

Beyond entrenchment over Iran: Can the EU offer a framework for regional security?

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Sanctions against Iran over its nuclear programme have steadily been tightened by the United Nations Security Council. A far-reaching round of complementary sanctions imposed recently on Iran by the US and the EU is starting to hurt the country, its economy and its citizens. And yet, Iran's leadership seems deaf to demands for international weapons inspectors to be allowed unhindered access to its nuclear enrichment facilities. Tehran's participation and delaying tactics in the EU-led diplomatic process geared to that end provide the regime with the cover it needs to pursue its clandestine programme of enrichment. A new report issued by the International Atomic Energy Agency (IAEA) asserts that Iran has rapidly escalated its uranium enrichment capacity in recent months and has installed three-quarters of the nuclear centrifuges it needs to complete a site deep underground for the production of nuclear fuel.¹

Conversely, in a move criticising the US-led attempt to isolate and punish Iran with economic sanctions, Tehran has recently received support for its controversial nuclear programme in a declaration adopted by the 120-nation Non-Aligned Movement. The 'Tehran Declaration' not only emphasises Iran's right to peaceful nuclear energy but acknowledges the right to ownership of a full nuclear fuel cycle, which means uranium enrichment. With a regime that is not likely to sway to international and domestic pressure, and in view of the shifting strategic landscape in the Middle East,² the question is whether the twin-track approach of sanctions and diplomacy should be kept up, or whether it should make way for an alternative set of policies that could preserve the fragile stability in the wider Middle East and turn a vicious circle into a virtuous one.

This paper argues that the High Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton, supported by the European External Action Service, is in a good position to offer a negotiated way out of this seemingly intractable situation.

¹ See IAEA Board of Governors, "Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran", GOV/2012/37, 30 August 2012.

² See also S. Blockmans, "Preparing for a Post-Assad Syria: What Role for the European Union?", CEPS Commentary, 2 August 2012.

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EU-Iran relations

Relations between the EU and Iran have been strained for years. Nonetheless, the EU has always expressed the wish to gradually deepen its bilateral relations with the country, mainly for economic reasons. In 2011, the EU was Iran's largest trading partner, importing €14.5 bn of goods from Iran, and exporting €11.3 bn.³ Ninety per cent of EU imports from Iran were oil and oil-related products. And yet, the EU has no contractual relations with Iran and, with the exception of some humanitarian assistance and limited aid for drugs control, there is no financial or technical cooperation either. A trade agreement was in place during the reign of the Shah (in fact, the 1963 agreement with Iran was the EEC's first-ever negotiated agreement of a strictly commercial character), but it lapsed in 1977. The Islamic Revolution of 1979 spoiled relations with the EU until well into the 1990s.

An EU-Iran dialogue was initiated in 1995. After the election of the reform-minded President Khatami in 1997 this was extended to new areas and became the 'Comprehensive Dialogue' in 1998. A dialogue meeting was held every six months in Troika format and allowed a wide-ranging exchange of views on global issues (counter-terrorism, human rights and non-proliferation); regional issues pertaining to Iraq, the Gulf, Central Asia, and the Middle East Peace Process, and areas of cooperation such as drugs, refugees, energy, trade and investment. In recognition of their shared interests in commercial and political cooperation, the Council adopted a mandate to negotiate a comprehensive trade and cooperation agreement and – inseparably linked therewith – a political dialogue and counter-terrorism agreement with Iran in 2002, with negotiations in both spheres starting later that year. In parallel, the EU launched a human rights dialogue with Iran; the first such dialogue to be established in accordance with the EU Guidelines on Human Rights dialogues. It was conducted until Iran declined to participate after 2004. For its part, the EU made deeper relations conditional upon progress by Iranian authorities in four areas: Iran's attitude to the Middle East Peace Process, the human rights situation in Iran, Tehran's support for terrorist movements and the non-proliferation of weapons of mass destruction (WMD), including nuclear weapons. Revelations about Iran's clandestine nuclear activities and Tehran's refusal to fully cooperate with the International Atomic Energy Agency led the EU to cease efforts to formalise closer relations altogether. At its September 2005 meeting, the IAEA's board of governors found Iran to be in non-compliance with its safeguards obligations, because of the "many failures and breaches of its obligations to comply with its NPT Safeguards Agreement".⁴ Iran's continued refusal to comply with its international obligations and cooperate fully with the IAEA triggered the United Nations Security Council (UNSC) to adopt a raft of resolutions imposing sanctions against Iran, which was binding on all UN members. The EU fully implements these UNSC sanctions and has also adopted a number of complementary restrictive measures.

Sanctions regimes

At the global level, the current sanctions package is reflected in UNSC Resolutions 1696 (2006), 1737 (2006), 1747 (2007) and 1803 (2008), 1835 (2008), 1929 (2010), 1984 (2011), and 2049 (2012). UNSC sanctions against Iran in effect supplement the sanctions regime that the United States has enforced since 1987 (upgraded in 1996, 2010 and 2012). The UNSC resolutions require that Iran suspend all enrichment-related and reprocessing activities and

³ See DG Trade, "Iran: EU Bilateral Trade and Trade with the World", 21 March 2012, available at http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113392.pdf.

⁴ IAEA Board of Governors, "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran –Resolution adopted on 24 September 2005", doc. GOV/2005/77, 24 September 2005.

heavy water-related projects, and take steps to build confidence regarding the nature of its nuclear programme. The restrictive measures set out in resolutions 1737 (2006), 1747 (2007) and 1803 (2008) are aimed at preventing Iran's acquisition of nuclear and ballistic missile material; equipment and technology that can be used for military programmes. Even without the most recent restrictions, the sanctions encompass a broad range of measures (see Box 1).

Box 1. Package of UNSC-imposed sanctions

- Embargo on all items which could contribute to Iran's enrichment-related, reprocessing or heavy water-related activities, or to the development of nuclear weapon delivery systems, and ban on related technical or financial assistance;
- Visa ban and assets freeze on persons and entities directly associated with Iran's proliferation of sensitive nuclear activities or the development of nuclear weapon delivery systems;
- Prohibition to supply arms to Iran;
- Ban on new grants, assistance or loans to Iran except for humanitarian and developmental purposes;
- Ban on commercial activity involving uranium mining, production or use of nuclear materials and technology by Iran overseas;
- Authorisation to states to intercept, seize and dispose of Iranian cargo covered under the embargo;
- Prohibition on bunkering services to Iranian-owned or -contracted vessels;
- Ban on new branches, subsidiaries of Iranian banks abroad; ban on new joint ventures with Iranian banks.

Source: C. Portela, "Impact of Sanctions and Isolation Measures with North Korea, Burma/Myanmar, Iran and Zimbabwe as Case Studies", European Parliament Study, DG for External Policies of the Union, Policy Department.

The EU fully implements the UNSC sanctions in its own legislation and has also adopted a number of complementary, i.e. autonomous measures (see Box 2).

Box 2. Package of sanctions autonomously adopted by the EU

- Embargo on key equipment and technology for the oil and natural gas industries; that is, for exploration and production of oil and natural gas, refining and liquefaction of natural gas, and for the petrochemical industry in Iran.
- Ban on financial and technical assistance for such transactions. This includes for instance geophysical survey equipment, drilling and production platforms for crude oil and natural gas, equipment for shipping terminals of liquefied gas, petrol pumps and storage tanks;
- Ban on imports of crude oil and petroleum products from Iran. The prohibition concerns the import, purchase and transport of such products as well as related finance and the provision of third-party and environmental liability insurance for the transport of Iranian oil;
- Ban on the provision of certain services to and of investment in the oil and natural gas industries (exploration and production of oil and gas, refining and liquefaction of natural gas) and in the Iranian petrochemical industry. This means no credits, loans, new investment in and joint ventures with such companies in Iran;
- Export and import ban on dual-use goods and technology, for instance telecommunication systems and equipment; and information security systems and equipment;
- Assets freeze of the Iranian central bank within the EU.

Source: Factsheet "The European Union and Iran", doc. 5555/3/12 REV 3 PRESSE 15, Brussels, 23 April 2012.

Together, the UNSC implementing and EU autonomous measures constitute the most far-reaching sanctions package imposed by the EU to date. Yet, the system has not proved to be fail-safe.

Closing the loopholes, increasing the pressure

The circumvention of the multiple international sanctions regimes has been noted at several intervals, perhaps most authoritatively in a leaked report of an expert panel set up under UNSC Resolution 1737 (2006), which stated that “Iran’s circumvention of sanctions across all areas, in particular front companies, concealment methods in shipping, financial transactions and the transfer of conventional arms and related materiel is wilful and continuing.”⁵ In July 2012, the US Department of the Treasury reported that it had identified several companies and banks acting as front organisations helping Iran to evade existing sanctions by moving and selling its oil on the international market. Washington has also accused Iran of seeking to evade sanctions on its oil exports by disguising its tanker fleet.

In view of all these loopholes, it is difficult to say what the full impact of the existing sanctions regimes could be. However, even with the circumventions, there is no doubt that the aggregate effect is already considerable. The UNSC Sanctions Committee established pursuant to Resolution 1737 (2006) has in subsequent reports noted that Iran’s rial has sharply depreciated against the American dollar; that sanctions on the energy sector have compelled big international traders in refined petroleum products to stop dealing with Iran; and that Iranian commercial entities are increasingly cut off from international financial markets, making it ever more difficult to find ways to pay in US dollars or euros for the equipment they need. Evidence of a causal link between the sanctions and a decline in living standards of the Iranian population is harder to come by and is currently still largely anecdotal.

Sanctions have not, however, had the effect of altering the total volume of trade and investment in Iran. Rather, they have produced a shift in the composition of Iran’s trading partners, away from European and towards Asian countries. While this trend was already visible in the period predating the imposition of UNSC sanctions, it has accelerated since. Over the past decade, Iran’s trade with China has largely replaced the declining share of trade with the European Union,⁶ even if Beijing has been diversifying its supplies (e.g. in oil, with heavy investment in Angola and Brazil).

IAEA findings on Iranian activities relating to the development of military nuclear technology, reflected in a report from November 2011,⁷ have further exacerbated concerns over the nature of Iran’s nuclear programme. Against this background, and indeed the low levels of commitment from the Iranian side despite efforts by the High Representative of the EU for Foreign Affairs and Security Policy on behalf of the so-called ‘E3+3’ (the EU, France, Germany, the UK + China, Russia and the US) aimed at resuming nuclear non-proliferation talks, the Council of the European Union extended its sanctions regime in January 2012, imposing an import ban on Iranian crude oil and freezing the assets of the Iranian central bank within the EU.

⁵ As reported by J. Vaccarello, “Iran sending banned weapons to Syria, U.N. report says”, CNN, 12 May 2011.

⁶ See figures reproduced in Portela, *op. cit.*, at p.21.

⁷ IAEA Board of Governors, “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran – Report by the Director General”, doc. GOV/2011/65, 8 November 2011.

Following a review of the measures, in June 2012 the Council of Ministers confirmed that they would remain as approved in January. Thus, two exemptions have ended, as scheduled, on 1 July 2012: contracts for importing Iranian oil that were concluded before 23 January had to be terminated by 1 July. From the same date, EU insurers were no longer allowed to provide third-party liability and environmental liability insurance for the transport of Iranian oil. In a similar move, on 12 July 2012 the US further tightened its sanctions on Iran, blacklisting several companies and individuals that it believes are contributing to efforts to acquire nuclear weapons.

Recent media reports show that, whereas the current UN sanctions against Iran have had limited effect, EU and US sanctions are having a greater impact than expected because of unusual levels of international acquiescence. This is particularly helped by Western dominance of the world banking and insurance systems, making the targeting of Iranian oil transporters easier. The European Union's oil embargo, in particular, is hurting Iran, as many states are diversifying away from Iranian oil. However, as a means of pressuring Iran to negotiate or make concessions, the West's sanctions policies have yet to yield real results in the diplomatic arena.

Negotiating a way out of entrenched positions

Essentially, the EU and its partners are following a twin-track approach of sanctions and diplomacy. Tough sanctions are meant to inflict such economic pain as to coax Tehran to re-enter into meaningful negotiations with the E3+3 and implement its international obligations and relevant UNSC resolutions in full cooperation with the IAEA. The E3+3 group wants Tehran to suspend the enrichment of uranium to a level of 20%, close down an underground enrichment facility near the city of Qom and export its stockpile of 20%-enriched uranium. The thinking among EU member states is also that heavy sanctions should help to stave off the threat of a pre-emptive strike by Israel on Iranian nuclear facilities, with all its imaginable consequences. A package of incentives, including technological support for a peaceful nuclear programme and the normalisation of economic relations, is part of the diplomatic offer made by the E3+3. But evidence shows that Tehran does not consider this package as incentive enough to relinquish its quest for a nuclear capability in a volatile region. Several rounds of high-level and more technical talks between the "contact group" and Iran have failed to produce that glimmer of hope that would lead anyone to believe a breakthrough could be reached. Without real incentives, there are no reasons for the country's hard-line politicians to take part in any meaningful negotiations.

Tehran rejects the whole philosophy of waging economic war against Iran as a kind of neo-colonial, gunboat diplomacy. Iran demands that the West lift its sanctions, including the EU oil embargo and the US measures against its central bank, and recognise its "non-negotiable" right to enrich uranium. With officials from the E3+3 meeting several times over the summer with their Iranian counterparts to gauge prospects for an agreement, Iran's Revolutionary Guards responded to the new EU and US sanctions with a series of drills to test ballistic missiles capable of hitting targets as far away as Israel. For its part, the Iranian parliament countered the sanctions by backing a bill calling for Iran to try to stop oil tankers from shipping crude oil through the Strait of Hormuz to countries that support sanctions against it. The Strait is an artery through which about 40% of the world's seaborne crude (exported from Saudi Arabia, the United Arab Emirates, Kuwait and Iraq) sails and nearly all the gas exported from Qatar. Iranian threats to block the waterway have mounted in the past year as EU and US sanctions aimed at starving Tehran of funds for its nuclear programme have tightened. However, a heavy western naval presence in the Gulf and surrounding area (the

Horn of Africa and the Indian Ocean) is a major impediment to any Iranian attempt to block the vital shipping route.

This entrenchment of positions is not without hazard, clearly. As Rouzbeh Parsi has pointed out in a series of publications for the Institute of Security Studies (EUISS), the sanctions may, on the one hand, lead Tehran to interpret the situation as “an existential confrontation, something which would in turn confirm the view of hard-line elements in Iran that the country is encircled by enemies poised to attack”.⁸ Such a chain of events could generate “the very outcome the sanctions are trying to prevent: a weaponisation of Iran’s nuclear programme”. On the other hand, the increasingly belligerent rhetoric in Washington and in Israel over Iran risks becoming “a self-fulfilling prophecy”. Despite the lack of progress, the EU is keeping the “dialogue of the deaf” alive, precisely because the alternative is such a slippery slope.

In the true spirit of Winston Churchill, it is better to “jaw, jaw, jaw” than to wage “war, war, war”. But the status quo in the talks currently led by the EU is untenable, especially since the rumbling of war drums is gathering pace and the prospect of a regional armed conflict becomes more real. As pointed out in a RAND report published in 2011⁹, the E3+3 should normalise diplomatic relations with Iran and offer it real incentives for cooperation in order to break the deadlock. This would allow for negotiations on the substance of the nuclear proliferation issue. Others have argued that Iran would thereby be rewarded for its clandestine activities by allowing it to use them as a bargaining chip to obtain concessions from the West, just like Tehran uses the sanctions imposed on it as an argument to crush domestic opposition groups as so-called agents of Western powers. To those commentators, a change of tactic should hinge on the minimum demand for some kind of internationally monitored civilian nuclear reprocessing programme for peaceful purposes, backed up by the threat that if Iran oversteps this bottom line, it will face military action.

A call to the EEAS

At this stage, the stakes are so high that the EU, in particular High Representative Catherine Ashton who, supported by the European External Action Service (EEAS), leads the international effort in the E3+3, should try to devise a way out of the impasse. The High Representative and the EEAS owe it to their constitutional vocations and the mandate entrusted upon them by the EU member states and international partners to seriously try and get a more constructive debate going. The handling of the Iranian nuclear issue, of which the first generation of post-Lisbon institutional actors has taken ownership, may well define its legacy, or at the very least inform the EEAS review process that is set to take place in 2013. Of course, the daunting nature of the task to cohere a wide and disparate set of adversaries and stakeholders around a central plan has to be recognised. But even if the chances of success are slim, the EU should be seen to be trying hard to take the heat out of the current deadlock.

⁸ See European Union Institute for Security Studies, “Iran: A revolutionary republic in transition”, Chaillot Papers, February 2012 (http://www.iss.europa.eu/uploads/media/cp128-Iran_A_revolutionary_republic_in_transition.pdf).

⁹ See “Coping with a Nuclearizing Iran”, RAND organisation report, 2011: (http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1154.pdf).

The first step in this direction would have to be the normalisation of diplomatic relations with Iran so as to allow all parties to the talks to enter into structural and constructive negotiations on substance. As Parsi has remarked, as long as Iran is the object of discussion and economic warfare rather than an equal participant in negotiations, the Iranian leadership's primary incentive will be to act as a spoiler of the talks. The High Representative and the EEAS should therefore prepare the ground to redefine the objectives of the E3+3 negotiations and the terms under which these talks would have to be conducted in the future. In order to generate a genuine interest among all players involved, and indeed their agreement to redefine diplomatic negotiations, the new objectives of the talks ought to go beyond the weaponisation of Iran's nuclear programme. Iran is only one piece of the wider puzzle, albeit a crucial one. The bigger challenge is to make Iran a part of the region instead of a threat to the region. What is currently lacking from the efforts of the international community to bring peace and stability to the region is an overall framework that gives all existing initiatives and attempts at peaceful dispute resolution in the Middle East a sense of purpose and direction. Given the changing strategic landscape and the zero-sum security metrics in the region, the EU should propose a regional security framework which ties in all relevant actors, takes everyone's security needs into account, and thus diminishes the mistrust that fuels proliferation. A realistic prospect of the negotiation and conclusion of a common security framework for the Middle East, which goes beyond the hitherto unsuccessful attempts to create a nuclear-free zone, would not only represent a real incentive for all actors to enter into substantial negotiations but also a huge step forward in geopolitical terms. As such, the Iranian nuclear issue could be tackled in a wider negotiated deal.

Arguably, the EU is better placed to launch such an initiative than the US, Russia or China. Contrary to other global powers, the EU has maintained day-to-day exchanges with all countries in the region, including Iran, since the Islamic revolution. Apart from its leadership role in the E3+3 talks, the EU is currently steering the Quartet's efforts in the Middle East Process. Furthermore, it has strategic relations with Turkey. For their part, the countries in the region will be interested in negotiations with the EU if the latter is backed up in its efforts by their major supporters, i.e. the US, Russia and China. Iran will be eager to see an end to sanctions, and may also be interested in assistance in economic and energy development and in re-establishing the historically strong trade links with Europe. In cooperation with security organisations like the IAEA, and under the auspices of the United Nations Security Council, the EU could inspire the countries in the region by engaging them in a process which uses the historical experience of the Union's own creation to tie (former) adversaries into a regional security framework by way of a functionalist, bottom-up approach.

For the EU, the process starts at home. For the initiative to be successful there must be an internal understanding of, and long-term commitment to, what the end goal is. It is up to the High Representative and the EEAS, in cooperation with the member states and other EU institutions, to draw up a plan that goes beyond the idea of a nuclear-free zone for the Middle East and addresses regional security concerns in a comprehensive manner. Incidentally, such a plan would fit well into the work to revamp the European Security Strategy.