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## The Iranian nuclear issue and EU3 negotiations

Dr Aldo Zammit Borda<sup>1</sup>  
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### Abstract

Concerns over Iran's nuclear program stem primarily from Tehran's recent history of concealment and the uncertainty surrounding its nuclear ambitions. Iran has repeatedly insisted, however, that its program is solely for peaceful purposes.

This article considers Iran's alleged ambitions to develop a nuclear weapon and argues that threatening to sanction Iran for its past irregularities without offering substantial incentives would not serve to deter or inhibit this country from developing such a weapon, should it decide to do so. Rather, the constructive engagement of the EU3, but with the backing of the international community, together with ongoing IAEA monitoring and verification, is more likely to succeed.

The EU3, while keeping up efforts to convince Iran to permanently suspend its enrichment activities by offering a mix of positive and negative incentives, should not allow talks to fail if Iran decides to resume enrichment. These talks provide the forum for constructive engagement and the chance to clarify concerns and motivations, which are important preconditions for longer term cooperation to develop.

Instead, in parallel with demands to make the suspension permanent and irrespective of whether or not they are accepted, the EU3 should pursue Iran's speedy ratification of the Additional Protocol, in order to confer legal certainty on the intrusive inspections regime.

The IAEA would thus be in a position to verify whether Iran is developing a nuclear weapon and to alert or reassure the international community accordingly.

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<sup>1</sup> Currently on scholarship at the Dublin European Institute (a Jean Monnet Centre of Excellence), University College Dublin, the author, Dr Aldo Zammit Borda BA LLD, is working on a dissertation entitled: "Meeting the Proliferation Challenge: the EU WMD Strategy." In this dissertation, he will be examining the development of the EU's Strategy against WMD proliferation, including its progress reports and list of priorities and assessing the Strategy's effectiveness in presenting a united front against the proliferation of WMDs on an international and regional dimension. The author's previous thesis, "The Threat and Use of Chemical and Biological Weapons under International Law," is available at the University of Malta, Tal-Qroqq and the Carnegie Peace Palace Library, The Hague. This thesis examines the provisions of the 1925 Geneva Convention, the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention and supports the Harvard Sussex Program on finalising a draft Convention which renders activities related to chemical and biological weapons crimes against humanity. Upon completion of his law degree, Dr Zammit Borda worked at the EU directorate of the Malta Ministry of Foreign Affairs, where he was responsible for, inter alia, the WMD, terrorism and Dual-Use items desk. In this capacity, he was part of the Maltese delegation to the OPCW Mediterranean Workshop on the CWC, held in Malta in May 2004. The author has published another paper on the Iran nuclear issue, entitled "Iran and the Centrality of the IAEA", Analysis section, Peace and Conflict Monitor, UN University for Peace, March 2005. He can be contacted at aldozb@gmail.com

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## Introduction

Concerns over Iran's nuclear program stem primarily from Tehran's recent history of concealment and the uncertainty surrounding its nuclear ambitions. The most alarming developments occurred in mid-2002, when two previously unknown nuclear facilities – a uranium enrichment facility at Natanz and a heavy water production plant at Arak – and substantial reserves of uranium ore at Saghand were discovered.

Iran subsequently declared its intention to develop an indigenous nuclear fuel cycle capability, which may be used for the production of nuclear weapons without having to rely on outside help<sup>2</sup>. Iran has repeatedly insisted, however, that its program is solely for peaceful purposes<sup>3</sup>.

The international community is divided on the issue with the US and Israel, on the one hand, accusing Tehran of using its energy policy as a smokescreen for developing nuclear weapons<sup>4</sup> and China and Russia, on the other, providing support for Iran's nuclear program and opposing UN sanctions in the absence of conclusive evidence that it is developing such weapons<sup>5</sup>.

In an effort to diffuse tensions and to preserve the integrity of the non-proliferation regime, the EU3 (Britain, France and Germany) entered into negotiations with Iran in October 2003, offering a mix of positive and negative incentives in exchange for Iran's permanent suspension of its indigenous fuel cycle capability. Iran agreed to temporarily suspend enrichment and reprocessing activities pending these negotiations, but has so far been unwilling to accept to a permanent cessation.

This article considers Iran's alleged ambitions to develop a nuclear weapon and argues that threatening to sanction Iran for its past irregularities without offering substantial incentives would not serve to deter or inhibit this country from developing such a weapon, should it decide to do so. Rather, the constructive engagement of the EU3, but with the backing of the international community, together with ongoing IAEA monitoring and verification, is more likely to succeed.

The EU3 - Iran negotiations are reviewed and assessed. In light of these negotiations, it is argued that an attack on Iran on the grounds of nuclear pre-emption is undesirable at this stage and could indeed prove counterproductive.

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<sup>2</sup> Nuclear Threat Initiative and the Center for Nonproliferation Studies, Iran Profile – Nuclear Overview, February 2005, [http://www.nti.org/e\\_research/profiles/Iran/1819.html](http://www.nti.org/e_research/profiles/Iran/1819.html)

<sup>3</sup> For instance, Iranian President Mohammad Khatami guaranteed that Iran "will not produce nuclear weapons because we're against them and do not believe they are a source of power." BBC, Iran 'will stick to nuclear plan', 9 February 2005, [http://news.bbc.co.uk/2/hi/middle\\_east/4252019.stm](http://news.bbc.co.uk/2/hi/middle_east/4252019.stm)

<sup>4</sup> BBC, 19 November 2004, Iran 'rushing nuclear enrichment', [http://news.bbc.co.uk/1/hi/world/middle\\_east/4026835.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4026835.stm) and The Epoch Times, Iran Nuclear "Nightmare" Very Close, Says Israel, 12 March 2005, <http://english.epochtimes.com/news/5-3-12/26977.html>

<sup>5</sup> BBC, Bush keeps pressure on Iran, 18 February 2005, <http://news.bbc.co.uk/1/hi/world/europe/4278563.stm> and Nuclear Threat Initiative and the Center for Nonproliferation Studies, Iran Profile – Nuclear Overview, op cit.

The EU3, while keeping up efforts to convince Iran to permanently suspend its enrichment activities by offering a mix of positive and negative incentives, should not allow talks to fail if Iran decides to resume enrichment. These talks provide the forum for constructive engagement and the chance to clarify concerns and motivations, which are important preconditions for longer term cooperation to develop.

Instead, in parallel with demands to make the suspension permanent and irrespective of whether or not they are accepted, the EU3 should pursue Iran's speedy ratification of the Additional Protocol, in order to confer legal certainty on the intrusive inspections regime.

The IAEA would thus be in a position to verify whether Iran is developing a nuclear weapon and to alert or reassure the international community accordingly.

### **A review of EU3 – Iran negotiations**

The first round of EU3 – Iran negotiations took place in October 2003, following the tough IAEA resolution of September 2003, which threatened to refer Iran to the UN Security Council at the next Board meeting if it was found in breach of its safeguards agreement<sup>6</sup>. This resolution identified a number of infringements and failures on the part of Iran and called for accelerated cooperation and full transparency.

In an effort to diffuse tensions and to preserve the integrity of the non-proliferation regime, the Foreign Ministers of Britain, France and Germany (EU3) negotiated an "Agreed Statement" with Iran on 21 October 2003, securing its cooperation with the IAEA<sup>7</sup>. Under this agreement, Iran pledged "to engage in full co-operation with the IAEA to address and resolve through full transparency all requirements and outstanding issues of the Agency". As confidence building measures, it committed itself to sign and implement the IAEA Additional Protocol, pending ratification, and "voluntarily to suspend all uranium enrichment and reprocessing activities". However, the scope and duration of this suspension were not defined, an ambiguity that would later prove problematic.

It provided that the EU3 would oppose efforts to refer Iran to the Security Council at the next Board meeting, as long as Iran fully implemented its commitments. The agreement also provided the basis for a longer term cooperative dialogue, including easier access to modern technology and supplies in a range of areas and the promotion of security and stability in the region including the establishment of a zone free from weapons of mass destruction in the Middle East.

Initially, Iran took steps to implement the agreement by, for instance, submitting further information to the IAEA on past nuclear activities and signing the Additional Protocol in December 2003, promising to implement it pending ratification by the Majlis (Parliament). The EU3 kept their end of the bargain by opposing US efforts to refer Iran to the Security Council. The IAEA November resolution welcomed the EU3 – Iran agreement and, while strongly deploring Iran's past violations, took note of its

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<sup>6</sup> Samore, G., Meeting Iran's Nuclear Challenge, WMD Commission Paper No. 21, [www.wmdcommission.org](http://www.wmdcommission.org)

<sup>7</sup> In Focus : IAEA and Iran, Statement by the Iranian Government and visiting EU Foreign Ministers, 21 October 2003, [http://www.iaea.org/NewsCenter/Focus/laealiran/statement\\_iran21102003.shtml](http://www.iaea.org/NewsCenter/Focus/laealiran/statement_iran21102003.shtml)

decision to suspend all enrichment-related and reprocessing activities and to adhere to the Additional Protocol. Iran was thus not referred to the Security Council.

But already in early 2004, Iran's cooperation started to wear thin. An IAEA report in February disclosed that Iran had not declared designs for a P-2 centrifuge used to make bomb-grade material and that it had also experimented with polonium-210, a radioactive metallic substance which has a number of industrial uses, but which could also be used to initiate a nuclear explosion<sup>8</sup>. Iran was again urged to intensify its cooperation in order to clarify outstanding questions<sup>9</sup>.

The IAEA resolution of March 2004 noted with serious concern that the declarations made by Iran the previous October contained a number of omissions and did not provide a complete and final picture of Iran's past and present nuclear program. Moreover, a number of questions regarding the development of Iran's enrichment technology also remained unresolved<sup>10</sup>. The resolution, in particular, deplored the fact that Iran omitted any reference to its possession of centrifuge design drawings and to associated research, manufacturing, and mechanical testing activities and called on it to be pro-active in taking all necessary steps on an urgent basis to resolve all outstanding issues.

Three months later, in June 2004, though encouraged by the fact that "good progress in gaining a comprehensive understanding of Iran's nuclear program" had been made, the IAEA resolution was still complaining of unresolved questions<sup>11</sup>. One of the main issues was the scope of Iran's voluntary suspension of uranium enrichment and reprocessing activities.

The resolution called on Iran "to remove the existing variance in relation to the Agency's understanding of the scope of Iran's decisions regarding suspension, including by refraining from the production of UF<sub>6</sub> and from all production of centrifuge components"<sup>12</sup>. It also urged Iran to reconsider its decision to begin production testing at the Uranium Conversion Facility and to also reconsider its decision to start construction of a research reactor moderated by heavy water.

Despite Iran's protests, the resolution deplored the fact that "Iran's cooperation has not been as full, timely and proactive as it should have been" and put the issue back on the September IAEA Board meeting's agenda.

Iran reacted strongly to this resolution. The Iranian nuclear negotiator, Hassan Rohani, claimed that the EU3 had not kept their end of the promise, where they had "pledged that the Iranian file would be closed in June"<sup>13</sup>. In response, Tehran moved

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<sup>8</sup> BBC, Iran nuclear omissions worry UN, 24 February 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3517139.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3517139.stm)

<sup>9</sup> BBC, Iran dismisses UN nuclear charges, 25 February 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3486930.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3486930.stm)

<sup>10</sup> IAEA Board of Governors Resolution GOV/2004/21, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, 13 March 2004.

<sup>11</sup> IAEA Board of Governors Resolution GOV/2004/49, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, 18 June 2004.

<sup>12</sup> Ibid.

<sup>13</sup> BBC, Iran to review uranium suspension, 19 June 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3821597.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3821597.stm)

to break its “voluntary suspension”, notifying the IAEA that it intended to resume manufacture of centrifuge components and assembly and testing of centrifuge machines<sup>14</sup>.

The EU3 declared their disappointment and incomprehension at the move. A source in Paris told the French news agency, AFP, they were working with the British and Germans towards “a common and coordinated position on the matter”<sup>15</sup>.

It should be noted that this was happening at a time of strained relations between the EU and Iran. An EU report published that month, but unrelated to the nuclear issue, warned Iran that the EU was gravely concerned with its continued human rights violations<sup>16</sup>. Also that month, Iranian hardliners staged a series of angry demonstrations outside the British embassy in Tehran to protest at the occupation of Iraq, and a diplomatic incident arose after eight British servicemen on duty in Iraq strayed over the Iranian maritime border and were detained by Iranian authorities for three days<sup>17</sup>.

In a move to restore the EU3 – Iran agreement, EU3 representatives met with Iranian officials in Paris at the end of July, warning Iran that they would support a referral to the UN Security Council, if Iran did not restore the full suspension.

In response, Iran rejected any indefinite suspension and indicated it was prepared to consider a temporary suspension of its fuel cycle program, but only if Iran’s security concerns were addressed, including acquisition of conventional arms, recognition of Iran’s security interests in the Persian Gulf, removal of restrictions on purchases of dual-use technology, and progress towards establishment of a nuclear-weapons free zone in the Middle East.

In this period, the Iranian Foreign Minister, Kamal Kharrazi announced Iran’s decision to resume building centrifuges used for enriching uranium, arguing that “since the Europeans failed to meet their commitments, we can manufacture centrifuge parts”<sup>18</sup>. Moreover, Iran notified the IAEA in mid-August that it was conducting hot tests at the Esfahan uranium conversion facility<sup>19</sup>.

As a result, the US, Britain, France and Germany tabled a resolution in September 2004, which was adopted by the IAEA Board of Governors, and which expressed serious concern that Tehran had not heeded previous calls to suspend its uranium enrichment activities<sup>20</sup>. The resolution deeply regretted that the implementation of Iran’s voluntary decisions to suspend enrichment related and reprocessing activities

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<sup>14</sup> Samore, G., Meeting Iran’s Nuclear Challenge, op cit.

<sup>15</sup> BBC, EU concern at Iran nuclear move, 25 June 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3841597.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3841597.stm)

<sup>16</sup> BBC, Iran rebukes EU on rights abuses, 21 June 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3825337.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3825337.stm)

<sup>17</sup> BBC, Iran releases British servicemen, 24 June 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3835313.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3835313.stm)

<sup>18</sup> BBC, Iran resumes centrifuge building, 31 July 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3942435.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3942435.stm)

<sup>19</sup> Samore, G., Meeting Iran’s Nuclear Challenge, op cit.

<sup>20</sup> IAEA Board of Governors Resolution, GOV/2004/79, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, 18 September 2004.

“fell significantly short of the Agency’s understanding of the scope of those commitments and also that Iran has since reversed some of those decisions”.

This resolution contained an implicit threat of referring Iran to the UN Security Council if it did not take significant steps towards meeting the IAEA’s demands by the next Board meeting, in November. The US had pressed for Iran’s referral to the Security Council already in September, but the EU3 argued that unity in the IAEA required that it be given a final chance<sup>21</sup>.

Iran reacted defiantly to this resolution. The secretary of Iranian National Security Hassan Rohani, maintained that “Iran will not accept any obligation regarding the suspension of uranium enrichment”<sup>22</sup>. He also warned that, should Iran be referred to the Security Council, it would stop implementing the Additional Protocol and would consider pulling out of the NPT altogether.

Feeling there was a window of opportunity ahead of the IAEA Board meeting in November, EU3 senior officials met their Iranian counterparts on 21 October, to offer them a “last chance” to restore their suspension of uranium enrichment in return for other concessions, or face a referral to the Security Council<sup>23</sup>. At this meeting, the EU3 presented Iran with a four-page proposal whose preparatory text was leaked to the AFP a week earlier<sup>24</sup>.

This proposal called on Iran to indefinitely suspend all enrichment and reprocessing related activities, in a comprehensive and internationally verifiable manner, until an acceptable long term agreement was reached. As will be seen below, issues arose as to the definition of “indefinite suspension”.

If Iran accepted this condition, the EU3 would provide a number of concessions and incentives to Iran, such as supporting Russian - Iranian cooperation in the field of peaceful nuclear energy; giving political assurances of access to the international fuel market at market prices; offering a Light Water Research Reactor; resuming negotiations on an EU - Iran Trade and Cooperation Agreement; and supporting Iran’s adherence to the WTO.

If, however, Iran rejected this proposal, the EU3 maintained that they would consider the October 2003 agreement dissolved and they would support Iran’s referral to the UN Security Council, which had the authority to make the suspension of uranium enrichment mandatory and to strengthen the powers of the IAEA to carry out inspections in Iran.

The Security Council also had the authority to consider further measures as might be necessary under Article 41 of the UN charter.

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<sup>21</sup> Reynolds, P., Iran faces 'nuclear ultimatum', on the BBC website, 8 September 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3639132.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3639132.stm)

<sup>22</sup> BBC, Iran rejects UN nuclear demands, 19 September 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3670018.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3670018.stm)

<sup>23</sup> Charbonneau, L., Iran given, Reuters, 21 October 2005, <http://www.nuclearpolicy.org/NewsArticle.cfm?NewsID=1913>

<sup>24</sup> AFP, Preparatory text for European proposals on Iranian nuclear program, 21 October 2004, <http://www.iranfocus.com/modules/news/article.php?storyid=578>

The negotiations between the EU3 and Iran took place in what an Iranian spokesperson described as a “good atmosphere” and both sides agreed that they should continue<sup>25</sup>.

Iran however warned that it would reject any demand for a complete halt to its uranium enrichment activities. An Iranian National Security official stated that Iran “would be willing to consider any package that recognises the full right of Iran to enjoy peaceful nuclear technology within the framework of the NPT...But Iran is not prepared for cessation. Any package including a cessation of fuel cycle work would be rejected by Iran”<sup>26</sup>.

The Iranian Foreign Minister Kamal Kharrazi held that “The time has come for Europe to take a step forward and suggest that our legitimate right for complete use of nuclear energy is recognised [in exchange for] assurances that our programme will not be diverted toward weapons”<sup>27</sup>. A week earlier, on 5 October, a parliamentary committee in Iran had given approval to a bill obliging Iran to resume its uranium enrichment<sup>28</sup>. The timing of this bill was designed to strengthen the position of Iranian negotiators, who could argue during the negotiations that their hands were tied by parliament.

Some progress was made in the talks after Iran made it clear that the “indefinite suspension” referred to in the EU3’s proposal did not amount to a permanent suspension. In this respect, Iranian negotiator Rowhani announced that “The European proposal for an unlimited suspension of uranium enrichment can be implemented, provided it does not contradict the Islamic Republic's criteria”<sup>29</sup>.

There was a renewed mood for optimism and both sides still hoped to reach a compromise. Much hinged, however, on the meaning of the “indefinite suspension”: whether it meant a matter of months or a longer time frame.

By early November 2004, signals from Iran were mixed. On the one hand, Iranian president Mohammad Khatami announced that Iran was ready to reach an agreement over its nuclear program. On the other, the bill obliging the Iranian government to resume its uranium enrichment program passed the first stage of a parliament, receiving the endorsement of all MPs present<sup>30</sup>.

As the talks progressed, the key sticking point remained the duration of the “indefinite suspension,” with Iran proposing a six-month suspension of enrichment and the EU3 pressing for an indefinite moratorium. Meanwhile, the European Council conclusions

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<sup>25</sup> BBC, Nuclear offer fails to sway Iran, 24 October, 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3948613.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3948613.stm)

<sup>26</sup> BBC, Iran to shun Europe nuclear deal, 16 October 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3748776.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3748776.stm)

<sup>27</sup> BBC, Trio 'to offer Iran nuclear deal', 15 October 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3748316.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3748316.stm)

<sup>28</sup> This bill, however, still had to be passed by parliament. BBC, Iran assembly backs nuclear bill, 5 October 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3717870.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3717870.stm)

<sup>29</sup> BBC, Iran hints at nuclear concession, 25 October 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3952177.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3952177.stm)

<sup>30</sup> BBC, Iran 'ready for nuclear accord', 2 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3975603.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3975603.stm)

of 4-5 November 2004, insisted that “a full and sustained suspension of all enrichment and reprocessing activities in Iran, on a voluntary basis, would open the door for talks on long-term cooperation offering mutual benefits”<sup>31</sup>.

The Council confirmed that the EU and its Member States would remain actively engaged, through the efforts of the EU3 and the High Representative, with the objective of achieving progress on the Iranian nuclear issue before the IAEA Board of Governors meeting of 25 November 2004.

On 7 November 2004, Iranian officials announced they had reached a “preliminary agreement on an expertise level” and the following day, the EU High Representative confirmed that good progress had been made, but the EU3 were still awaiting a final response from Iran<sup>32</sup>. Meanwhile, conservative and influential figures in Tehran repeated calls for Iran not to bow to European demands.

As the talks progressed, the chief Iranian negotiator Mr Rohani announced that Iran would suspend “almost all” its enrichment activities until a long-term agreement on Iran's nuclear program was reached<sup>33</sup>. This announcement allowed for an agreement to be concluded in Paris, on 15 November 2004, between the Governments of France, Germany and the UK with the support of the High Representative of the EU, and Iran<sup>34</sup>. Iran's suspension of “almost all” its enrichment activities would, however, later lead to disputes as to which activities fell within its scope.

The parties to the November 2004 agreement firstly reaffirmed their commitments to the previous agreement of October 2003 and to the NPT regime. In this regard, Iran agreed to continue voluntarily implementing the Additional Protocol pending ratification.

The paragraph on suspension, which survived relatively unchanged from that in the preparatory text, provided that Iran decided, on a voluntary basis, to continue and extend its suspension to include all enrichment related and reprocessing activities, and specifically: the manufacture and import of gas centrifuges and their components; the assembly, installation, testing or operation of gas centrifuges; 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.

This suspension had to be implemented ahead of the November IAEA Board meeting and had to be sustained pending negotiations on a mutually acceptable agreement on long-term arrangements. It was underscored that sustaining this suspension was “essential” for the continuation of the overall process. It was recognised, however,

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<sup>31</sup> Brussels European Council, Presidency Conclusions of 4/5 November 2004, Doc. 14292/1/04 REV 1, 8 November 2004.

<sup>32</sup> BBC, Iran nuclear 'agreement' welcomed, 8 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3993153.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3993153.stm)

<sup>33</sup> BBC, Iran agrees to nuclear curb, 14 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4011535.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4011535.stm)

<sup>34</sup> IAEA, Communication dated 26 November 2004 received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom concerning the agreement signed in Paris on 15 November 2004, INFCIRC/637, 26 November 2004.

that the suspension was a voluntary confidence building measure and not a legally-binding obligation.

In return, the EU3 committed themselves to begin negotiations with a view to reaching a mutually acceptable agreement on long term arrangements. These negotiations would cover three broad areas: nuclear energy, technological and economic cooperation, and political and security issues. To this end, a steering committee was launched to “move ahead with projects and/or measures that can be implemented in advance of an overall agreement.”

Following this agreement, disputes still remained over the scope of the suspension, which had to be implemented by 22 November. Iran had sought to have 20 centrifuges exempted from the freeze, but dropped the demand prior to the November IAEA Board meeting and agreed for them to be included<sup>35</sup>.

Consequently, the IAEA Director General could report to the Board that verification of Iran's suspension had been successfully completed. “All the declared nuclear material in Iran has been accounted for, and therefore such material is not diverted to prohibited activities”. However, doubts remained over whether there were any undeclared nuclear materials or activities in Iran<sup>36</sup>.

In view of the EU3 – Iran agreement and Iran’s cooperative approach, the November IAEA Board of Governors resolution was largely positive<sup>37</sup>. The Board welcomed the fact that “Iran has decided to continue and extend its suspension of all enrichment related and reprocessing activities”. It also noted that “good progress has been made...in the Agency’s ability to confirm certain aspects of Iran’s current declarations.” While it expressed strong concern that Iran’s policy of concealment up to October 2003 had resulted in many breaches of Iran’s obligations to comply with its NPT safeguards agreement, it also acknowledged the corrective measures subsequently undertaken.

As a result, the resolution did not threaten to refer Iran to the Security Council. This was hailed by Iran as a “great victory” over the US, who had been pressing for such referral. The Iranian nuclear negotiator described the EU3 – Iran talks as a “historical opportunity for Iran and Europe to prove to the world that unilateralism is condemned”<sup>38</sup>.

The EU General Affairs and External relations Council of 13 December 2004 welcomed the adoption of this resolution<sup>39</sup>. It decided that, in view of the Agency’s confirmation that Iran had voluntarily suspended all enrichment related and

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<sup>35</sup> BBC, US keeps nuclear pressure on Iran, 29 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4052307.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4052307.stm)

<sup>36</sup> BBC, UN probe backs Iran nuclear claim, 15 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4013321.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4013321.stm)

<sup>37</sup> IAEA Board of Governors resolution GOV/2004/90, Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, 29 November 2004

<sup>38</sup> BBC, Iran hails UN nuclear 'victory', 30 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4054069.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4054069.stm)

<sup>39</sup> EU General Affairs and External Relations Council, Extracts from successive General Affairs & External Relations Councils, 13 December 2004: Iran - Council Conclusions (item debated), [http://europa.eu.int/comm/external\\_relations/iran/intro/gac.htm#iran221104](http://europa.eu.int/comm/external_relations/iran/intro/gac.htm#iran221104)

reprocessing activities, the Council could begin negotiations on a long term arrangement, as provided in the EU3 – Iran agreement.

The Council confirmed that the EU would resume negotiations with Iran on a draft EU - Iran Trade and Cooperation Agreement together with parallel negotiations on a political agreement. It reiterated the EU's readiness to explore ways to further develop political and economic co-operation with Iran, if Iran also addressed the EU's other concerns regarding the fight against terrorism, human rights the Middle East Peace Process.

Negotiations on the nuclear issue resumed in January 2005, with the EU3 pressing for Iran's temporary suspension to be made permanent. A confidential EU document stated that "Iran has to recognise that the fuel cycle program is the core of the problem," and the EU3 would not settle for anything less than a complete cessation.

Iran maintained, on the other hand, that the discussions did not revolve around a permanent cessation of enrichment, but rather giving "objective guarantees" about Iran's fuel cycle not being diverted to make nuclear weapons<sup>40</sup>.

In parallel with these talks was the US and Israel's increasingly adversarial rhetoric against Iran. It was labelled an "outpost of tyranny" by the US Secretary of State Condoleezza Rice<sup>41</sup> and placed at the top of the US list of "potential trouble-spots" by the US Vice-President Dick Cheney<sup>42</sup>. Addressing Israel's parliament in the same period, the head of Israel's Mossad intelligence agency warned that Iran's nuclear program was nearing the "point of no return"<sup>43</sup>. Neither the US nor Israel ruled out the possibility of a unilateral military attack.

In this light, the IAEA Director General warned against taking rash action over Iran's nuclear program. He noted that IAEA inspections were working, but that the process took time<sup>44</sup>.

The EU3 – Iran talks were dealt a blow in February, when Iran rejected one of the main incentives on the table, the substitution of a light water research reactor for its heavy water reactor being built at Arak. A heavy water reactor could be used to produce weapons-grade plutonium.

Also in February, Russia and Iran signed an agreement for Moscow to supply fuel to Iran's new nuclear reactor in Bushehr. As a safeguard, Iran would have to return the spent rods to Moscow in accordance with an agreed time-frame. This deal arguably weakened the EU3's bargaining position, as it entitled Iran to receive nuclear fuel and technology from Russia, making the country less dependent on the West.

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<sup>40</sup> BBC, Crunch time at EU nuclear talks, 26 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4210257.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4210257.stm)

<sup>41</sup> BBC, Rice names 'outposts of tyranny', 19 January 2005, <http://news.bbc.co.uk/1/hi/world/americas/4186241.stm>

<sup>42</sup> BBC, Iran tops US 'trouble-spots' list, 21 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4193909.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4193909.stm)

<sup>43</sup> BBC, Mossad warning over nuclear Iran, 24 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4203411.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4203411.stm)

<sup>44</sup> BBC, Watchdog urges patience over Iran, 29 January 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4218085.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4218085.stm)

In early March, Iran was urged to cooperate more fully with the IAEA inspections in a report which pointed out, in particular, Iran's refusal to allow nuclear inspectors to revisit a key military complex, at Parchin<sup>45</sup>. Iran was also criticised for starting work on a storage tunnel at Esfahan without informing the Agency.

The EU3 moreover expressed concern about Iran's cleaning and quality control work on centrifuge parts and urged it to sustain its voluntary suspension of uranium enrichment activities.

In mid-March 2005, the US announced a significant shift in policy over Iran, following talks the US President had had with the EU3 during his visit to Europe. The US, who had earlier refused to negotiate with Iran, agreed to back the EU3 in offering economic incentives for Teheran to abandon its nuclear program. These incentives included the lifting of a decade-long block on Iran's entry to the World Trade Organisation and authorising the sale of spare parts to Iran's decrepit fleet of civilian airliners<sup>46</sup>.

This move was welcomed by the EU at its General Affairs and External Relations Council of 16 March 2005<sup>47</sup>. However, the incentives offered by Washington were rejected as "insignificant" by Iran. An Iranian foreign ministry spokesperson held that: "The restrictions regarding [aircraft] spare parts that were of no military use should have not been imposed from the beginning, and lifting them is not an incentive...[and] getting into the WTO is the right of all countries of the world"<sup>48</sup>.

The EU3's insistence on a permanent cessation of enrichment and reprocessing activities and Iran's determination to produce at least part of its nuclear fuel have caused the talks to reach a deadlock in the first quarter of 2005. Iran's suspicions that the EU3 were trying to transform the temporary suspension into a de facto permanent suspension by dragging out the talks led them to threaten setting a deadline. Iran has, moreover, warned it will resume nuclear enrichment if negotiations failed<sup>49</sup>.

Iran's threat in mid-May 2005, amidst the NPT Review Conference, that it would restart uranium enrichment activities caused the EU3 and Iran to resume negotiations in Geneva, wherein Iran agreed to prolong the suspension of enrichment activities in accordance with the EU3 – Iran November agreement<sup>50</sup>. In return, the EU3 agreed to present Iran with detailed proposals by early August on long-term nuclear

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<sup>45</sup> BBC, Iran nuclear plans under pressure, 2 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4311077.stms](http://news.bbc.co.uk/1/hi/world/middle_east/4311077.stms)

<sup>46</sup> Russel, A., US agrees incentives if Iran halts its nuclear programme, article in the Telegraph of 12 March 2005, <http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/03/12/wiran12.xml>

<sup>47</sup> EU General Affairs and External Relations Council Conclusions, 2650th Council meeting, Doc. 6970/05 (Presse 45) of 16 March 2005.

<sup>48</sup> BBC, Iran rejects US nuclear incentive, 12 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4342839.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4342839.stm)

<sup>49</sup> BBC, Iran warns EU over nuclear talks, 29 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4498115.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4498115.stm)

<sup>50</sup> BBC, Iran in new nuclear arms pledge, 25 May 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4577877.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4577877.stm)

cooperation<sup>51</sup> and the World Trade Organisation (WTO) agreed to begin entry talks with Iran, after the US lifted its opposition to such talks<sup>52</sup>.

In view of Iran's past concealment and its unconvincing justifications for wanting an indigenous nuclear capability, the EU3 have come to consider permanent cessation of enrichment and reprocessing activities as the only credible objective guarantee that Iran is not developing a nuclear weapon. The next section will consider Iran's justifications and its possible motivations for seeking a nuclear weapon capability.

### **Iran's motivations for seeking a nuclear weapon**

Iran has insisted that it wants to develop nuclear energy for peaceful purposes, in full conformity with its "inalienable right" under Article IV of the NPT, to "develop research, produce and use nuclear energy for peaceful purposes without discrimination..."

Iran's argument rests largely on the NPT's inherent contradiction of seeking simultaneously to promote the peaceful use of nuclear energy and prevent proliferation<sup>53</sup>. Iran has stated that it anticipates an energy shortage in the future and thus, wants to become "an important and a major player in the nuclear fuel supply market in the next 15 years"<sup>54</sup>. It has argued that it cannot rely on outside assurances of fuel supply, which could be interrupted by outside political pressure, such as US interference<sup>55</sup>.

In October 1997, Iran's Foreign Minister Kamal Kharrazi argued that, "We are certainly not developing an atomic bomb, because we do not believe in nuclear weapons... We believe in and promote the idea of the Middle East as a region free of nuclear weapons and other weapons of mass destruction. But why are we interested to develop nuclear technology? We need to diversify our energy sources. In a matter of a few decades, our oil and gas reserves would be finished and therefore, we need access to other sources of energy...Furthermore, nuclear technology has many other utilities in medicine and agriculture. The case of the United States in terms of oil reserves is not different from Iran's. The United States also has large oil resources, but at the same time they have nuclear power plants. So there is nothing wrong with having access to nuclear technology if it is for peaceful purposes..."<sup>56</sup>

However, it has been argued that Iran's assurances that it is not developing a nuclear weapon carry little if any credibility and they are taken with more than a pinch of salt

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<sup>51</sup> Sciolino, E., The Iranians back down – Freeze on nuclear activities to continue, article in the International Herald Tribune, 26 May 2005, p1.

<sup>52</sup> BBC, WTO agrees entry talks with Iran, 26 May 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4582081.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4582081.stm)

<sup>53</sup> Johnson, R., Is the NPT up to the challenge of proliferation?, Acronym Institute, Disarmament Forum, <http://www.acronym.org.uk/npt/unidir.pdf>, p7.

<sup>54</sup> BBC, Iran spurns European nuclear deal, 13 February 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4261567.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4261567.stm)

<sup>55</sup> Samore, G., Meeting Iran's Nuclear Challenge, op. cit., p10.

<sup>56</sup> Cordesman, A. H., Iran and Nuclear Weapons, Center for Strategic and International Studies, 7 February 2000, <http://www.csis.org/mideast/reports/irannuclear02072000.PDF>, p4.

by the US and the EU<sup>57</sup>. Iran's claim that it needs to provide electric power from nuclear generators to reduce its use of exportable oil and gas seems to make limited economic sense in a country with vast supplies of natural gas that can be used to generate electricity at 25% to 33% of the cost of nuclear electricity<sup>58</sup>.

The claim that "in a matter of a few decades, our oil and gas reserves would be finished..." seems moreover inconsistent with an earlier claim by the Iranian President Rafsanjani that Iran had "endless" gas reserves and over 150 years of oil reserves<sup>59</sup>.

In this respect, a US Department of State spokesperson remarked, "We don't see the economic or any other rationale for a country like Iran to try to generate power with nuclear energy, given that... they flare off way more gas every year than they could get energy from nuclear power plants"<sup>60</sup>.

Iran may have both short and long-term motivations for developing a nuclear weapons capability.

In the short term, it is facing adversarial rhetoric from the US and Israel, both of which are nuclear states<sup>61</sup>. Though recently both have toned down their criticism<sup>62</sup>, neither the US nor Israel have ruled out a pre-emptive attack on Iran's nuclear sites. The US House of Representatives passed Resolution 398, calling on the US government "to use all appropriate means to deter, dissuade, and prevent Iran from acquiring nuclear weapons"<sup>63</sup>. During a visit to the United States, Israel's Defense Minister Shaul Mofaz warned that Israel is prepared to take unilateral military action against Iran if it develops nuclear weapons<sup>64</sup>. Six weeks earlier, Mossad had revealed plans for pre-emptive attacks on Iranian nuclear sites<sup>65</sup>.

The looming threat of a military attack by two nuclear powers could convince Iranian officials of the need to rapidly develop a nuclear deterrent. For many Iranian decision-makers, the Iraq war suggests that a strong, credible deterrent is the best shield against US aggression<sup>66</sup>.

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<sup>57</sup> El-Hokayem, E., A Showdown on Iran's Nuclear Program, The Henry L Stimson Center, 1 October 2004, <http://www.stimson.org/pub.cfm?ID=160>

<sup>58</sup> Cordesman, A. H., Iran and Nuclear Weapons, Center op cit., p17.

<sup>59</sup> *ibid.*

<sup>60</sup> BBC, Iran to continue EU nuclear talks, 21 October 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/3759266.stm](http://news.bbc.co.uk/1/hi/world/middle_east/3759266.stm)

<sup>61</sup> Though Israel has never declared its nuclear weapons, the IAEA operates under the assumption that it possesses nuclear weapons. See BBC, Israel's nuclear programme, 22 December 2003, [http://news.bbc.co.uk/2/hi/middle\\_east/3340639.stm](http://news.bbc.co.uk/2/hi/middle_east/3340639.stm)

<sup>62</sup> See below, p20.

<sup>63</sup> 108th Congress, 2nd Session, H.CON.RES.398, Concurrent Resolution, 6 May 2004. The US President George Bush has refused to rule out military action to prevent Iran from developing nuclear weapons - though he has also emphasised the role of diplomacy. See BBC, Iran spurns European nuclear deal, op cit.

<sup>64</sup> Dunn, R., Israel threatens strikes on Iranian nuclear targets, The Scotsman, 23 November 2003, <http://news.scotsman.com/international.cfm?id=1292472003>

<sup>65</sup> Salama, S. and Ruster, K., A Preemptive Attack on Iran's Nuclear Facilities: Possible Consequences, Center for Nonproliferation Studies, Monterey Institute of International Studies, 12 August 2004, <http://cns.mii.edu/pubs/week/040812.htm#fn7>

<sup>66</sup> El-Hokayem, E., A Showdown on Iran's Nuclear Program, op cit, p2.

The main lesson to be drawn by other nations from the failure of Nuclear Weapons States (NWS) to disarm is that the possession of nuclear weapons is still the final and decisive guarantee of national security. This position will continue, as it has in the past, to motivate others to seek a nuclear weapons capability<sup>67</sup>.

Nuclear disarmament and nuclear non-proliferation are mutually reinforcing processes. Without nuclear disarmament, there is the risk that Non-Nuclear Weapons States (NNWS) may be drawn to acquiring nuclear weapons for the same reasons that NWS still hold on to theirs, giving rise to a new nuclear arms race<sup>68</sup>. The credibility of the NPT regime is undermined if a dominant country seeks to control others while keeping all options open for its own military and commercial interest groups<sup>69</sup>.

If the NWS continued to treat nuclear weapons as a security enhancer, there is the real danger that other States will start pondering whether such weapons would not be a security enhancer also for them<sup>70</sup>. The ultimate and most effective manner in which to counter nuclear proliferation is therefore, through the irreversible, transparent and verifiable disarmament of global nuclear arsenals.

Apart from the immediate security concerns of an impending military attack, Iran may have longer-term motivations for achieving a nuclear weapon capability, bearing in mind that it began work on a secret enrichment program in the mid-1980s, long before the current crisis.

Iran's desire to acquire a nuclear weapon capability may be motivated by a profound sense that such a capability is necessary to reinforce what it sees as its natural dominance in the region<sup>71</sup>. It could also perceive itself as suffering from a security imbalance, given that it lives in a nuclearised neighbourhood, close to Israel and Pakistan<sup>72</sup>.

The US has long argued that Iran presented a serious threat to international peace and security in view of its unconvincing justifications and alleged nuclear ambitions and has pressed for Security Council sanctions to be imposed. The EU3 have affirmed that they would support a Security Council referral should Iran resume enrichment and reprocessing activities during the period of negotiations. The next section thus explores the potential effects of such sanctions.

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<sup>67</sup> Dean, J., Reviving the Non-Proliferation Regime, WMD Commission Paper No. 4, [www.wmdcommission.org](http://www.wmdcommission.org)

<sup>68</sup> Sweden's Statement on behalf of the New Agenda Coalition at the UN First Committee on 4 October 2004, reported in the Monitor, No. 1, October 4-8 2004, [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org), p.15-17.

<sup>69</sup> Johnson, R., Is the NPT up to the challenge of proliferation?, Acronym Institute, Disarmament Forum, <http://www.acronym.org.uk/npt/unidir.pdf>, p2.

<sup>70</sup> *ibid.*

<sup>71</sup> Samore, G., Meeting Iran's Nuclear Challenge, *op cit*, p9.

<sup>72</sup> IAEA, Director General Interview, World Economic Forum, extracted from an interview with the Washington Post on 30 January 2005, <http://www.iaea.org/NewsCenter/Transcripts/2005/wp300105.html> and Samore, G., Meeting Iran's Nuclear Challenge, p14.

## The potential effects of sanctions

It has been observed that “there have been American sanctions in [Iran] for the past 25 years. If they were to have any effect on the regime's ability to operate, this would have been discovered a long time ago”<sup>73</sup>.

The US unilaterally imposed sanctions on Iran in the early eighties, following the Iranian hostage crisis<sup>74</sup>. Since then, Washington has imposed various additional sanctions against Tehran, the latest of which is the Iran Freedom Support Act, which was introduced in the US Senate in February 2005 and which strengthens and codifies existing sanctions, controls and regulations in place against Iran; expands the list of entities that can be sanctioned under the Iran-Libya Sanctions Act (ILSA); and authorizes financial assistance to pro-democracy groups opposed to the current Iranian regime<sup>75</sup>.

Though the US has imposed all possible political and economic sanctions on Iran<sup>76</sup>, it has not been successful in making Tehran surrender its nuclear program. To the contrary, such sanctions have caused the US to lose leverage over Iran<sup>77</sup>, while further embittering US – Iran relations and possibly strengthening Iran’s determination to develop an indigenous nuclear capability. In this respect, Iran’s nuclear program is perhaps the only issue that all sides of the Iranian political spectrum agree on and has become a point of national pride<sup>78</sup>.

There could be several reasons for which the economic and political sanctions imposed by the US have not been very effective, including Iran’s extensive oil and gas reserves and its dominance in the region.

The US has nevertheless continued to press for additional sanctions to be imposed and when the IAEA resolution of November 2004 did not contain the threat of a Security Council referral, the US threatened to refer Iran unilaterally, arguing that its past violations were sufficient reason for sanctions to be imposed<sup>79</sup>.

While undoubtedly the question of such violations will have to be looked into, the fact is that the Security Council, as a political organ entrusted with the maintenance or

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<sup>73</sup> Comments by Francois Heisbourg, director of the Fondation pour la Recherche Strategique in Paris, quoted in BBC, Viewpoints: Iran's nuclear crisis, 1 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4290161.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4290161.stm)

<sup>74</sup> Global Policy Forum, UN Sanctions against Iran?, <http://www.globalpolicy.org/security/sanction/indxiran.htm>

<sup>75</sup> Strom, R., Bill supporting freedom for Iran introduced, World Net Daily, 11 February 2005, [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=42803](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42803) and BBC, US funds 'to back Iran democracy', 12 April 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4435699.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4435699.stm)

<sup>76</sup> El-Hokayem, E., A Showdown on Iran's Nuclear Program, The Henry L Stimson Center, 1 October 2004, <http://www.stimson.org/pub.cfm?ID=160>

<sup>77</sup> As was admitted by the US President in December 2004, “We've sanctioned ourselves out of influence with Iran...we don't have much leverage with the Iranians right now”. See Rice, S. E., We Need a Real Iran Policy, article in the Washington Post of 30 December 2004, p Page A27, [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=42803](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42803)

<sup>78</sup> CNN, Iran says it won't give up nuclear technology, 9 February 2005, <http://www.cnn.com/2005/WORLD/meast/02/09/iran.nuclear.ap>

<sup>79</sup> BBC, US keeps nuclear pressure on Iran, 29 November 2004, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4052307.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4052307.stm)

restoration of peace and security, rather than an enforcer of international law, will in many instances have to accept or build upon facts or situations based on or involving illegalities<sup>80</sup>.

There is no question that Iran violated its international obligations in the recent past, but as the IAEA Director General Mohamed ElBaradei pointed out, "in the meantime, Iran has improved its cooperation..."<sup>81</sup> It is important therefore to make the best of Iran's current conciliatory efforts and offer a more cooperative approach.

Besides economic and political sanctions, there is also the potential option of military sanctions. Though this option has been rejected by the EU High Representative, Javier Solana, who stated it would be "a mistake"<sup>82</sup>, as well as the UK Foreign Secretary, Jack Straw and the German Chancellor, Gerhard Schroeder, who held that their countries could not support such an action<sup>83</sup>, it has not been ruled out by the US or Israel<sup>84</sup>.

Before the UN Security Council can endorse military sanctions against Iran, most states would require strong evidence justifying such sanctions. Speaking in late February 2005, the IAEA Director General noted, "We at the IAEA lack conclusive evidence. We have yet to see a smoking gun that would convict Tehran"<sup>85</sup>. In light of this lack of evidence, China, a veto-holding member of the Security Council, has stated it strongly opposes referral to the Council<sup>86</sup> and Russia, another veto-holding member, has remained unequivocally opposed to such military sanctions<sup>87</sup>.

The situation would naturally be different were such evidence to emerge, in which case Iran would lose international credibility and would be found in material breach of its NPT obligations. In such a scenario, it should prove less problematic for the Security Council to reach consensus and perform its Chapter VII obligations of restoring international peace and security.

If, however, the US or Israel decide to act pre-emptively, before any such evidence emerges, their actions are unlikely to receive a Security Council endorsement. Such unilateral action would call into question the multilateral system of international law, with the UN at its basis, and would potentially generate more threats than it foils.

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<sup>80</sup> Simma, B., NATO, the UN and the Use of Force: Legal Aspects, European Journal of International Law, his article was originally presented at Policy Roundtables organized by the United Nations Association of the U.S.A. in New York and Washington, D.C., on 11 and 12 March 1999, <http://www.ejil.org/journal/Vol10/No1/ab1.html>

<sup>81</sup> IAEA Transcript of Interviews, Al-Qaeda also wants the Bomb, Der Spiegel interview with Mohamed ElBaradei, 21 February 2005, <http://www.iaea.org/NewsCenter/Transcripts/2005/derspiegel21022005.html>.

<sup>82</sup> BBC, Solana warns against Iran strike, 6 February 2005, <http://news.bbc.co.uk/1/hi/world/europe/4240261.stm>

<sup>83</sup> BBC, US 'committed to Iran diplomacy', 24 January 2005, [http://news.bbc.co.uk/1/hi/uk\\_politics/4201555.stm](http://news.bbc.co.uk/1/hi/uk_politics/4201555.stm) and CNN, Iran says it won't give up nuclear technology, op cit.

<sup>84</sup> See above, p13.

<sup>85</sup> IAEA Transcript of Interviews, Al-Qaeda also wants the Bomb, op cit.

<sup>86</sup> BBC, US keeps nuclear pressure on Iran, op cit.

<sup>87</sup> Nuclear Threat Initiative and the Center for Nonproliferation Studies, Iran Profile – Nuclear Overview, op cit.

The Iraq conflict generated stiff opposition from other Arab states, including states that had supported Washington during Operation Desert Storm. Another unilateral military operation, particularly one against another Muslim state, would support the claim that the West is waging a war against Islam<sup>88</sup>.

EU member states, acting in line with their WMD Non-Proliferation Strategy, which provides that the UN Security Council should play a central role in counter-proliferation measures, would be expected to oppose such a unilateral attack<sup>89</sup>. Likewise, China and Russia would be likely to react strongly against it.

Moreover, if such a pre-emptive attack were to take place, Iran could justifiably argue that it requires nuclear weapons to guard against the aggression of nuclear powers<sup>90</sup>. The attack would thus provide Iran with a justification for seeking nuclear weapons in order to protect its sovereignty.

Following such an attack, the Iranians would most certainly go underground to produce a weapon as quickly and deliberately as possible<sup>91</sup>. The most troubling aspect of this scenario is that Iran is not dependent on foreign imports for nuclear technology and already has access to the raw materials and most of the designs and techniques, required to pursue a nuclear weapons program.

The application of power projection by the US may be required, but if employed unwisely, it could generate more threats than it foils. US military strength is not the problem – it is part of the solution. The problem lies in the limitations of US power projection capabilities in persuading sovereign states to alter their domestic policies. If US military power is used wisely, in conjunction with other, more constructive tools, it can save lives, forge new partnerships, maintain old friendships, and help safeguard national, regional, and international security<sup>92</sup>.

If on the other hand, it is used indiscriminately and not as a last resort, it could serve to embitter relations and strengthen a state's resolve to defy Washington.

The threat of military sanctions should only be brandished if Iran becomes a “threat to the peace” in terms of Art 39 of the UN Charter. This would be the case if credible evidence emerges that Iran is developing a nuclear weapon or if IAEA inspections are disrupted and cease to be effective.

But threatening Tehran with a unilateral attack that is likely to attract international condemnation for happening outside the framework of the UN and which would affirm Iran's security concerns may be counterproductive.

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<sup>88</sup> Monterey's Institute Center for Non-proliferation Studies, Iran - Option 3: Launch a Military Assault on Suspected Nuclear and Chemical Weapon Production Sites in Iran, WMD411, 28 July 2003, [http://www.nti.org/f\\_wmd411/f2e1\\_3.html](http://www.nti.org/f_wmd411/f2e1_3.html)

<sup>89</sup> Council of the European Union, Fight against the proliferation of weapons of mass destruction - EU strategy against proliferation of Weapons of Mass Destruction, document 15708/03, 10 December 2003, p5.

<sup>90</sup> Salama, S. and Ruster, K., A Preemptive Attack on Iran's Nuclear Facilities: Possible Consequences, op cit.

<sup>91</sup> IAEA Transcript of Interviews, Al-Qaeda also wants the Bomb, op cit.

<sup>92</sup> Krepon, M., Is Dominance Enough? Countering Terrorism and WMD, excerpt from an essay written for the WMD Commission, Henry L. Stimson Center, <http://www.stimson.org/pubs.cfm?ID=185>

Engagement and long term cooperation with Iran, backed by the credible threat of UN Security Council sanctions, rather than just the threat of sanctions, are more likely to be successful in dissuading Iran from developing a nuclear weapon.

The following section assesses the effectiveness of the mix of positive and negative incentives included in the EU3 – Iran negotiations, especially in view of the US's recent decision to actively support the talks and the current impasse over making the enrichment suspension permanent.

### **The effectiveness of EU3 negotiations**

The ultimate aim of the EU3 – Iran negotiations is to ensure that Iran does not develop a nuclear weapon. Both sides ostensibly agree with this aim. What they disagree on is how to achieve it. The November agreement provided that: “The [long term] agreement will provide *objective guarantees* that Iran's nuclear programme is exclusively for peaceful purposes”<sup>93</sup>.

The parties have contrasting views on the interpretation of these “objective guarantees” and consequently talks have reached a deadlock.

EU3 officials have argued that the only “objective guarantee” of the exclusively peaceful nature of Iran's nuclear program is “the effective cessation of all activities leading to the production of nuclear materials (i.e. enrichment, reprocessing and heavy water technologies)”<sup>94</sup>.

Iranian officials, on the other hand, have argued that Tehran is ready to “present everything necessary to prove that [it] will not produce an atomic bomb”<sup>95</sup>. But Iran remained determined not to give up its right to peaceful nuclear technology and to continue producing at least part of its nuclear fuel<sup>96</sup>.

The EU3 have tried to convince the Iranians to make the suspension permanent by offering a mix of positive and negative incentives. As regards positive incentives, they have offered assistance and cooperation in three broad spheres: nuclear, technological and economic, and political and security.

In the nuclear sphere, they have offered to reaffirm the right of Iran to develop research, production and use of nuclear energy for peaceful purposes without discrimination in conformity with the NPT; to support Russian - Iranian cooperation in the field of power reactors and fuel supply and management; to give political

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<sup>93</sup> IAEA Information Circular, INFCIRC/637, Communication dated 26 November 2004 received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom concerning the agreement signed in Paris on 15 November 2004, 26 November 2004, p4.

<sup>94</sup> Errera, P., The E3/EU - Iran negotiations and prospects for resolving the Iranian nuclear issue: a European perspective, Tehran, 5-6 March 2005, <http://www.globalsecurity.org/wmd/library/report/2005/errera.htm>

<sup>95</sup> Charbonneau, L., Iran given, Reuters, 21 October 2005, <http://www.nuclearpolicy.org/NewsArticle.cfm?NewsID=1913>

<sup>96</sup> Comments by the secretary of the foreign relations committee of the Iranian Supreme National Security Council Hossein Mousavian. BBC, Iran demands more US concessions, 13 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4344871.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4344871.stm)

assurances of access to the international fuel market, at market prices, consistent with G8/NSG comparable assurances, with spent fuel being returned and reprocessed outside of Iran; and to support the acquisition by Iran of a Light Water Research Reactor.

In the technological and economic sphere, they have offered to resume negotiations on a Trade and Cooperation Agreement; and to actively support the opening of Iranian accession negotiations to the WTO<sup>97</sup>.

In the political and security sphere, they have offered to confirm positive and negative security assurances to Iran in accordance with UN Security Council Resolution 984 of 1995; to cooperate in the prevention and suppression of terrorist acts; to pursue the objective of an effectively verifiable nuclear weapons free zone in the Middle East zone; to cooperate with Iran to help it establish and develop an effective national system of export, transit and end-use control of WMD related goods and technologies including dual use; and to strengthen cooperation with Iran in the combat of all forms of drug production and trafficking, including in the regional context.

As regards disincentives, the EU3 have threatened to support the immediate referral of the Iranian nuclear issue to the UN Security Council, which would have the authority to make the suspension mandatory. The Council could also consider strengthening the powers of the IAEA to carry out inspections in Iran and take any other action as necessary.

Though the EU3's package of incentives and disincentives has successfully brought Iran to the negotiating table, where it agreed to temporarily suspend its uranium enrichment and reprocessing activities, the package does not appear to be sufficient to convince Iran to make the suspension permanent.

The incentives being offered by the EU3 do not seem enough for Iran to permanently suspend its enrichment activities and give up its "inalienable right" to peaceful nuclear technology under the NPT. The EU3 may thus have to offer juicier carrots - and the EU may just not have such carrots in its garden.

The Community may not have the necessary political structure or resources to be able to respond to the demands which "certain Member States have virtually invited through their bullishness..."<sup>98</sup> A gap may thus be opening between what the EU can actually offer and what Iran expects (the capabilities-expectations gap).

#### a. Political Structure

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 was seen from its recent role in the democratic transition

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<sup>97</sup> Following Iran's agreement in mid-May 2005 to prolong its enrichment suspension, the WTO announced that it would start entry talks with Iran, after the US lifted its opposition to such talks. See Sciolino, E., WTO to start talks on admitting Iran – US relents after nuclear concession, article in the International Herald Tribune of 27 May 2005, p1.

<sup>98</sup> Hill, C., The Capabilities-Expectations Gap, or Conceptualising Europe's International Role, Journal of Common Market Studies, Vol. 31, No. 3, September 1993, p315.

in Ukraine, or its action in the Balkans, where it has deployed several thousand combat troops<sup>99</sup>. What is particularly unique about the EU is its potential to use these different capabilities in a holistic manner to strengthen its negotiating position.

However, inefficiencies in the flow of information between the various EU institutions have at times prevented the EU from presenting a united front in its external action and have thus effectively weakened the Union's bargaining power. This deficit has at best hindered coordination and at worst caused institutions to hamper each other's efforts.

For instance, the EU currently has at least three dialogues open with Iran: a human rights dialogue coordinated by the EU Presidency; a dialogue on trade and cooperation coordinated by the Commission; and a dialogue on the nuclear issue coordinated by the EU3 and Council. In June 2004, at a difficult juncture for EU3 – Iran talks, when Iran was threatening to break the suspension, the EU published in the context of its human rights dialogue, a highly-critical report on Iran's human rights record. This caused Iran to lash out at the EU's "inability to accept transparent dialogue," which may not have been productive for the EU3's parallel nuclear dialogue<sup>100</sup>.

The appointment of a Union Minister for Foreign Affairs, as provided in Article I-28 of the new Constitution, is thus regarded by many as an important fix to this problem. The EU Foreign Minister, who shall also be one of the Vice-Presidents of the Commission, shall ensure the consistency of the Union's external action. He or she shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action<sup>101</sup>.

#### b. Resources

The EU may not have sufficient resources to convince Iran to give up its enrichment suspension permanently and to this end, may have to rely on its strategic partners.

As the IAEA Director General observed, "The Iranians are clearly interested in greater military security, economic relief and technology transfer. It would be difficult to imagine it achieving any advances in these areas without Washington"<sup>102</sup>.

Indeed, there are some incentives on the table which make no sense without the US's participation. Foremost amongst these are the security assurances. It makes limited sense for the EU to offer negative security assurances to Iran when Washington has expressly dismissed offering such assurances<sup>103</sup>. Iran considers Europe less of a threat than the US and security assurances from the former are not as weighty as those from the latter.

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<sup>99</sup> Errera, P., The E3/EU - Iran negotiations and prospects for resolving the Iranian nuclear issue: a European perspective, op cit.

<sup>100</sup> BBC, Iran rebukes EU on rights abuses, op cit.

<sup>101</sup> Article I-28(4) of the Treaty establishing a Constitution for Europe, Conference of the representatives of governments of the member states, CIG 87/04, 6 August 2004.

<sup>102</sup> IAEA Transcript of Interviews, Al-Qaeda also wants the Bomb, op cit.

<sup>103</sup> BBC, US rules out Iran security pledge, 22 March 2005, [http://news.bbc.co.uk/1/hi/world/middle\\_east/4371481.stm](http://news.bbc.co.uk/1/hi/world/middle_east/4371481.stm)

The US's recent shift in policy towards Iran and its decision to actively support the negotiations by offering incentives is both a positive and tactical move. In so doing, the Americans have crossed a psychological threshold, in that, it had always been argued that the US was the missing link in these negotiations, now Washington is supporting the talks and it is up to the Iranians to name a price for stopping enrichment<sup>104</sup>.

The US's active support for the EU3 - Iran negotiations is a positive step towards presenting a united, international and non-confrontational front on Iran. International consensus could enhance both the positive and negative incentives on the table. No deal can be made with the Iranians without the US offering significant incentives. Nor is Iran likely to make concessions without the credible threat of tough multilateral sanctions by the US, the EU and other states should negotiations fail<sup>105</sup>.

However, there is far more the US could offer besides WTO membership and spare parts for airlines. It could, for instance, offer to lift US sanctions; normalize relations; pay outstanding Iranian claims against the US; promote new trade and investment flows; guarantee access to civilian nuclear power; or provide regional security guarantees<sup>106</sup>.

Washington's active support, and its potential for offering important incentives to Iran, most assuredly gives the EU3 a stronger hand in the negotiations and goes some way towards closing the aforementioned capabilities-expectations gap.

However, irrespective of the positive and negative incentives tabled, there is the possibility that Iran will not back down from its determination to develop part of its fuel cycle. The following section presents a suggestion on how talks could proceed in such a scenario.

### **Iran and the IAEA Additional Protocol**

Should Iran remain adamant on developing an indigenous fuel cycle capability, the EU3 should not lose sight of the main aim of these negotiations - ensuring that Iran does not develop a nuclear weapon.

If they push ahead with their threat of supporting Washington in referring Iran to the UN Security Council without credible evidence of Iran's illicit activities emerges, such referral could have only limited success, as China and Russia would not be likely to support it.

A Security Council referral would moreover signal the breakdown of the EU3 – Iran talks, which would constitute a blow for the EU, given that it voluntarily (and obstinately) undertook these negotiations contrary to the insistence of the US to refer Iran earlier.

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<sup>104</sup> Comments by Dr Gary Samore of the International Institute for Strategic Studies, in an interview with Paul Reynolds, BBC Analysis, US offer helps but Iran talks still face crisis, op cit.

<sup>105</sup> Rice, S. E., We need a real Iran policy, article in the Washington Post of 30 December 2004, pA27, <http://www.washingtonpost.com/wp-dyn/articles/A35655-2004Dec29.html>

<sup>106</sup> Rice, S. E., We need a real Iran policy, op cit.

In order to avoid such a breakdown, therefore, the EU3 should prioritise Iran's speedy ratification of the Additional Protocol and full cooperation with the IAEA verification mechanism, at least as much as they prioritise Iran's renunciation of its nuclear fuel cycle capability.

While a number of states would be reluctant to support action against Iran on the basis of unverified intelligence from one or a few countries, most states would be likely to support action prompted by the IAEA and its verification mechanism.

It is thus crucial for the EU3 and the international community in general, to cooperate and assist the IAEA, in order for the Agency to enhance its detection and verification capabilities.

If the US has gathered any intelligence on Iran's alleged nuclear weapon ambitions, it should inform the IAEA for verification. The Agency's Director-General stated that the organisation had not received any new intelligence from outside sources recently. Relying on its own activities on the ground, the IAEA had not found any recent evidence that Iran has breached its NPT obligations<sup>107</sup>.

In their negotiations, the EU3 should secure the IAEA's right to carry out intrusive inspections in Iran by ensuring that Tehran speedily ratifies the IAEA Additional Protocol. Though Iran signed the Protocol on 18 December 2003 and pledged to implement it voluntarily pending ratification, despite continued negotiations on the issue, Iran has not ratified its Additional Protocol yet<sup>108</sup>.

In order for the Protocol to formally come into effect, it must be ratified by the Iranian Majlis (Parliament), where some influential conservatives have vowed to oppose it<sup>109</sup>. The signing of the Protocol has been criticized, especially in the conservative media, as a capitulation to Western pressure and an infringement of Iran's national sovereignty. Its ratification is therefore by no means certain and, though Iran has agreed to voluntarily implement the Protocol, such voluntary implementation carries little legal certainty.

Indeed, Iran's first reaction, following the tough IAEA resolution of September 2004, was threatening to stop implementing the Additional Protocol and its intrusive inspections regime.

The Additional Protocol requires a state to provide the IAEA with broader information covering all aspects of its nuclear fuel cycle-related activities, including research and development and uranium mining. States must also grant the Agency broader and

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<sup>107</sup> IAEA, Director General Interview, World Economic Forum, extracted from an interview with the Washington Post on 30 January 2005,  
<http://www.iaea.org/NewsCenter/Transcripts/2005/wp300105.html>

<sup>108</sup> IAEA, Strengthened Safeguards System: Status of Additional Protocols, Safeguards and Verification, The latest status report, as of 7 February 2005,  
[http://www.iaea.org/OurWork/SV/Safeguards/sg\\_protocol.html#ftn1](http://www.iaea.org/OurWork/SV/Safeguards/sg_protocol.html#ftn1)

<sup>109</sup> Kile, S. N., Nuclear arms control and non-proliferation, Chapter 15, in SIPRI Yearbook 2004 on Armaments, Disarmament and International Security, Oxford, 2004, p611.

more intrusive access rights and enable it to use the most advanced verification technologies<sup>110</sup>.

With wider access, broader information and better use of technology, the Agency's capability to detect and deter undeclared nuclear material or activities is significantly improved<sup>111</sup>. If Iran's assurances that it has no intention to develop a nuclear weapon are sincere, it should have no problem with ratifying the Additional Protocol and allowing more intrusive inspections on both declared and undeclared nuclear-related facilities in its territory.

The IAEA should take the lead role in verifying that Iran is observing its peaceful obligations by carrying out intrusive onsite inspections and monitoring, and informing the international community on Iran's compliance. It is only if the IAEA is significantly disrupted in its work or suspects an infringement that the Security Council should be seized of the issue. In such a case, it would be far easier to garner international support for collective Security Council action and the threat of such action would thus be greater.

In their negotiations, the EU3 should thus prioritise Iran's speedy ratification of the Additional Protocol and full cooperation with the IAEA verification mechanism, at least as much as they prioritise Iran's renunciation of its nuclear fuel cycle capability.

Should Iran decide to maintain its fuel cycle capability, the EU3 could equally revoke some or all of their positive incentives. But if they would have secured ratification, Iran would still be subject to the Additional Protocol's intrusive inspections and it would not be entitled to stop the Protocol's implementation without breaching its international obligations.

Even if Iran agreed to permanently suspend its uranium enrichment and reprocessing activities, the EU3 would still have to rely on the Additional Protocol's intrusive inspections to verify that it was complying with its agreement. These inspections would be the same intrusive inspections covered by the Protocol and that are currently being carried out by the IAEA in Iran.

Though an international agreement to permanently suspend enrichment and reprocessing activities would definitely make it harder for Iran to develop a nuclear weapon, if it decides to do so, Iran could obtain proliferation material on the black market and go underground.

The EU3 would therefore depend on intrusive inspections to detect any such illicit activity, irrespective of whether or not Iran agrees to permanently suspend its fuel cycle capability. For this reason, securing the IAEA's right to carry out monitoring and verification activities by ensuring that Iran ratifies the Additional Protocol should be a priority.

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<sup>110</sup> IAEA, IAEA Safeguards: Stemming the Spread of Nuclear Weapons, IAEA 2001 Annual Report "Nuclear Security & Safeguards", IAEA Bulletin, Vol. 43, No. 4, 2001, p3.

<sup>111</sup> Ibid.

The IAEA Director General has noted that "Over the last 15 months, we have made good strides in understanding the nature and scope of [Iran's] program"<sup>112</sup>. He observed that inspectors were still going everywhere to ensure there were no undeclared activities taking place<sup>113</sup>.

The IAEA inspections are thus working and they currently seem to support Iran's claim that it is not developing a nuclear weapon. In view of this, the EU3 should be wary of making Iran's agreement to permanently suspend its enrichment activities an essential condition for talks to continue, at the risk of their breakdown. These talks provide the forum for constructive engagement and the chance to clarify concerns and motivations, which are important preconditions for longer term cooperation to develop.

The EU3, while keeping up efforts to convince Iran to permanently suspend its enrichment activities by offering a mix of positive and negative incentives, should not allow talks to fail if Iran remains determined to resume enrichment.

Instead, in parallel with demands to make the suspension permanent and irrespective of whether or not they are accepted, the EU3 should pursue Iran's speedy ratification of the Additional Protocol, in order to confer legal certainty on the intrusive inspections regime. This will secure the IAEA's right to inspect all declared or undeclared sites on Iranian territory.

The Agency would thus be in a position to verify whether Iran is developing a nuclear weapon and to alert or reassure the international community accordingly.

Dr Aldo Zammit Borda

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<sup>112</sup> IAEA, IAEA Chief Briefs Press on Nuclear Verification, Security Issues, 31 January 2005, [http://www.iaea.org/NewsCenter/News/2005/dg\\_pressbrief.html](http://www.iaea.org/NewsCenter/News/2005/dg_pressbrief.html)

<sup>113</sup> IAEA, Director General Interview, op cit.

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