

## **Diplomatic Means Have not been Exhausted: Against Alarmism in the Conflict over Iran's Nuclear Programme**

Alarmist announcements have set the tone of the dispute over Iran's nuclear programme. The UN Security Council has presented Iran with a 30-day ultimatum. In Israel, the number of people calling for the destruction of Iran's known nuclear facilities is growing. The Iranian government is threatening to break off relations with the International Atomic Energy Agency (IAEA). In France, the United Kingdom and Germany, discussions are being held as to whether military measures against Iran should be ruled out or left on the table as a potential threat to increase the pressure on Tehran.

Despite these reports, however, there is little material cause for hurried decision-making and rash action. The current crisis has been precipitated by the collapse – at least for the time being – of European-led negotiations and the likely collapse of Russia's parallel efforts. The next constructive step on the road to a peaceful resolution would be to expand negotiations – in terms of both participants and agenda. This is the only way to sound out options for resolving the conflict that would improve regional security while avoiding a potentially dangerous stigmatisation of Iran.

### **Iran's Nuclear Arsenal**

In August 2002, an Iranian opposition group exposed the existence of previously unknown Iranian uranium enrichment and heavy water production facilities. In the course of the subsequent IAEA investigations, suspicions grew that Iran had undertaken nuclear-weapons relevant activities outside the IAEA's safeguards. The government in Tehran admitted that the rules had been violated and promised both to provide further information and to fully comply with its international obligations. However, while examining the extent and aims of Iran's nuclear activities, the IAEA continued to discover new facts, leading the Director General of the IAEA, Mohamed El Baradei to speak in his reports of a "policy of deception" on the part of the Iranian leadership. This concerned, above all, enrichment activities, the extent of which the IAEA still cannot determine. What also remains unclear is exactly what was supplied to Iran by the network around the "father" of Pakistan's atomic bomb, Abdul Qader Khan.

Iran's noncompliance with IAEA safeguards obligations is no longer the only problem. The latest IAEA Director General's report of 27 February 2006 also describes Iranian activities that could be part of a military nuclear programme. Iran has so far failed to provide a convincing answer to the allegations, which it describes as "baseless", while simultaneously restricting the IAEA's inspection rights. Thus, the international community cannot be certain that Iran is not building or preparing to build an atomic bomb.

One thing we can be sure of, however, is the absence of any evidence that Iran is currently producing or will soon be able to produce weapons-grade fissile material. The Iranian nuclear

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programme currently being monitored by the IAEA is still in its early stages. And even if a covert military programme exists, it cannot be far ahead of the civilian one in terms of uranium enrichment, as the technical capabilities for such an advanced effort simply do not exist in Iran. Even U.S. intelligence services assume that will take eight to ten years before Iran is capable of producing weapons-grade material in significant quantities.

### **The Failed EU-3 Negotiations**

The negotiations the European Union (EU) has conducted since October 2003, the – and the governments of France, the UK, and Germany (EU-3) in particular – have won valuable time. Since signing its first agreement with the EU-3 more than two years ago, Iran has discontinued all activities at facilities involved in its enrichment programme and has opened these sites to international inspections. Furthermore, Iran has granted the IAEA the right to conduct intrusive and comprehensive inspections for the duration of the negotiations. These verification measures in particular provide the international community with a better – if still incomplete – picture of Iran's nuclear activities.

In the last instance, however, the parameters of the EU-3 negotiations were too narrow to encourage Iran to voluntarily cease uranium enrichment. 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). The government of President Mahmoud Ahmadinejad, which was formed in the summer of 2005, has been particularly clear on this point.

The EU-3 could not offer more without the backing of the U.S. For instance, European negative security guarantees that it will not attack Iran are not particularly relevant. At the same time, positive security guarantees of European assistance in case of an attack possess little credibility. Ultimately, in terms of the conceivable threat scenarios and the balance of military forces in the region, only security guarantees from the U.S. can be of interest to Iran. The EU also is in no position to effectively promote the creation of a nuclear-weapon-free zone in the Middle East. European demands that Iran renounce nuclear weapons are openly contradicted by the fact that France and the UK themselves possess nuclear weapons and Germany is protected by the US nuclear umbrella. The idea of stronger disarmament obligations for the nuclear powers – a symbolically powerful form of compensation for voluntary self-restriction on the part of Iran – cannot be entertained with any credibility.

### **The negotiations between Tehran and Moscow**

The prospects for success of the Russian compromise proposal that the enrichment of uranium for Iranian power plants be carried out not in Iran but as a joint venture on Russian soil are uncertain. Such a joint venture may be attractive to Tehran, because it would help reduce the financial burden of maintaining a national programme and would facilitate the acquisition of relevant technical expertise. At the United Nations General Assembly in September 2005, President Ahmadinejad himself had already invited other nations to participate in Iranian enrichment activities – albeit on Iran soil. So far, however, Iran has not been willing to cease enrichment activities on its own territory. Officially, the Iranian leadership justifies this in

terms of concern at being dependent on decisions made by others for the supply of its industry with nuclear fuel. Iran has been the subject of trade embargoes imposed by most nuclear powers and is sceptical that these same states would now suddenly be willing to comply with long-term delivery commitments. At the very least, the government in Tehran desires to have the technical capability to manufacture its own nuclear fuel in an emergency.

### **Expanding the Scope of Negotiations**

The offers made by the EU-3 and Russia cover only part of the potential for compromise. Here, we would like briefly to discuss other aspects of potential compromise solutions:

- *Linking Iranian renunciation of uranium enrichment activities and the abandonment of a heavy-water reactor with security guarantees for Iran.* Only the government in Washington can provide the required security guarantees. The involvement of additional guarantors such as Russia, China, and the EU could raise the credibility of such guarantees. Even then, however, it is questionable whether security guarantees alone would suffice for Iran to limit itself in this way.
- *Uranium enrichment in Iran under international control.* In this variation on the Russian joint-venture proposal, control of technology and production would be in the hands of the foreign operators of the enrichment facilities. From Iran's point of view, the fundamental problem of dependence on decisions made abroad would remain. Nevertheless, depending on the degree of participation of Iranian scientists and technicians in enrichment operations, this option could improve Iran's chances of developing an independent capability to produce fissile material. In return, the foreign operators would receive a direct insight into Iran's technical expertise and personnel capacities, allowing them to estimate more accurately whether Iran is in a position to misuse this knowledge or to divert fissile material to military purposes.
- *Gradual relaxation of restrictions on Iranian uranium enrichment.* A further proposal is to gradually build-up Iran's civilian uranium enrichment capacity over time. Until all the IAEA's open questions were answered, Iran would only be allowed to carry out limited preparatory activities. Only then, and only under the provision that Iran grants the IAEA wide-reaching inspection and monitoring rights, could enrichment begin, closely observed by the IAEA. However, once the Iranian scientists and technicians have acquired the necessary expertise, the Iranian leadership would not need long to withdraw co-operation with the international inspection regime and convert the formerly civilian facilities to the production of fissile material for military purposes. Preventing this kind of "break-out" scenario has so far been one of the main aims of the U.S. and the EU-3.
- *Linking Iranian renunciation of uranium enrichment to the establishment of a WMD-free zone in the Middle East.* Concrete steps in this direction would be a major symbolic success for Tehran. But the road to the verifiable, long-term elimination of weapons of mass destruction in the Middle East can only be taken together with Israel, the only nuclear-weapon state in the region. Yet Israel's agreement is only conceivable in connection with a significant improvement in the security situation. The anti-Israeli statements of the Iranian leadership have naturally destroyed for the time being any possible Israeli willingness to consider compromise deals with Iran. Until Tehran's leadership makes lasting and plausible changes in its attitude to Israel, positive

security guarantees, even if given by the entire Security Council, would not be sufficient to induce Israel to enter talks on abandoning its own nuclear weapons capability. A further and more far-reaching item that could be offered to Israel as compensation would be NATO membership, but this step finds little support among existing NATO members and would raise new problems for a peaceful resolution of the Middle Eastern conflict.

- *Linking Iranian renunciation of nuclear activities to progress in resolving fundamental political questions.* Issues mentioned in this context include the fulfilment of the nuclear powers' disarmament commitments, far-reaching security guarantees on the part of the nuclear powers, and the general and complete phasing out of nuclear power in favour of alternative energy sources. Suggestions of this type are far from realistic – and potentially not even particularly attractive for Iran – though they may be potentially attractive items for negotiation in the long term.

The U.S. government is an indispensable partner for the implementation of these and other compromise solutions. Neither the EU-3 nor Russia are in a position to negotiate such proposals by themselves. If it proves possible to start negotiations on the question of a nuclear-weapon-free zone in the Middle East, regional states must of course be involved. Such negotiations should preferably be carried out directly among the parties in the region and Western countries whose security interests would be involved and who might be required to take major symbolic steps, rather than at the level of the UN Security Council.

At present, however, scepticism is called for when considering whether the governments in Tehran and Washington could reach a compromise, or even whether they would be willing to participate in talks in the first place. The behaviour of both governments over the last two-and-a-half years can best be explained by the assumption that they are not particularly interested in finding a peaceful short-term solution to the crisis. Hardliners currently politics in both capitals. And it is precisely this fact that makes it essential to find a negotiating framework that includes moderate forces. The Six Power Talks on the denuclearization of North Korea, which were attended by not just the parties to the conflict but also by China and Japan as regional powers and Russia as a potential guarantor, are a possible model on which a new negotiating framework can be based. For there is no alternative to new negotiations. Neither sanctions nor military strikes can prevent Iran from becoming a nuclear power, in fact, on closer inspection, we can recognize the danger that they might accelerate such a development.

## **Sanctions**

If it sees Iran's behaviour as a threat to international peace and international security, the Security Council of the United Nations can impose a broad spectrum of sanctions, ranging from travel restrictions on the Iranian leadership to a comprehensive trade embargo. So far, however, the Security Council has not yet seen a case where it has adjudged the threat of WMD proliferation as providing adequate grounds for the application of sanctions. The unanimity among the five permanent members necessary for imposing sanctions is only likely to be achieved when unambiguous, incontrovertible evidence of an active Iranian nuclear weapons programme is produced. So far, no evidence of this kind has been found. Nonetheless, if we were to assume that the necessary majority in the Security Council did exist, what could it achieve?

An analysis of how the UN, other international organizations, and individual states have applied sanctions in the past leads us to expect that imposing them on Iran would be ineffective at best and counterproductive at worst. Symbolic sanctions, such as travel restrictions on Iranian leaders or the freezing of foreign bank accounts, are liable to have very little influence on an Iranian leadership that is genuinely committed to continuing its nuclear programme. Stronger sanctions, such as a ban on the export of nuclear and dual-use technologies to Iran, could slow down the Iranian nuclear programme and the country's economic growth as a whole. Experience with limited trade embargoes suggests that an export ban on raw materials and [??] parts is unlikely to lead to the end of Iran's nuclear programme. However, such an embargo would allow the Iranian leadership to lay the blame for the country's serious economic crisis at the door of the UN and foreign powers. This would apply *a fortiori* to more extensive measures, such as an oil import ban or even a complete trade embargo.

Recent experiences in Yugoslavia and Iraq teach us that comprehensive sanctions serve to strengthen autocratic regimes. They can only have the opposite effect when relevant political groups believe they are legitimate and succeed in propagating this view in the country in question, as was the case of South Africa in the 1980s. In Iran, there has so far been no evidence of any politically relevant opposition to the behaviour of decision-makers in the area of nuclear policy. The government of President Ahmadinejad may not be especially popular, but sanctions that carry a high economic price would in all likelihood lead to greater solidarity among the population.

### **Military options**

The spectrum of publicly discussed military options is broad. It stretches from the bombing of known facilities to the occupation of Iran *à la* Iraq. Because it is not certain that all key facilities of Iran's nuclear programme have been identified, it is possible that air strikes could fail. A number of nuclear sites, including the Tehran Nuclear Research Center, are located in cities. It would hence be impossible to destroy them with a small number of aircraft or missiles and without civilian casualties as Israel succeeded to do when it bombed the site of Iraq's Osirak reactor in 1981. The case of Osirak also shows that successes in such "wars of disarmament" are short-lived at best: In the aftermath of the Israeli strikes, the Iraqi leadership initiated a secret military programme, which had made significant progress by 1990. Military strikes would certainly produce a wave of solidarity both in Iran and in the Arab world, thus playing into the hands of the Iranian hardliners.

When military options are discussed, little attention is usually paid to the legal barriers that have to be negotiated. But these barriers are extremely restrictive. Neither efforts on the part of a state to create the capacity to produce fissile material – which the Iranian government can conceivably be accused of doing – nor the actual production of such materials – which Iran remains very far from achieving – fulfil the requirements for self defence in Article 51 of the UN Charter. In 1981, following the Israeli attack on the site of the Osirak reactor, the Security Council unanimously passed a resolution strongly condemning the Israeli action as a violation of the prohibition on the use of force contained in paragraph 4 of Article 2 of the UN Charter and calling on Israel "to refrain in the future from any such acts or threats thereof" (Resolution 487 of 19 June 1981). Washington's attempts to weaken these unambiguous provisions of international law – such as the U.S. national security strategy adopted in 2002 in the run-up to the Iraq war in 2003 – have been universally rejected. Germany is subject not only to the relevant provisions of international law, but also to the ban on preparations for war

of aggression contained in Article 26 of the German constitution. If Germany were to support military measures against Iran justified by the Israeli or US governments in terms of the right to self defence under Article 51 of the UN Charter, it would violate the German Constitution.

In the case of an advanced programme of military nuclear technology, the Security Council could theoretically approve military action under Article 42 of the UN Charter. Following a meeting of the heads of state of government of the nations represented in the Security Council in January 1992, the President of the Security Council made a statement (S/23500) declaring that “The proliferation of weapons of mass destruction constitutes a threat to international peace and security”. However, this formulation cannot be used to justify the imposition of military sanctions against states running dubious nuclear programmes. It is the task of the IAEA to dispel any such doubts. Furthermore, it is extremely doubtful whether, even in the case of a state openly acquiring nuclear weapons, a Security Council resolution could be passed that would authorize the use of force. This was certainly not the case when the military nuclear programmes of India, Pakistan and North Korea were revealed.

### **Short- and long-term perspectives**

There is no alternative to negotiations. In the short term, four points are crucial to improving the chances for a serious, comprehensive and effective dialogue:

- All talk of ultimatums, as adopted by the UN Security Council, must be abandoned to create space for diplomatic solutions.
- The EU must speak out clearly and decisively against military strikes.
- The UN Security Council should return the case of Iran’s nuclear programme to the IAEA so that outstanding questions can be clarified with Iran.
- Iran must swiftly answer the IAEA’s remaining questions, ratify and implement the additional protocol on nuclear safeguards, thus creating international trust in its peaceful intentions.

What if, however, rather than leading to a compromise, these negotiations encourage Iran to push on with uranium enrichment, and possibly even the production of plutonium? What if well-founded doubts remain about the peaceful intentions behind Iran’s nuclear programme?

If that transpires, the international community can continue to encourage the Iranian leadership to implement its official commitment to the exclusively civilian use of its nuclear programme and to allow comprehensive IAEA safeguards. The more comprehensive and intrusive the inspection regime, the higher the likelihood that the military misuse of nuclear technology will be detected in a timely manner. If the NPT is breached, the UN Security Council would still be able to impose sanctions – not in the hope of affecting Iranian decision making, but in order to obstruct Iran’s nuclear programme. If further evidence of a military programme were to emerge, the export of nuclear-relevant goods and dual-use technologies could be prohibited by UN sanction. Until then, the transfer of nuclear-relevant technologies could be made dependent on Iran’s implementing its commitments under the NPT.

Not to put too fine a point on it, even if the Iranian leadership were to openly admit that it was pursuing a military nuclear programme, the international community possesses few options that do not constitute a breach of international law. Even then, comprehensive sanctions and military action would be extremely difficult to justify politically and in terms of international law. Nor would they achieve the desired goal of disarming Iran.

But should these options – forbidden as threats of the use of force under Article 2 of the UN Charter – not remain on the table to strengthen the negotiating hand of the international community? On the contrary: Insights from games theory and the lessons of history reveal the danger associated with making barely credible threats. As Thomas Schelling, the winner of the 2005 Nobel Prize for Economics, has demonstrated, they rapidly lead to a process of escalation, especially when both sides' stakes are high. All military options should be removed from the agenda, as they could encourage Iran to test the credibility of the threatening postures assumed. Those issuing the threats would then have to make a humiliating step down – or take military action that would neither make military sense nor be compatible with international law.

Expanded negotiations can therefore only be carried out on the basis of realistic negotiating positions for all participants. Only in the course of such negotiations will it become clear whether a consensus may be reached and what elements any such diplomatic solution would have to entail. There clearly is an opportunity for negotiations to succeed if the will for a peaceful settlement exists.