

Implementing an Iran Nuclear deal: The EU Role

Presentation (as prepared) by Mark Fitzpatrick, IISS

Fourth Consultative Meeting of the EU Non-Proliferation Consortium, Brussels, 13 July 2015

After hearing of all the other difficult challenges facing the EU, it is unusual to be able to turn to the Iran nuclear issue as a positive development. A comprehensive agreement may now be only a matter of days or even hours away. Clearly there will be a deal. The parties have invested too much and made too many compromises on both sides to now walk away. The vast bulk of the major issues have been settled; the smaller obstacles that remain should not be hard to overcome.

In considering the EU role in implementation, it is helpful to recall the EU role to date in bringing matters to a brink of a comprehensive agreement on the nuclear issue.

Firstly, the EU and three of its member states are direct parties to the negotiations, of course, and have played a useful role in shaping the outcome. The chairing role of the High Representative of the European Union has been far more than administrative. We may have to await memoirs by participants to learn the full extent of the substantive contributions to the negotiations by the High Representative. But I recall press reports of how Baroness Catherine Ashton mediated between the parties in conflict to produce the Joint Plan of Action in November 2013. A headline in *The Telegraph* on 24 November that year read “Iran nuclear deal takes Catherine Ashton from 'zero' to hero.” The ‘zero’ was a riposte to a comment in *Le Monde* two years earlier of how French officials had reportedly termed her a ‘nulle. The *Telegraph* story went to relate how “Lady Ashton has faced down the snootiness of French diplomats, and what she once called the ‘latent sexism’ of Brussels, to become the unlikely peacemaker between America and Iran.”

Ashton’s successor, Federica Mogherini, also sparked headlines last week when, during a heated exchange over whether to maintain a UN arms embargo, she reportedly threatened to leave the talks in Vienna. Iranian Foreign Minister Javad Zarif shouted back, ‘Never threaten an Iranian’. His words became a favourite Twitter hashtag in both English and Persian.

The EU and three of its member states also deserve credit for initiating diplomatic negotiations with Iran over its nuclear programme. By one way of reckoning, Europeans

started it all when ministers of France, Germany and the UK travelled to Tehran in October 2003 and signed an agreement under which Iran agreed to suspend uranium enrichment activities. Defining those activities proved problematic, and the suspension was sporadic, but it was solidified in the Paris Agreement of October 2004, which this time was signed by the three ministers with the support of the High Representative of the European Union. What had been the E3 became the E3/EU in the document.

EU negotiations with Iran over the nuclear program actually began earlier than 2003/2004. In December 2002, they began negotiating a Political Dialogue Agreement to address issues including the non-proliferation of Weapons of Mass Destruction. Those talks were held in parallel with negotiations over a Trade and Cooperation Agreement (TCA). The set of talks became an important test case for the EU's WMD Non-proliferation clause. Unfortunately they had to be put on hold in August 2005 when Iran ended the Paris Agreement suspension of its nuclear activities. The point to make here is that the TCA was an important element of the incentives that the EU offered to Iran from the beginning. The incentives, which were amplified in the extensive framework proposal that the E3/EU put to Iran in August 2005 preceded the disincentives that the EU later applied.

The EU sanctions had real bite, particularly in cutting off 18% of Iran's oil sales, prohibiting its use of SWIFT banking communications and blocking insurance for Iranian entities. An editorial in the conservative *Chicago Tribune* in January 2012 after those measures were announced read: "EU" and "bold action" don't often share the same sentence. But they did on Monday. The 27 nations of the European Union dealt a huge oil shock to Iran.'

Sanctions alone did not bring Iran to the negotiating table. The confluence of having leaders in Tehran and Washington who were keen to find a pragmatic solution was crucial. Rouhani and Obama were supported by pragmatists in Berlin, London, Paris, Brussels, Moscow and Beijing. The unity of the EU/E3+3 has been vital. But the sanctions certainly gave Iran an incentive to strike a deal, and they contributed to Rouhani's election two years ago.

Implementation of a nuclear agreement – inshallah there will in fact be a nuclear agreement -- will require a continued central EU role. The increased trade potential with European Union member states will act as a major incentive for Iran to faithfully carry out its obligations under the deal. To reinforce the incentives, the EU may wish to offer to resume talks on a

Trade and Cooperation Agreement and a political dialogue, which will also include human rights issues. This time the WMD Non-proliferation clause should not be an impediment, since Iran presumably will be in compliance with international non-proliferation regimes. Such talks should be used to encourage Iran to sign up to other non-proliferation instruments, including by ratifying the Comprehensive Test Ban Treaty.

The incentives again will have to be combined with disincentives: a cut-off of trade in the event of violations. UN sanctions may prove difficult to 'snap back' but this should not be the case with EU sanctions. The EU Council must have the will to restore sanctions measures quickly and certainly, and Iran must know that this would be the case.

Implementing what will be a complex, politically fraught negotiation will not be easy. There will be plenty of mishaps and mischief-making along the way. Parties may well cheat, and surely there will be many an accusation of cheating. Odds are at least even that the deal will break down before the end of the double-digit year limits on Iran's nuclear programme -- although I don't predict that a breakdown can't be repaired. The EU facilitator role for negotiations would again be central in the event of a breakdown.

The dispute resolution process that is to be established with regard to verification measures will need to work swiftly and judiciously. The fact that France, Germany, the United Kingdom and the United States will comprise four of the seven members should ensure that disputes are settled in ways that give the IAEA necessary access to suspect sites, be they civilian or military. Unity among the Europeans and Americans will be important.

Today the trans-Atlantic allies see eye to eye on most matters concerning Iran. That might not necessarily be the case after the next US presidential election, less than a year and a half away. I expect that whoever is elected the 45th US president will honour the Iran nuclear deal, even though most of those who have declared their candidacy today speak of the deal with contempt. By the time of inauguration, the deal will have proven its worth. Many US Republican Party critics who hated the interim deal of November 2013 now argue that it should remain in place, I expect that today's critics will similarly come around, especially if they are in power. Because if in power, they wouldn't be able just to criticise, they would have to come up with a better plan. And there is no better alternative to negotiations and to carrying out the obligations to which the nation has signed up.

The deal that is shaping up isn't great from a Western point of view. It has too short of a sunset clause; it allows more centrifuges than Iran needs for its civilian energy program; and it won't entail 'anytime, anywhere inspections'. But it will block all of Iran's prospective paths to a nuclear weapon and it will allow for IAEA access where needed, when needed. The verification measures are more extensive than are employed by the IAEA anywhere else in the world.

Faithful implementation of the deal should allow the IAEA to draw the 'broader conclusion' under the Additional Protocol that all of the nuclear material in Iran is for peaceful purposes. Such a conclusion would be a very important confidence builder. En route to this conclusion, contributions to the IAEA by the EU and its member states in the form of voluntary contributions and technology will sharpen the agency's verification tools to enable it to effectively safeguard even the industrial-sized enrichment facility to which Iran aspires.

One other way in which the EU and its member states can be helpful in seeing to faithful implementation of an Iran nuclear accord is through private and public diplomacy vis-à-vis other players. If the deal is deemed decent, then don't be shy about saying so. Tell the critics in Washington, who otherwise listen only to those few countries in the Middle East who are apprehensive about an agreement with Iran and who say so loudly. Obama's opponents like to condemn him for not paying heed to America's allies who hate the deal. But the vast majority of America's allies support the prospective agreement. A reminder is in order.

While you are at it, let it be known that if the deal falls apart because of actions by opponents in the US Congress, the European Union will not be suckered into playing along. If Iran is responsible for breaking an agreement, then the EU would re-impose sanctions, but not if the responsibility lies elsewhere. Without EU support, the entire sanctions regime could dissolve.

Let's see if we can get the *Chicago Tribune* to write another editorial about bold and wise Europe.