

**The E3/EU - Iran negotiations and prospects for resolving the Iranian nuclear issue:  
a European perspective.**

*Remarks by Philippe Errera\**  
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The negotiations underway since October 2003 are politically sensitive, technically complex, and have become diplomatically quite intense, especially in the last few months. Given all of this, it is easy to let the tree hide the forest. My personal belief is that the issues at stake are actually quite straightforward, if one returns to first principles.

Although I do not speak in the name of the European Union (nor even of my own government, as I am here in a personal capacity), I would like to present you with *a* European reading of the negotiations, and more broadly of the prospects for resolving the Iranian nuclear issue, which brings us back to first principles. I suspect that not everybody gathered at this conference will agree with this presentation, but it is important to know exactly what it is we disagree about.

1. To put it quite bluntly, ***the issue is for Iran to regain the trust of the international community*** regarding compliance with its commitments in the field of nuclear non-proliferation.

Iran has lost this trust not because of any discriminatory attitude toward it, nor because of any instrumentalization by “third parties” (the United States or Israel, for example), but simply because of the revelation of close to 20 years of clandestine activities dealing with highly sensitive nuclear matters, and of secret cooperation with an international proliferation network linked to nuclear proliferation programs in Libya and North Korea, coupled with the absence of any

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civilian justification to its nuclear fuel cycle program: there is no functioning reactor in Iran today.

Granted, trust, and lack thereof, can be a highly subjective matter. In this case, it is based on objective grounds. Witness the statement by the International Atomic Energy Agency, an international independent body whose expertise and objectivity are recognized, that Iran pursued “a *policy of concealment*” until October 2003.

The resolution adopted by the Board of Governors at its November 2004 meeting on the implementation of its Safeguards Agreement by the Islamic Republic of Iran offers a detailed list of Iranian omissions, and failures to comply. It also « *reaffirm[ed] its strong concerns that Iran’s policy of concealment till October 2003 ha[d] resulted in many breaches of its obligations to comply with its safeguards agreement*”. The Director General’s Report to this board meeting listed these failures, including the failure to report two sensitive sites, the failure to declare six sensitive activities, and the failure to provide appropriate design information for six facilities. Finally, the Director General also referred to “*failure on many occasions to cooperate to facilitate the implementation of safeguards, as evidenced by extensive concealment activities*”.

If one followed the rules of multilateralism, the normal implementation of international law, and in particular of the IAEA’s statute, should therefore have led the Director General to refer the case of Iran to the United Nations Security Council, as early as 2003.

2. If I choose to dwell on this aspect of the issue before discussing the negotiation per se, it is in order to *frame these negotiations in their proper context*. Two points are important to bear in mind :

- First, **when we speak of referral of Iran's case to the United Nations Security Council, we are not brandishing a threat, we are simply recalling where the normal implementation of international law and of the Agency's statute should have already led Iran, and where we have offered it an opportunity to avoid going, if it so wishes.** That is to say, if it implements the agreement of November 15, and in particular the suspension of all activities related to enrichment and reprocessing, in good faith, that is to say in a comprehensive and unequivocal manner.

As France and Germany, but also Russia, China and many other countries argued vigorously during the Iraqi crisis, the U.N. Security Council is the central element of the multilateral system of collective security. Its primary responsibility, in our view, is precisely to deal with threats to international peace and security. The U.N. Security Council established a simple and powerful principle, meeting at the level of Heads of State or government, in 1992: proliferation of WMD constitutes a threat to international peace and security. This statement was reinforced and received legally binding status in Security Council 1540, which also refers to delivery vehicles.

President Chirac, asked about Iran's compliance with its non-proliferation commitments at a press conference on February 2, made the following point: « it is absolutely essential that Iran stick to its commitments. If it did not stick to them, the international community would have to imagine what its reactions could be, and these could only be those decided by the U.N. Security Council”.

- Second, **we are not asking Iran to give up something to which it is entitled, and specifically not an “inalienable right”**. In fact, formally, the Non-Proliferation Treaty does not recognize a “right to enrichment” per se. It recognizes, instead, in its article IV, the right of all States parties to “develop research, production, and use of nuclear energy for peaceful purposes”. Of course, one may consider that this right, under article IV, includes activities related to the fuel cycle, even if they are not mentioned by the Treaty, but in any case this latter right is not unconditional. According to the Treaty, in order to be able to exercise this right, at least two conditions must be met:

\* First condition: peaceful purposes of the program. Given the Preamble, and given Article IV, a Non Nuclear Weapon State may only embark on a nuclear research or energy production program if it intends, in good faith, to pursue a nuclear program for peaceful purposes, and if these activities are necessary in order to enjoy the benefits of peaceful applications of nuclear energy.

And this is where the rub is, in the case of Iran. The peaceful purpose behind the Iranian efforts to master the fuel cycle cannot be established. Iran has no nuclear power plants nor an export market justifying mastering uranium enrichment. Furthermore, it can obtain from other States parties the enriched uranium it needs in order to benefit from all of the advantages of peaceful applications of nuclear energy, given the current state of its program. Finally, the fact that in order to develop mastery of the fuel cycle, and in particular enrichment, it relied heavily on a proliferation network originating in a State that is not party to the NPT, is especially problematic.

\* Second condition: respecting non-proliferation commitments. Article IV emphasises that the rights it recognises must be exercised in conformity with articles I and II of the Treaty, and more broadly with the non-proliferation obligations identified by the Treaty, including the Safeguards Agreements with the

IAEA. Here again, as I outlined earlier, Iran is in a situation by which it has forfeited this right by its breaches of the obligation to comply with its Safeguards Agreement.

### **3. What is the role of the EU and the EU3 in this context?**

The European Union, like others, has long had concerns regarding Iran's nuclear program. These concerns were confirmed by the IAEA, and are compounded by the pace and scope of the Iranian ballistic program. The European Union, acting through three of its member States acting in concert with the High Representative for Common Foreign and Security Policy, and in intensive consultation with G8 partners, has offered Iran the possibility of providing the guarantees that would be necessary to reinstate confidence of the international community in the exclusively peaceful nature of its nuclear program.

We consider that the only "objective guarantee" of the exclusively peaceful nature of Iran's nuclear program (to use the terms of the November 15, 2004 agreement) is the effective cessation of all activities leading to the production of nuclear materials (i.e. enrichment, reprocessing and heavy water technologies). If there were other measures that are as effective - and objective - as cessation, we would be ready to consider them, but we, for our part, cannot conceive of any such measures.

The United Kingdom, Germany and France have entered, since October 2003, a dialogue aiming at the cessation of these activities. Although not perfect, this dialogue, materialized by two agreements (in October 2003 and November 2004) has proven fruitful so far, in several regards. For example, although imperfect, Iran's suspension of sensitive fuel-cycle related activities in declared sites, has nevertheless constituted an improvement. Iran has also signed (but not ratified) an additional protocol to its safeguards agreement. The problem with the

October agreement, in my view, is that it did not define precisely enough the scope of suspension. This led Iran to undertake activities last year that, although they might not have violated the letter of the agreement, certainly violated its spirit.

This problem was solved by the November agreement, which is both specific and broad: *“Iran has decided, on a voluntary basis, to continue and extend its suspension to include all enrichment related and reprocessing activities, and specifically: the manufacturing and import of gas centrifuges and their components; work to undertake any plutonium separation, or to construct or operate any plutonium separation installation; and all tests or production at any uranium conversion installation.”*. Any violation of this suspension would lead us to support immediate referral to the UNSC.

This suspension will be sustained while negotiations are underway on a mutually acceptable agreement on *long-term* arrangements. These negotiations began last December, by a meeting at the level of the three EU Ministers, the EU High Representative and Dr. Rohani. A meeting of the Steering Committee should take place later this month, in order to assess progress in the discussions. So far, the discussions have advanced at a sustained pace. This long-term arrangement must address three sets of issues, as set out in the November agreement: nuclear issues, technological and economic cooperation, and finally political and security issues. Each of these “baskets” is dealt with by a working group comprising the EU3, the EU Council Secretariat, and Iran. They have met several times so far, in Geneva, in an EU3 mission and in the Iranian mission.

In passing, I would like to mention that, as recognition of the progress made, the EU3 also made several unilateral gestures, consigned in the November agreement, such as committing to actively support the opening of Iranian accession negotiations at the WTO, and supporting the IAEA Director general inviting Iran to join the Expert group on Multilateral approaches to the Nuclear Fuel Cycle.

This negotiation could lead to the establishment of a completely new framework for relations between Iran and Europe and, more broadly, the international community as a whole, especially if it provides an impetus to address other issues of concern. It will be up to the Iranians themselves to decide whether they make the strategic choice to that end, which would also allow them to develop Iran's power generation program through the development of light water reactors.

**4. From a European perspective, there is very much at stake in the Iranian case.**

The future of the nuclear non-proliferation regime hinges largely on our ability to deal successfully with the challenge presented by Iran. As it has stated in its Security Strategy adopted by the 15 Heads of State or Government in December 2003, the European Union cannot afford to live in a world where the confidence in agreements is undermined by violations to the point that they have no meaning.

This is what lies behind the concept of "effective multilateralism", contained in the E.U. Security Strategy: commonly agreed rules applicable to all are a key foundation of the international order, but as important if not more is their respect and enforcement. A corollary of this concept is the price to be paid by those who choose not to respect their commitments, in diplomatic, economic and if the Security Council so chooses, within the framework of its mandate to uphold international peace and security, military terms. After the blows dealt to the credibility of the nuclear non-proliferation regime over the last 15 years by the violations of Iraq, North Korea, and Libya, to name only those countries that adhered to the NPT as Non Nuclear Weapons States and broke their pledge to not develop nuclear weapons, we have reached a point where sustained Iranian non-compliance would take on particular salience.

The European Union is still viewed in many quarters as primarily an economic and a commercial actor. It would be a mistake, however, to underestimate its diplomatic and military capabilities, as we can see from its recent role in the democratic transition in Ukraine, or its action in the Balkans, where it has deployed several thousand combat troops. What is particularly unique about the EU is its ability to use these different capabilities in a holistic manner. In its relationship with Iran, for example, concerns regarding human rights, support for terrorism, its policy vis a vis the Middle East peace process, and proliferation, are addressed in a political dialogue whose progress, or lack thereof, is inseparable from the negotiations on the Trade and Cooperation Agreement.

By its geography, its history, its resources, its regional influence, and in general its strategic weight, Iran can be a key regional and international player, as well as a partner for the West. But only if it chooses policies that are compatible with such an orientation. This is a strategic choice, and only a choice that can be made by Iran, in a sovereign manner.

Europe, for its part, will take yes for an answer.