been an attempt to marginalize neoconservative forces in the Bush administration and Congress who propagated regime change in Iran. In this sense, the European initiative was meant to prevent the expansion of the sphere of democracies. After the divisive experience of the US-led intervention in Iraq, E3 foreign ministers concluded that neither would the EU agree on a military-based democratization agenda nor did this agenda have any real chance of success. The failed European-led intervention in Libya and the emergence of the so-called Islamic State only reinforced this lesson of the Iraq war.

That the EU3 has not been focused on extending the sphere of democracies does not mean the initiative has nothing to do with democratic politics. It does. With U.S. leadership in world politics increasingly contested and the U.S. foreign policy debate ever more polarized, the US executive branch has almost lost two important policy tools: the capacity to make treaty-based commitments that bind following administrations and the capacity to fine-tune the application of U.S. and multilateral sanctions. In both cases, as the notorious letter of 46 Republican senators to the Iranian leadership illustrates (see David Santoro’s chapter), the polarized domestic debate in the United States has undercut or at least hampered the capacity of the U.S. president to lead in world politics. While the European Union has its own internal divisions, the application of economic sanctions and the EU’s treaty-making capacity has not been substantially affected by the Iran case. Accordingly, the EU3 could provide important resources to the common transatlantic effort that has enabled the U.S. administration to play a constructive role in mitigating the crisis.

Conclusion

Transatlantic conflicts are inevitable. They are an inherent part of a democratic polity and thus the transatlantic partnership. The real question is how these conflicts are resolved or at least mitigated. For the European Union, the crisis over the Iranian nuclear program stemmed from two interwoven conflicts: the divisive politics of the US-led Iraq intervention and the Iranian challenge to the non-proliferation regime. To reestablish unity or at least compatibility between EU member states has been as important as keeping Iran from becoming a “nuclear

¹⁰ Reportedly, Helga Schmid, the EU3 top negotiator, participated in every US-Iranian bilateral talk, so that the respective member states delegated considerable competences and trust to the EU3 negotiating team, cf. de la Baume 2015.

state.” In this sense, peace among Europeans and peace for Europeans are two sides of the same coin – the European Union’s “effective multilateralism.”

To make “multilateralism effective again” the E3/EU3 served crucial leadership functions in the Iranian nuclear crisis. The group set the agenda (suspension of all enrichment-related and reprocessing activities), represented the different parties concerned (limits on the breakout capacity for an eventual access to fuel-cycle activities), and mediated between the parties by offering sanction relief for transparency and verification. In doing so, the EU3 initiative made multilateral institutions effective again in two ways. First, it created legitimacy by broadening the participation from E3 to EU3 to P5+1 and also including non-aligned states. Secondly, it specified the non-proliferation norms for Iran—a member in clear non-compliance that had allegedly pursued a nuclear weapons program and which now allegedly sought to return to the NPT-regime. The absence of rules and institutions for this case has been (and will probably remain) a persistent source of friction between the transatlantic partners. It remains to be seen how Israel, another democracy with particular threat and security perceptions, will situate itself vis-à-vis the rules-based NPT-regime in the future, as it has regularly asserted and followed through on its right to use force against alleged proliferators.

In the Iranian case, European policy makers have used both alternative formats—the E3/EU3—and various established institutions to circumvent the opposition to a diplomacy-first strategy vis-à-vis Iran by central policy makers in the Bush administration. Over time, with the Iraq intervention turning from bad to worse, it became easier to find “like-minded states” for a negotiated solution. At the same time, it became much harder to actually find a solution as Iranian stockpiles and technological capacity grew. From 2006 to 2012, at least for the United States, the choice was no longer between multilateralism and unilateralism. Rather, the question was which specific solution multilateralism could offer.

In the current phase (see David Santoro’s chapter), the (partial) solution of the JCPOA faces opposition from among and within the parties to the agreement. Compliance is not assured, neither by the United States under Donald Trump nor by Iran. These opposing forces may well bring down the JCPOA, even if the current Israeli government does not act on its instincts. Scholars need to better understand the interaction between domestic and international opposition to multilateral institutions, i.e. why and when those institutions and informal divisions of labor fail. Treating the “other” as a unitary or static actor does not help. Understanding the multiple dynamics that shape transatlantic cooperation may help us to find constructive solutions for intricate policy problems.

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