

The EU-Iran Dialogue in the Context of the Ongoing Nuclear Crisis

Pierre-Emmanuel Dupont¹

Introduction

The EU-Iran ‘Comprehensive Dialogue,’ launched in 1998 following the election of reformist President Khatami, did not achieve any significant results, mostly as a consequences of the controversy surrounding Iran’s nuclear program. It involved high-level discussions on political matters, as well as on energy and commercial relations (through the construction – by the European Commission – of two bilateral *Working Groups*). On the eve of the controversy (2002), despite many difficulties, the EU’s relations with Iran were developing in a positive direction. The negotiation of a *Trade and Co-operation Agreement (TCA)*, linked to a *Political Dialogue Agreement (PDA)*, was well on the way. Seven years later, despite continuous diplomatic efforts, and progress made by the International Atomic Energy Agency (IAEA) and Iran in the verification process of the peaceful nature of Iran’s nuclear infrastructure, EU-Iran relations have significantly degraded, which implies serious consequences in bilateral trade as well as with respect to the regional security situation. The purpose of this paper is to provide a critical analysis of the EU-Iran institutional dialogue framework and to assess the impact of the nuclear crisis on it, before examining prospects for the renewal of the EU engagement.

EU-Iran Dialogue on the Eve of the Nuclear Crisis

2002, which saw the commencement of the current crisis, was also the year when, after a substantial period of relative distance, a comprehensive dialogue between the EU and Iran, in the form of regular meetings, had been re-established. Along with political and strategic issues, this dialogue focused on energy, trade and investment cooperation. A High-level bilateral *Working*

¹ Pierre-Emmanuel Dupont is a researcher in International Law and international relations, focusing primarily on disarmament issues and may be reached at: pierre-emmanuel.dupont.aa@paris.notaires.fr

Group on Energy and Transport was established in 1999, followed in 2000 by a *High-level Working Group on Trade and Investment*. On 7 February 2001, the European Commission (EC) adopted a Communiqué – approved by the Council in May 2001 – setting out the perspectives and conditions for developing closer relations with Iran: having as one key objective the conclusion of a *Trade and Co-operation Agreement* (TCA)². The EC, noting that the “EU is Iran’s largest trading partner,” and that “trade with Iran has enormous potential in view of the country’s rich endowments of petroleum, natural gas, and minerals, as well as agricultural wealth and industrial potential,” stated that “the EU has an interest in encouraging Iran to base its trade on the rules and obligations of the WTO”³.

A mandate for such an agreement was presented by the Commission to the Council in November 2001 and was adopted in June–July 2002. The negotiations for an EC–Iran TCA, linked to negotiations on a Political Dialogue Agreement (PDA), had been launched in Brussels in December 2002.⁴ Subsequently, EU relations with Iran were developing in a positive direction, despite difficulties affecting political issues.

The Origins of the Iranian Nuclear Programme

The Iranian nuclear power program began in 1957, under the rule of Mohammad Reza Shah Pahlavi, and as a US initiative.⁵ Iran was perceived by the US, at that time, as an unconditional ally, eligible for nuclear technology transfers, in accordance to the Eisenhower Doctrine.⁶

In the early 1970s, in view of the results of estimation of its national stock of oil, Iran adopted a program on power-supply source diversification, and established the *Atomic Energy Organization of Iran* (AEOI).⁷ The country de-

² See ‘EU–Iran: Commission proposes mandate for negotiating Trade and Co-operation Agreement’, IP/01/1611, 19 November 2001, <http://ec.europa.eu/external_relations/iran/news/ip01_1611.htm>.

³ ‘EU–Iran: Commission proposes mandate for negotiating Trade and Co-operation Agreement’.

⁴ See ‘The EU’s relations with Iran. Overview’, on the website of the European Commission, <http://ec.europa.eu/external_relations/iran/intro/index.htm>.

⁵ For the historical context, see BARZIN (N.), *L’Economie Politique de Développement de l’Energie Nucléaire en Iran (1957–2004)*, Thesis presented at EHESS, 2004, <www.payre.com/iran/theses/Political_Economy_of_the_Iranian_Nuclear_Industry.pdf>.

⁶ See National Security Council 5906/1, ‘Basic National Security Policy’, 5 August 1959; unclassified in 1996 (White House Office, Office of the Special Assistant for National Security Affairs: Records, 1952–1961, NSC series, Policy Papers subseries, box 27, Dwight D. Eisenhower Library, Abilene, Kansas), p. 9. Quoted by G. Kostrewa-Zorbas, *American Response to the Proliferation of Actual, Virtual, and Potential Nuclear Weapons: Lessons for the Multipolar Future*, (Johns Hopkins University, 1998). See also N. Barzin, *Ibid.*, pp. 46 et seq.

⁷ See G. Ghannadi-Maragheh, ‘Atomic Energy Organization of Iran’, Paper presented at the World Nuclear Association Annual Symposium 2002, World Nuclear Association, 4–6 Sep. 2002, <www.world-nuclear.org/sym/2002/ghannadi.htm>.

veloped an ambitious plan to build 22 nuclear power reactors.⁸ On the eve of the 1979 Islamic Revolution several agreements for implementing the Iranian nuclear program had been signed between the AEOI and various US, German and French firms. The nuclear power program was significantly slowed due to the victory of the Islamic Revolution, particularly because of the denunciation of nuclear contracts between Iran and Western countries, and afterwards due to the consequences of the Iran-Iraq war (1980-1988).

During the second half of the 1980s, after attempts to renew contacts with the European countries failed, Iran actively began to develop a cooperative relationship with China in the field of nuclear energy,⁹ but the US pressured China to cancel its offers. During the same decade Iran also turned to the USSR for the purchase of nuclear plants¹⁰.

By the mid 1990s, under US pressure, practically all countries (with the above-mentioned exception of Russia), capable of exporting nuclear equipment and technologies, had refused to cooperate with Iran in the field of nuclear energy.¹¹

The Road to the Tehran Agreement (2002–2003)

In 2002, Khatami announced plans “to construct, over the next 20 years, nuclear power plants with a total capacity of 6000 Mega Watts (MW) as part of a long-term energy policy to make up for the expected depletion of Iran’s extensive fossil fuel reserves”¹².

⁸ See D. Poneman, *Nuclear Power in the Developing World* (George Allen & Unwin, London, 1982), p. 86, 92; A. Hessing Cahn, *Determinants of the Nuclear Option: The Case of Iran, Nuclear Proliferation in the Near-Nuclear Countries* (Ballinger Publishing Co., Cambridge, 1975).

⁹ Khlopkov, A., ‘Iran’s Nuclear Program in the Russia-US Relations’, *Yaderny Kontrol (Nuclear Control) Digest*, Vol. 8, No.3-4 (Summer/Fall 2003), p. 4, available at <http://pircenter.org/data/publications/ykd12-2003.pdf>.

¹⁰ See BARZIN (N.), *Ibid.*, pp. 197 sq. See also Orlov, V.A., and Vinnikov, A., ‘The Great Guessing Game: Russia and the Iranian Nuclear Issue’, *The Washington Quarterly*, Vol. 28, No. 2 (spring 2005), pp. 49–66.

¹¹ Khlopkov, A., ‘Iran’s Nuclear Program in the Russia-US Relations’, p. 59.

¹² See Statement by H.E. Reza Aghazadeh, President of the Atomic Energy Organization of Iran, at the 46th General Conference of the International Atomic Energy Agency, Vienna, 16 Sep. 2002, <<http://www.iaea.org/About/Policy/GC/GC46/iran.pdf>>. Also referred to in IAEA DG Report to the Board of Governors, ‘Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran’, GOV/2003/40, 6 June 2003, par. 2, <http://www.iaea.org/Publications/Documents/Board/2003/gov2003-40.pdf>. The mere fact that Iran needs to develop nuclear energy has been challenged by some (See e.g. See T. W. Wood *and al.*, ‘The Economics of Energy Independance for Iran’, 14 (2007) *The Nonproliferation Review*, No. 1, available at www.cns.miis.edu/pubs/npr/vol14/141/141wood.pdf), while others have admitted that the previsible decline of Iranian oil production will threaten in the near future the country’s development (e.g. See Roger Stern, ‘Iranian petroleum crisis and United States

At the same time, according to Kile, evidence began to emerge [...] that the Atomic Energy Organization of Iran had engaged in sensitive nuclear fuel cycle activities, including uranium enrichment and plutonium separation, without declaring them in a timely manner to the IAEA, as it was required to do under the terms of its full-scope safeguards agreement.¹³

This information “gave rise to concern in Europe and the USA that Iran was attempting to put into place, under the cover of a civil nuclear energy programme, the fuel cycle facilities needed to produce fissile material—plutonium and enriched uranium—for a clandestine nuclear weapon programme.”¹⁴ The evidence originated primarily from an Iranian opposition group, which in August 2002, accused the Iranian government of building two secret nuclear sites, a nuclear production plant and research lab at Natanz and a heavy water production plant at Arak¹⁵.

Due to the unfolding nuclear crisis, negotiations between the EU and Iran for the TCA were suspended in June 2003. Since the end of 2003 however, three EU members; France, Germany and the United Kingdom – the so-called ‘EU3’ – acting through the EC, and with the High Representative for the EU’s Common Foreign and Security Policy (HR/SG) Javier Solana, took over EU leadership of negotiations with Iran in an attempt to resolve the crisis.¹⁶ On 21 October 2003, agreement, known as “Tehran Agreement”¹⁷ was reached, which was considered “a major diplomatic achievement for Europe: the premiere of an EU speaking with one voice and wielding ‘soft power’ to good effect. The agreement effectively positioned the EU/EU3 between the two main protagonists – Iran and the US – as well as strengthened the role of the IAEA.”¹⁸ Under this agreement the Iranians pledged to temporarily suspend uranium enrichment and cooperate with the IAEA, and the EU recognized “the right of Iran to enjoy peaceful use of nuclear energy in accordance with the NPT”, assumed that “once international concerns (...) are fully resolved Iran could

national security’, *Proceedings of the National Academy of Sciences* (PNAS), Vol. 104, No. 1, pp. 377-382).

¹³ Kile, S. N., ‘Nuclear arms control and non-proliferation’, *SIPRI Yearbook 2005: Armaments, Disarmament and International Security* (Oxford University Press, Oxford, 2005), p. 555.

¹⁴ Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2005*, p. 555.

¹⁵ See ‘Group: Iran’s Nuke Program Growing’, The Associated Press, 15 August 2002; in *New York Times*, <<http://www.nytimes.com/>>.

¹⁶ Kile, S. N., ‘Nuclear arms control and non-proliferation’, *SIPRI Yearbook 2006 : Armaments, Disarmament and International Security* (Oxford University Press, Oxford, 2006), p. 618.

¹⁷ ‘Statement by the Iranian Government and visiting EU Foreign Ministers’, 21 October 2003, available at <http://www.iaea.org/NewsCenter/Focus/IaeaIran/statement_iran21102003.shtml>.

¹⁸ Jan de Pauw, ‘Iran, the United States and Europe: The Nuclear Complex’, 5 December 2007, <http://www.globalpolicy.org/security/sanction/iran/2007/1205iranuseu.htm>.

expect easier access to modern technology and supplies in a range of areas.” Unfortunately, over the ensuing months, and despite the fact that Iran signed the NPT Additional Protocol on Nuclear Safeguards on 18 December 2003,¹⁹ “the deal became mired in disputes over the length and scope of application of the moratorium amid allegations of bad faith from both sides”²⁰.

The EU’s Diplomatic Momentum (2004–2005)

Throughout 2004, the EU3 resisted the US demand that the Iran nuclear issue be placed under UN Security Council’s (UNSC) competences. They argued that Iran’s latest steps warranted a more conciliatory approach²¹. They also argued that a referral to the UNSC would be premature and possibly counter-productive as it may spur Iran to disengage from its cooperation with the IAEA or withdraw from the NPT altogether.

The disagreement between the EU3 and the US over the UNSC referral highlighted fundamental differences over respective strategies for addressing WMD proliferation and the risks and challenges posed by WMD. Some analysts have portrayed the issue as posing a crucial test to the credibility of the EU’s multifunctional strategy of ‘conditional engagement’: specifically, whether that strategy – which includes the prospect of improved political and economic ties, but also, if necessary, the imposition of sanctions – can deliver real and sustainable results in addressing concerns about Iran’s nuclear activities.”²² In doing so, the EU formulated “an alternative approach to US policy regarding the use of force to address proliferation challenges”²³.

In autumn 2003, intense negotiations were held between Iran and the EU3, with the participation of Javier Solana. “The main issue was the E3’s demand that Iran completely suspend its uranium enrichment programme.”²⁴ A new agreement, known as “Paris Agreement”, was reached on 14 November 2004, stating *inter alia* that Iran had decided, on a voluntary basis, to continue and extend its suspension to include all enrichment related and reprocessing activities. The suspension would be sustained “while negotiations proceed on a

¹⁹ See ‘Iran Signs Additional Protocol on Nuclear Safeguards. Signing Ceremony Takes Place at IAEA’, 18 December 2003, <<http://www.iaea.org/NewsCenter/News/2003/iranap20031218.html>>.

²⁰ Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2005*, p. 561.

²¹ ‘US, Iran face off over EU nuclear draft: diplomats’, ABC News, 23 Nov. 2004, <<http://abcnews.go.com/International/print?id=276168>>.

²² Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2005*, p. 563-564.

²³ G. Quille and R. Keane, ‘The EU and Iran: towards a new political and security dialogue’, in S. Kile (ed.), *Europe and Iran. Perspectives on Non-proliferation* (Oxford, Oxford University Press, 2005), pp. 112.

²⁴ Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2005*, p. 561-563.

mutually acceptable agreement on long-term arrangements.”²⁵ The aim of the long-term agreement on suspension was to provide ‘objective guarantees’ that Iran’s nuclear programme was exclusively for peaceful purposes as well as guarantees regarding nuclear, technological and economic cooperation between the EU and Iran and “firm commitments on security issues.”²⁶ The agreement “called for negotiations to be launched by an E3–Iranian steering committee, which was also responsible for setting up working groups on political and security issues, technology and economic cooperation, and nuclear issues”; following this agreement and as a result, in January 2005 the EU–Iran TCA negotiations resumed.²⁷

As noted by Kile, “The 2004 E3–Iran suspension agreement has come under criticism, particularly in Israel and the USA”. And in 2005, the year during which Mahmoud Ahmadinejad was elected as the new Iranian President, “the international controversy over the scope and nature of Iran’s nuclear programme intensified.”²⁸ At the beginning of 2005, the main point of contention in the Iran–EU3 negotiations “continued to be the future of Iran’s enrichment programme.”²⁹ Kile goes on to argue that

The E3 insisted that Iran accept a complete and permanent cessation of the programme. They argued that this was the only meaningful ‘objective guarantee’ that Iran’s nuclear activities were exclusively for peaceful purposes. At the same time, they recognized Iran’s right to develop nuclear energy and pledged to facilitate Iran’s access to nuclear technology and fuel. This included a promise to support Iran’s acquisition of a light-water research reactor to replace the heavy-water reactor under construction at Arak.³⁰

As anticipated, the EU demand implied a permanent cessation of Iran’s uranium enrichment programme, a demand that was categorically rejected by Iran. According to Kile,

[Iranian officials] said that the E3 had accepted in the Paris Agreement that suspension of Iran’s enrichment activities was a temporary measure. They also emphasized that, as a nonnuclear weapon state party to the NPT, Iran was legally entitled to develop sensitive nuclear fuel-cycle facilities,

²⁵ See ‘Iran–EU Agreement on Nuclear Programme’, 14 November 2004, <www.iaea.org/NewsCenter/Focus/IaeaIran/eu_iran14112004.shtml>.

²⁶ Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2005*, pp. 561–563.

²⁷ Ibid, pp. 561–563.

²⁸ See Kile, S. N., ‘Nuclear arms control and non-proliferation’, in *SIPRI Yearbook 2006*, p. 618.

²⁹ Ibid, p. 619.

³⁰ Ibid, pp. 619–620.

including uranium enrichment, as part of its civil nuclear programme. Iranian officials stated repeatedly that the country would restart enrichment activities, with appropriate assurances about their peaceful purpose, once the remaining safeguards issues had been resolved.³¹

In May, Iran proposed a 'general framework' for resolving the nuclear controversy. The Iranian proposal met with a firm refusal, as it would have allowed Iran to maintain a limited uranium enrichment capability in exchange for new, intrusive transparency measures. EU negotiators "refused to deviate from their position that Iran must permanently suspend all enrichment-related activities, including uranium conversion."³² In August 2005 Iran resumed uranium conversion activities at Isfahan. The EU considered this resumption a breach of the Paris Agreement. Days later the EU/E3 made a formal proposal, demanding that Iran stop developing its nuclear fuel cycle and place all its nuclear work under tight safeguards, in exchange for a package of incentives. This offer received an aggressive response. As noted by Brzoska, Neuneck and Meier,

Although the far-reaching offer the EU-3 extended to Iran in August 2005 was economically attractive, it neither alleviated the Iranian government's fear of military action, nor did it open the way to what would have been a highly symbolic offer of compensation to the Iranian government for suspending its enrichment programme. Money and fine words were not enough for Iran to voluntarily constrain its right to the peaceful use of nuclear power, as guaranteed in the Nuclear Nonproliferation Treaty (NPT).³³

In September 2005, the IAEA demanded that Iran cease its conversion activities. The subsequent negotiations between Iran and the EU/EU3 on the nuclear issue "broke down after having made little progress,"³⁴ while TCA and PDA negotiations were suspended again by the Commission.

³¹ Kile, S. N., 'Nuclear arms control and non-proliferation', in *SIPRI Yearbook 2006*, p. 620. See the speech of the main Iranian negotiator in 2004, Supreme National Security Council (SNSC) secretary Hassan Rowhani, on 30 November 2004 : having in mind that Europe and the US "both believe that Iran should not get involved in the nuclear fuel cycle activities", he stated that "if the negotiations fail to recognize our rights to the effect, we will proceed with our activities", 'Rowhani: Europe, US disfavor Iran's involvement in nuclear fuel cycle activities', IRNA, 30 November 2004, available at <www.globalsecurity.org/wmd/library/news/iran/2004/iran-041130-irna06.htm>.

³² Kile, S. N., 'Nuclear arms control and non-proliferation', in *SIPRI Yearbook 2006*, p. 621.

³³ Michael Brzoska, Götz Neuneck, and Oliver Meier, 'Diplomatic Means Have not been Exhausted: Against Alarmism in the Conflict over Iran's Nuclear Programme', Paper presented at the Joint Conference of the Pugwash Conferences and the Center for Strategic Research, on 'Iran's Nuclear Energy Program: Policies & Prospects', Tehran, 25 April 2006, available at <www.pugwash.org/reports/rc/me/tehran2006/neuneck.pdf>.

³⁴ Kile, S. N., 'Nuclear arms control and non-proliferation', in *SIPRI Yearbook 2006*, p. 619.

A Deepening of the Crisis (2006–2007)

In January 2006, Iran recommenced the enrichment process. This decision, following the August 2005 resumption of uranium conversion, was portrayed by France, Germany and the UK as “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 (...)” as well as “a further challenge to the authority of the IAEA and international community”³⁵. As a consequence, the month after, the nuclear file was submitted to the UNSC. On 4 June 2006, following a meeting in Vienna, the five permanent UNSC members and Germany (the so-called P5+1 countries) offered “a package of incentives” previously agreed at the ministerial meeting in Vienna on 1 June 2006, aimed at encouraging Iran to give up its nuclear enrichment activities. Iran claimed the offer contained ‘ambiguities’ and, flouting the deadline to respond by the end of July, said it would respond by 22 August. This delay provided grounds for the US and the EU/E3 to secure a UNSC meeting, and on 31 July 2006, UNSC Resolution 1696 was adopted.³⁶

Despite US calls for the immediate imposition of sanctions, other members of the UNSC appeared reluctant to take further steps. As the EU set a two-week deadline for Iran to clarify its position, two separate tracks emerged, with the US lobbying for sanctions while the EU, China and Russia advocated continued dialogue.

During September 2006, Solana, held talks in Vienna and Berlin with Ali Larijani (Head of Iran’s Supreme National Security Council), while the US and five other states (France, Britain, Germany, China and Russia) decided to set another deadline in early October 2006 for the suspension of uranium enrichment by Iran.³⁷ After Solana noted Tehran’s “lack of openness with regard to suspension of enrichment,” the talks were broken off. In October, the three European Foreign Affairs Ministers and their US’, Chinese and Russian counterparts (E3+3) met in London to hear Solana’s report. They decided to resume the course charted by resolution 1696, and to initiate the consultations required to adopt measures under article 41. On 23 December 2006 Resolution 1737 (2006) was adopted unanimously by the UNSC,³⁸ which made the suspension of all enrichment, and heavy water-related activities in Iran compulsory.

³⁵ See IAEA Information Circular, ‘Communication dated 13 January 2006 received from the Permanent Missions of France, Germany and the United Kingdom to the Agency’, INFCIRC/662, 18 January 2006, at <www.iaea.org/Publications/Documents/Infcircs/2006/infcirc662.pdf>.

³⁶ UNSC Resolution 1696 (2006), Full text at <www.daccessdds.un.org>.

³⁷ See ‘Early October New Deadline for Iran’, *Washington Post*, September 21, 2006, A15, <www.washingtonpost.com>.

³⁸ UNSC S/RES/1737 (2006), available at <www.iaea.org/NewsCenter/Focus/IaeaIran/unsc_res1737-2006.pdf>.

Uncertainties about the Development of the Crisis (2007 to the present)

On 24 March 2007, noting Iran's failure to implement its demands contained in resolution 1737 (2006), and in light of the IAEA's 22 February 2007 report³⁹, the UNSC unanimously adopted Resolution 1747, which reaffirmed the obligations imposed on Iran in resolution 1737 to suspend its "proliferation sensitive nuclear activities," added to the list of entities and individuals targeted for financial sanctions, imposed a ban on all arms exports from Iran, and called upon states and financial institutions to not enter into new financial arrangements with Iran. Prior to the adoption of the resolution, several Iranian officials including President Ahmadinejad, Foreign Minister Mottaki, and Iran's Chief Nuclear Negotiator, Ali Larijani reaffirmed, in separate statements, that Tehran was open to formal negotiations on its nuclear program, but that unconditional suspension of uranium enrichment should not be considered a prerequisite to the talks.⁴⁰ For its part, the US immediately renewed its calls for the strengthening of sanctions against Iran.⁴¹

Nevertheless, the situation, which was quite tense during Spring 2007, with new threats of military intervention against Iran being voiced by several US officials, was about to change significantly. Indeed, negotiations resumed a few weeks after the 24 March Resolution, between Iran and Solana, while IAEA teams continued inspecting nuclear facilities in Iran. On 24 June 2007, the IAEA Director General met with the Secretary of the Supreme National Security Council of Iran (SNSC):

During that meeting, it was agreed that, within the following 60 days, a plan should be developed on modalities for resolving the remaining safeguards implementation issues, including the long outstanding issues (GOV/2007/22, para. 9). The modalities were discussed in meetings, led by the Deputy Director General for Safeguards and the Deputy Secretary of the SNSC, which took place on 11–12 July 2007 and 20–21 August 2007 in Tehran, and on 24 July 2007 in Vienna. On 21 August 2007, a plan (hereinafter referred to as the "work plan"), which includes understandings between the Secretariat and Iran on the modalities, procedures and timelines for resolving these matters, was finalized.

³⁹ International Atomic Energy Agency, "Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolution 1737 (2006) in the Islamic Republic of Iran: Report of the Director General," GOV/2007/8, February 22, 2007, at <www.iaea.org>.

⁴⁰ See 'Iran defiant on nuclear programme', BBC, 21 February 2007, available at <www.nti.org/e_research/profiles/Iran/Nuclear/1825_6349.html>.

⁴¹ See 'U.S. urges sanctions against Tehran', *The Washington Times*, 16 May 2007, <www.nti.org/e_research/profiles/Iran/Nuclear/1825_6349.html>.

It was however a surprise for many when on 27 August 2007, after several rounds of talks were held throughout the summer, the IAEA circulated the text of a document entitled “Understandings of the Islamic Republic of Iran and the IAEA on the Modalities of Resolution of the Outstanding Issues.”⁴² A few days after, a new IAEA DG report was released. While deploring that contrary to the decisions of the SC, “Iran has not suspended its enrichment related activities, having continued with the operation of PFEP, and with the construction and operation of FEP (and) is also continuing with its construction of the IR-40 reactor and operation of the Heavy Water Production Plant,”⁴³ the report confirmed that several outstanding issues *were* either being resolved (Plutonium Experiments), or on the way to being resolved (Acquisition of P-1 and P-2 Centrifuge Technology). Moreover, as part of the August 2007 Work Plan, Iran had pledged to provide, over the course of the next few months, answers to written questions from IAEA, as well as clarifications and access to information, as regards the remaining outstanding issues.

Far from welcoming this development, the main parties involved in the nuclear controversy, the US as well as the EU3, appeared determined to carry on an uncompromising policy towards Iran. On 28 September 2007, following a meeting in New York hosted by (then) Secretary of State Condoleezza Rice, the Foreign Ministers of Russia, China, Britain, France, Germany and the US, and Solana, issued a joint statement⁴⁴ on Iran’s nuclear program.

This document stated that a resumption of negotiations with Iran “on a comprehensive long-term agreement” required that Iran “fully and verifiably suspend its enrichment-related and reprocessing activities, as required by UNSC Resolutions 1737 and 1747”. It recalled that : “The Security Council has offered Iran the possibility of “suspension for suspension” - suspension of the implementation of measures if and for so long as Iran suspends all of its enrichment-related and reprocessing activities, as verified by the IAEA. (...).

⁴² IAEA Information Circular (INFCIRC/711), ‘Communication dated 27 August 2007 from the Permanent Mission of the Islamic Republic of Iran to the Agency concerning the text of the “Understandings of the Islamic Republic of Iran and the IAEA on the Modalities of Resolution of the Outstanding Issues”’, <www.iaea.org/Publications/Documents/Infircs/2007/infirc711.pdf>.

⁴³ International Atomic Energy Agency, “Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolution 1737 (2006) in the Islamic Republic of Iran: Report of the Director General,” GOV/2007/48, 30 August 2007, par. 3-8 and 25, <www.iaea.org/Publications/Documents/Board/2007/gov2007-48.pdf>.

⁴⁴ ‘P5+2 Statement on Iran’, September 28, 2007, <www.state.gov/r/pa/prs/ps/2007/sep/92944.htm>; See ‘Split in group delays vote on sanctions against Iran’, International Herald Tribune, September 28, 2007, <www.iht.com/articles/2007/09/29/africa/29iran.php>; ‘Sanctions for Tehran are delayed at the UN’, International Herald Tribune, September 29-30, 2007, p. 1. See also a comment by R. Nicholas Burns, Under Secretary for Political Affairs in the U.S. Department of State: ‘On-the-Record Briefing After Secretary Rice’s Meeting with the P-5 Plus Germany Plus EU’, September 28, 2007, <www.state.gov/p/us/rm/2007/92953.htm>.

In view of the fact that Iran has not fulfilled the requirements of UN Security Council Resolutions 1737 and 1747, including the suspension of its enrichment and reprocessing activities”, the P5+2 have agreed “to finalize a text for a third UN Security Council Sanctions Resolution under Article 41 of Chapter VII of the Charter of the United Nations with the intention of bringing it to a vote in the UN Security Council”. These new sanctions are to be voted unless the reports of the European Union’s High Representative for Common Foreign and Security Policy Dr. Solana⁴⁵ and IAEA Director General Dr. El Baradei⁴⁶, both expected for November 2007, show “a positive outcome of their efforts⁴⁷.”

EU envoy Javier Solana and the new Iranian negotiator Said Jalili met on 30 November 2007 in London to discuss renewed negotiations on Iran’s nuclear programme. Solana later described the talks as “disappointing”⁴⁸. E3+3 political directors met on 1 December and agreed that, since there was no new opening from Iran, work on elements of a new resolution should start. As a consequence, the Brussels European Council of 14 December 2007 reaffirmed the mandatory nature of suspension, stating that:

82. The European Council reaffirms its deep concern at Iran’s nuclear program and underlines that the acquisition by Iran of a nuclear military capability would be unacceptable. In this regard, it deplores that Iran has still not complied with its international obligations as reiterated in UNSC Resolutions 1696, 1737 and 1747, to suspend all enrichment-related and reprocessing activities in order to restore confidence in the entirely peaceful nature of its programme.

83. The European Council furthermore regrets that neither High Representative of the EU Javier Solana, following his discussions with the Iranian nuclear negotiator, nor the Director-General of IAEA Mohamed El Baradei were able to report a positive outcome, particularly in the fulfilment by Iran of the requirements of the UN Security Council.

84. The European Council calls upon Iran to provide full, clear and credible answers to the IAEA, to resolve all questions concerning Iran’s nuclear

⁴⁵ The Joint Statement asks Dr Solana “to meet with Dr. Ali Larijani, Secretary of Iran’s Supreme National Security Council, to lay the foundation for future negotiations”.

⁴⁶ “We look forward to DG El Baradei’s November report to the IAEA Board of Governors on the level, scope, and extent of Iran’s cooperation and transparency” (“P5+2 Statement on Iran”).

⁴⁷ ‘P5+2 Statement on Iran’.

⁴⁸ See ‘EU ‘disappointed’ by Iran talks’, International Herald Tribune, 30 November 2007, <www.iht.com/articles/2007/11/30/africa/iran.php?WT.mc_id=rssafrica>.

activities, to ratify and implement the Additional Protocol and to fully implement the provisions of the Comprehensive Safeguard Agreement, including its subsidiary arrangements. It emphasises that carrying out these actions and the transparency measures as requested by the IAEA would constitute a positive step to build confidence concerning Iran's nuclear programme.

85. The European Council reaffirms its full and unequivocal support for efforts to find a negotiated long-term solution to the Iranian nuclear issue and underline that the proposals presented by the High Representative on 6 June 2006 would give Iran everything it needs to develop a civil nuclear power industry while addressing international concerns.

86. The European Council reiterates its full support for the work in the UN Security Council to adopt further measures under Article 41, Chapter VII, of the UN Charter and recalls that, following the General Affairs and External Relations Council conclusions on Iran of 15 October, consideration has begun on additional measures that might be taken in support of the UN process and the shared objectives of the international community. In light of the upcoming decisions to be taken by the UN Security Council, the next General Affairs and External Relations Council will decide what action the EU will take⁴⁹.

However, at the same time Russia appeared to sow confusion when it delivered its first shipment of nuclear fuel to the Bushehr Reactor (December 2007); subsequent shipments were made during January 2008, in order to allow Iran to begin operating the facility in summer 2008.⁵⁰ Meantime, the process of resolution of the remaining outstanding issues gained momentum. On 13 January 2008, the IAEA announced that Iran had agreed to answer all remaining questions about past nuclear activities within four weeks⁵¹. But while the outcome appeared imminent, intense pressure was put on the IAEA. In the beginning of February 2008, it was reported that the forthcoming IAEA's report on Iran's compliance with the August 2007 Iran-IAEA work plan to resolve the last of the outstanding issues would be delayed due to internal disagreements over the report's expected conclusions that the major issues had been resolved⁵².

⁴⁹ Presidency Conclusions of the Brussels European Council (14 December 2007) available at <www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/97669.pdf>.

⁵⁰ See 'Russia ships nuclear fuel to Iran', *International Herald Tribune*, 17 December 2007, at <www.iht.com/articles/2007/12/17/africa/17iran.3.php>.

⁵¹ See 'Iran tells UN it will answer all nuclear questions within four weeks', *International Herald Tribune*, 13 January 2008, <www.iht.com/articles/2008/01/13/africa/iran.php>.

⁵² See 'Disagreements could delay Iran nuclear report: diplomats', *Agence France Presse*, 11 February 2008.

On 21 February 2008, The UNSC began formal consideration of a new draft resolution introduced by the UK and France, imposing restrictions on cargo to and from Iran, travel bans, the freezing of assets for people involved in the nuclear programme and tightened monitoring of Iranian financial institutions⁵³. The next day, IAEA DG Mohamed ElBaradei circulated his latest report to the Agency's Board of Governors, which stated that

The Agency has been able to conclude that answers provided by Iran, in accordance with the work plan, are consistent with its findings — in the case of the polonium-210 experiments and the Gchine mine — or are not inconsistent with its findings — in the case of the contamination at the technical university and the procurement activities of the former Head of PHRC. Therefore, the Agency considers those questions no longer outstanding at this stage. (...).⁵⁴

As a consequence, the one major remaining issue, according to the report, was “the alleged studies on the green salt project, high explosives testing and the missile re-entry vehicle.”

The Agency considered it “a matter of serious concern and critical to an assessment of a possible military dimension to Iran's nuclear programme”, but however pointed out that “it should be noted that the Agency has not detected the use of nuclear material in connection with the alleged studies, nor does it have credible information in this regard”⁵⁵. Ultimately, the major IAEA request was that Iran implement the AP “at the earliest possible date and as an important confidence building measure requested by the Board of Governors and affirmed by the Security Council.”⁵⁶

The report, released in the wake of widespread and unprecedented criticism against the work of the IAEA and its DG, voiced by officials of several Western states as well as by many in the media, was considered a victory in Iran, where Jalili, Secretary of the SNSC, portrayed it as “another official document proving the righteousness of Iran's claims that all our nuclear projects are solely peaceful.”⁵⁷ For mainstream Western media outlets – to the contrary – the IAEA report “highlighted Iran's lack of credible answers to intelligence about explosives and missile design work relevant to making atomic bombs,” and

⁵³ See ‘Security Council weighs new sanctions on Iran’, International Herald Tribune, 22 February 2008, at <www.ihf.com/articles/2008/02/22/news/22nations.php>.

⁵⁴ International Atomic Energy Agency, “Implementation of the NPT Safeguards Agreement and Relevant Provisions of Security Council Resolutions 1737 (2006) and 1747 (2007) in the Islamic Republic of Iran: Report by the Director General,” GOV/2008/4, 22 February 2008, para. 53, at <www.isis-online.org/publications/iran/IAEA_Iran_Report_22Feb2008.pdf>.

⁵⁵ International Atomic Energy Agency, *Ibid.*, para. 54.

⁵⁶ International Atomic Energy Agency, *Ibid.*, para. 55.

⁵⁷ See ‘Jalili: IAEA Iran report nullifies west claims’, IRNA, 22 February 2008, at <www2.irna.ir/en/news/view/line-24/0802228236195454.htm>.

could “be branded negative on balance by big powers and spur the UN Security Council to adopt more sanctions”⁵⁸.

Indeed, a new UNSC Resolution 1803 (2008), was adopted on 03 March 2008, strengthening the previous sanctions regime, authorizing inspections of cargo to and from Iran suspected of carrying prohibited equipment, tightening the monitoring of Iranian financial institutions, and extending travel bans and asset freezes against persons and companies involved in the nuclear program⁵⁹. This position did not gain unanimity across the Atlantic. Some dissenting voices were heard criticizing the implementation of new sanctions, advocating the work of the IAEA and calling for a “nuanced diplomacy of reconciliation”⁶⁰.

Prospects for Solving the Crisis

One cannot fail to remark that, at least since 2005, the EU’s Iran policy has been closely coordinated with that of the US, with “every effort being made to speak in harmony on related questions. Partly because of the requirement to keep in synchronization with US policy, the EU policy is evidently cautious and conservative, while there is evidence of a clear prioritization of the nonproliferation question”⁶¹.

However, the opportunity for a solution must still be presented. On the same day when UNSC resolution 1803 (2008) was adopted, the Foreign Ministers of China, France, Germany, Russia, the UK and the US, with the support of the High Representative of the EU, issued a statement reaffirming their commitment “to an early negotiated solution to the Iranian nuclear issue”, and reiterating their “recognition of Iran’s right to develop, research, production, and use of nuclear energy for peaceful purposes”⁶². The same document invited Iran “to take this opportunity to engage with us all and to find a negotiated way forward”, and stressed the fact that “once the confidence of the international community in the exclusively peaceful nature of Iran’s nuclear programme

⁵⁸ See ‘Iran cooperating but doubts stay: U.N. nuclear body’, Reuters, 22 February 2008, at <www.reuters.com/article/topNews/idUSL2270940820080222>; also ‘Nuclear watchdog says Iran rejects evidence linking it to nuclear weapons’, *International Herald Tribune*, 22 February 2008, <www.iht.com/articles/ap/2008/02/22/europe/EU-GEN-Nuclear-Iran.php>.

⁵⁹ See ‘UN votes to add sanctions against Iran’, *International Herald Tribune*, 3 March 2008, <www.iht.com/articles/2008/03/03/america/iran.php>.

⁶⁰ See for instance Ray Takeyh and Joseph Cirincione, ‘ElBaradei is quietly managing to disarm Iran’, *Financial Times*, 27 February 2008, <www.ft.com/cms/s/0/06a1fa90-e4d7-11dc-a495-0000779fd2ac.html>.

⁶¹ G. Quille and R. Keane, ‘The EU and Iran: towards a new political and security dialogue’, in S. Kile (ed.), *Europe and Iran. Perspectives on Non-proliferation*, p. 119.

⁶² See International Atomic Energy Agency, ‘Communication dated 4 March from the Governor for the Russian Federation and the Resident Representatives of China, France, Germany, the United Kingdom and the United States of America concerning UN Security Council resolution 1803 (2008)’, INFCIRC/723, 5 March 2008, available at <www.iaea.org/Publications/Documents/Infcircs/2008/infcirc723.pdf>.

is restored it will be treated in the same manner as that of any Non-Nuclear Weapon State party to the NPT”⁶³.

Both parties to the controversy seem to acknowledge that it is time to resume negotiations. In order to permit “further diplomatic efforts and innovative approaches”, it is mentioned in the above statement that Solana has been requested to meet with Jalili, in order “to address the interests and concerns of both sides in a manner which can gradually create the conditions for the opening of negotiations”⁶⁴. At the same time, Iran has expressed its readiness to resume negotiations with the EU over its nuclear programme⁶⁵.

In order to find a way out of the current deadlock, it has been proposed by some experts to implement an international consortium for nuclear activities in Iran. This idea appears more and more as “a realistic and workable solution to the US–Iranian nuclear standoff”. The Iranian side has already advocated such a solution⁶⁶. The idea had previously been raised by an international Expert Group set up by the IAEA in 2005 to explore ways to strengthen controls over sensitive nuclear materials⁶⁷. The report released by the Group suggested

(c)reating, through voluntary agreements and contracts, multinational, and in particular regional, MNAs (multilateral nuclear approaches) for new facilities based on joint ownership, drawing rights or co-management for front-end and back-end nuclear facilities, such as uranium enrichment; fuel reprocessing; disposal and storage of spent fuel (and combinations thereof).⁶⁸

The same Expert Group stressed the fact that a joint nuclear facility with multinational staff “puts all participants under a greater scrutiny from peers and partners”, which greatly strengthens non-proliferation and security.⁶⁹

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ See ‘Iran ready to talk nuclear with Europe’, Associated Press, 9 March 2008, quoting Iranian Foreign Minister Manouchehr Mottaki, in his speech during a conference on Iran’s nuclear program and activities, in Tehran, on 9 March 2008.

⁶⁶ See ‘Full text of President Ahmadinejad’s speech at General Assembly’, IRNA, 17 September 2005, available at <www.globalsecurity.org/wmd/library/news/iran/2005/iran-050918-irna02.htm>.

⁶⁷ See International Atomic Energy Agency, ‘Multilateral Approaches to the Nuclear Fuel Cycle: Expert Group Report submitted to the Director General of the International Atomic Energy Agency’, INF/CIRC/640, 22 February 2005, at <www.iaea.org/Publications/Documents/Infircs/2005/infirc640.pdf>.

⁶⁸ See Bruno Pellaud, ‘Nuclear Fuel Cycle. Which Way Forward For Multilateral Approaches?’, *IAEA Bulletin*, 46/2, March 2005, p. 40, available at <www.iaea.org/Publications/Magazines/Bulletin/Bull462/nuclear_fcycle.pdf>.

⁶⁹ See IAEA Staff Report, 22 February 2005, ‘Expert Group Releases Findings on Multilateral Nuclear Approaches’, at <www.iaea.org/NewsCenter/News/2005/fuelcycle.html>.

For Iran the main advantage of this solution is that it satisfies the Iranian demand to master the entire nuclear fuel cycle on its soil, while on the other hand it provides high non-diversion assurances to the international community. It was indeed on the ground of concerns of diversion that the US as well as the EU-3 demanded since 2003 that Iran only import enriched uranium, rather than produce it independently.⁷⁰

The quick resumption of the negotiation process on a TCA and a PDA between the EU and Iran would also greatly facilitate a positive outcome to the crisis. Even if the EU remains Iran's main trading partner, accounting for 27.8% of its trade (2006),⁷¹ the development of Euro-Iranian trade relations has been hampered to a large extent due to the current crisis. No doubt both parties would benefit from a normalization of their relations resulting from the comprehensive resolution of the nuclear controversy. The TCA and PDA negotiation frameworks already existing, the resumption of their work would naturally follow the solution of the crisis. The appointment of an EU special representative for Iran could also be considered.

It is true that, as noted, "as things stand currently, the conclusion of a TCA between the EU and Iran is contingent on the nuclear issue being resolved."⁷² However, as the same experts remarked, "while it is necessary for the EU to pursue a conditionality policy, it should also endeavour to support Iran in many other ways unconditionally. It should not be forgotten that Iran has the right to a peaceful nuclear programme for civilian use as a non-nuclear weapon state party to the NPT. Iran should also be supported by the EU in the fight against drug trafficking, on environmental security (especially seismic security) and in supporting the Afghan refugees."⁷³ Despite this, it appears that the EU needs to redefine its policy towards Iran to preserve its strategic position as well as its economic interests in the region.

⁷⁰ See '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', at <www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/EN/reports/90569.pdf>.

⁷¹ See the website of the European Commission, 'Bilateral Trade Issues, Iran', at <www.ec.europa.eu/trade/issues/bilateral/countries/iran/index_en.htm>.

⁷² G. Quille and R. Keane, 'The EU and Iran: towards a new political and security dialogue', in S. Kile (ed.), *Europe and Iran. Perspectives on Non-proliferation*, p. 119.

⁷³ G. Quille and R. Keane, 'The EU and Iran: towards a new political and security dialogue', in S. Kile (ed.), *Europe and Iran. Perspectives on Non-proliferation*, pp. 120-121.