

Iran's Nuclear Impasse – Breaking the Deadlock



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Oxford Research Group – Iran’s Nuclear Impasse: Breaking the Deadlock

Executive Summary

One of the most pressing questions in international diplomacy is whether it is possible to reach a comprehensive agreement to end the impasse surrounding Iran’s nuclear programme. There is a mood of cautious optimism following the Istanbul talks of April 2012, and the first round of talks at the International Atomic Energy Agency (IAEA) in early May 2012. EU High Representative, Catherine Ashton’s statement in the aftermath of the Istanbul talks that the “NPT (Nuclear Non-Proliferation Treaty) forms a key basis for what must be serious engagement” was in keeping with this more upbeat shift of gear. The emphasis on “reciprocity” was especially constructive, stressing Iran’s obligations as a signatory under the NPT, while also recognising its right to uranium enrichment for peaceful purposes.ⁱ

Whilst there are some changes, both in tone and substance, a significantly different negotiating approach will be needed to reach a solution on the core issues of disagreement. This briefing argues that a breakthrough is certainly possible if there is such a change of approach. This analysis is based on Oxford Research Group’s series of consultations with individuals close to the decision making process on the Iranian nuclear file with the aim of envisioning a workable and realistic solution to the impasse.

It highlights some of the key features of a potential deal between the E3+3 (China, France, Germany, Russia, UK and US) and Iran on its nuclear programme. It identifies a set of tangible steps and considerations regarding the conduct, structure and sequencing of negotiations, and thereby offer a persuasive way forward for all parties involved. Given the failures of the previous rounds of talks, and the ongoing deadlock, this report also draws attention to the chief constraints and obstacles to negotiations – so they may also be addressed - and to what would constitute a successful negotiation.

The first section looks at principles, which we believe should be taken into consideration by negotiators. The principles avoid many of the pitfalls which have led past negotiations to come to very little by way of tangible results. These principles include the need to talk without preconditions, phasing of the talks, emphasizing the implicit end-state of any negotiations process, face-saving strategies for all parties involved, trust-building measures, regional security cooperation and abstention from interference in the domestic affairs of one another.

The second section of the briefing goes on to analyse the dual-track policy of the Obama administration and the EU i.e. the pursuit of “crippling sanctions” in concert with statements of willingness to engage. We suggest that in the event of the forward movement and progress of negotiations, policy-makers be attentive to the prospect of recalibrating this policy. Maintaining proportion between punitive and concessionary measures should remain at the forefront of their minds.

The concern is that due to domestic political constraints, and Iran’s inadequate levels of cooperation in the past, the pendulum may have swung too far in favour of punitive measures, with a resultant dearth of proposals and lack of appetite for constructive engagement. The “carrot and stick” approach has already been rejected by the Iranians, who regard it is offensive to their cultural sensibilities, which explains Iranian caution towards American outreach. The US, on the other hand, has regarded such statements as largely self-serving. The Supreme Leader, Ayatollah Ali Khamenei, famously described it as “an iron fist ensconced in a velvet glove”. It appears that the balance in the dual track approach is necessary, if and when Iran shows itself amenable to genuine compromise and concessions.

The third section attempts to draw the general contours of the deal itself. It argues that Iran's rights under the NPT, and also its concomitant duties toward the international community are acknowledged and enforced. Iran's conditional right to enrich uranium exclusively for civil purposes must be underwritten, albeit limited in order to allay conclusively once and for all the fears that the Islamic Republic is surreptitiously pursuing a break-out nuclear weapons capability. In return, Iran would also have to agree to implement and eventually ratify the Additional Protocol, permitting IAEA inspectors unrestricted access until all suspicion of possible military dimensions have been rescinded. Confidence-building measures are also reviewed. For example, Iran could temporarily freeze the further expansion of its programme, and similarly the US and its allies would cease their aggressive pursuit of further sanctions.

The final section is a review of the obstacles and impediments that the E3+3 states and Iran face in initiating and sustaining negotiations in the future. There is no military solution to this impasse. Despite the events of the "Arab Spring", the region remains a tinderbox which could be set alight, by either irresponsible military action or by inaction and unwillingness to engage the other side.

We hope this briefing can provide some indicators of how and why the negotiations failed in the past, but also some ideas on how they might succeed in the future. We suggest that Track II talks would play a useful role in support of the official negotiations.

Introduction

The controversy over the Iranian nuclear file has continued unabated, but a possible opening to break the deadlock now exists. This briefing is based on the conviction that opportunities exist for a comprehensive settlement, avoiding the inevitably destabilizing use of force or the development by Iran of a nuclear arsenal. To support a diplomatic solution to this conflict, we present a series of recommendations which take into account the domestic constraints of Iran and the E3+3 states and sets the framework for trust-building and long-term cooperation between the parties.

“Thirty years of estrangement” between Iran and US has led to “thirty years of futility” in the relationship. The absence of diplomatic relations has created a profound sense of misunderstanding about the motivations and intentions of each side. Political judgments have become increasingly based on distant observations of the other’s behaviour, as opposed to in-depth exchange of ideas. Misconceptions, stereotypes and demonization have as a result filled the vacuum. The worst fears and preconceptions shape the narrative. So, even if a palatable offer is put on the table, it will be treated with suspicion. Opportunities are missed and positions become more entrenched. For this reason, we suggest an informal track to support official negotiations, where trust-building could be a central component of any progress and careful attention paid to incentivised phasing and sequencing.

Before President Nixon’s historic visit to China in 1972, the ground was prepared between China and the United States by diplomats led by National Security Adviser, Dr Henry Kissinger, in long term trust building over three years working in the context of continued sabotage, sanctions and pressure and while the war in Vietnam was still raging. These meetings took place in confidential settings, without public exposure making it look as if the negotiators were making concessions and coming from a position of weakness.

Generally, when we see a regime as unfriendly and threatening, we assume the worst motives and intentions, which are integral to our threat perception. If the Pahlavi monarchy had remained in power, some 20 nuclear power plants would now be operative in Iran with US and European support. “I don't think the issue of proliferation came up,” Henry Kissinger later recalled, who was US Secretary of State at the time the plants were being planned, in a telling interview with *The Washington Post* in 2005.ⁱⁱ Political expediency allows our allies to do dangerous things whilst we chastise and punish our non-allies for doing the same. This is not to absolve Iran of some of the missteps of its revolutionary past and the destabilizing excesses which have occurred since, but today the real challenge is to set the frame for a serious negotiation which builds on the area of potential common agreement, addresses the politics and deals with the climate of mistrust.

Key principles of what a deal would look like

This briefing outlines what might be considered a set of broad principles for negotiations on the Iran nuclear issue. These principles have been neglected in the past in the belief that objectives are better achieved by more coercive means.

The key principles are as follows:

- **Talking without preconditions**
- **Incentivise phasing of negotiations and pay attention to sequencing**
- **Need to define political endgame and how to get there**
- **Seeing the opportunities for positive signalling**
- **Face-saving and equity**
- **Focusing on mutual security concerns and areas of cooperation**

- **Creating a climate for trust building - an informal track to support the negotiations**
- **De-escalating the rhetoric**
- **Taking “regime change” off the table**

Talking without preconditions

Preconditions may be in place to demonstrate strength and clarity of purpose, to weaken the opponent’s hand prior to negotiations, to ensure that negotiating partners stick to the pre-agreed red lines within the negotiations, or to demonstrate resolve in the face of pressure from the other side. They can also be imposed in the belief that this may prevent the other side from using delaying tactics. Imposing a pre-condition is a way of signalling that a particular activity is unacceptable and should not be rewarded through negotiations. Unfortunately, preconditions are usually counter-productive.

The principal precondition from the E3+3 is based upon a series of UN Security Council resolutions on Iran’s nuclear programme, which demand that Iran suspend its enrichment activities. Iran has strenuously resisted this precondition, in the belief that its rights under the NPT would thereby be foresworn and that it would have little room left to negotiate as a result. It has also turned this precondition into one of its own – that Iran’s right to engage in civil nuclear activities under NPT safeguards be explicitly recognised, including enrichment (and by implication reprocessing, although Iran does not currently have plans to reprocess).¹ It has backed this demand up by attaching significant political capital and symbolism to, and increasing investments in, its enrichment programme. As a result, the international community faces a far more serious challenge than it would have done were it to have accepted limited enrichment several years ago.

While Iran’s international isolation has been increased and international pressure severely ratcheted up, it is not clear what concrete results have resulted from this strategy of preconditions. Thus far, perhaps more time and effort has been spent by both sides avoiding negotiations, as a result deepening distrust, creating missed opportunities, weakening the resolve on the part of key members of the international community (notably Russia and China), and perpetuating a lack of understanding of the other side’s perspective. Meanwhile, Iran’s nuclear programme, while undoubtedly slowed at certain key junctures by sanctions and sabotage, has continued regardless.

Incentivise phasing of negotiations, and pay attention to sequencing

Given the mutual scepticism dividing Iran and some member states of the E3+3, the structure of negotiations should be set up in such a way that in every phase of the negotiations, each party will, on balance, benefit from the agreement at that stage and have an incentive to continue with the process through to the following stage. Each stage needs to represent what is known in economic theory as a Pareto improvement i.e. each stage should benefit all sides. In other words, there should be a “balance of advantage” at each phase. This way of structuring the negotiations will ensure that neither side is forced to undertake commitments dependent on the assurances of the other party’s future actions. In this way, both sides should have something tangible in their possession upon the completion of each stage of the process before carrying on through to the succeeding phase of negotiations. Such an approach also takes into consideration the reciprocal and inseparable nature of rights and duties, implicit in international agreements. This type of negotiation requires parties to give up the strategy of imposing pre-conditions, as

¹ There is an important difference that should be borne in mind: the capacity for reprocessing the plutonium contained in the spent fuel rods has a less serious and/or economic relationship to civil nuclear power production than enrichment and it produces material immediately which is weapons useable.

this forces the other party to give something up before they have had a chance to gain from their positive assent.

The sequencing of any potential deal would also be of the utmost importance since in order to address Western scepticism and the fears of the nuclear non-proliferation community, existing sanctions would be lifted in stages in exchange for clear evidence that Iran's cooperation with the International Atomic Energy Agency (IAEA) had been sustained over a significant period of time. The full application of the Additional Protocol would require formal ratification in the latter stages of any sequence.

The following two features of successful negotiation are corollaries to this proposition.

Need to define political endgame and how to get there

There needs to be an explicit expression by all parties involved of the vision for the talks' process and agreement on the direction of travel. This is necessary to build confidence and momentum in the negotiations process, and give assurance that all parties are interested in negotiating on long-term strategic objectives rather than merely achieving short-term tactical gains. This requires addressing common points of fundamental interest and investing value in cooperation into the future. It will also need to address significant areas of disagreement and historical grievances.

Iran has long been concerned that strategic cooperation with the West will yield few tangible dividends in the long-term, and indeed threatens the survival of the regime. This has on many occasions been expressed in radical anti-Western rhetoric that apparently leaves scant room for compromise. Nevertheless, the domestic rhetoric can be misread by the other side and shifts in position are occasionally missed as a result. After the 9/11 terror attacks in 2001 Iran saw an opportunity to side with the United States against a common enemy in Afghanistan, providing significant logistical, intelligence and military support. Iranians were all the more shocked to hear US President George W. Bush label them a member of the "Axis of Evil" in January 2002. Iran as a result has felt that its cooperation had yielded nothing other than the enmity of the Bush administration, and reinforced the view of hardliners that the West will only ever negotiate and make meaningful concessions once Tehran is able to do so from a position of strength. Some two years later, according to Hassan Rowhani, former Secretary General of the Supreme National Security Council, the ruling establishment in Tehran spurned an alleged olive branch by the Bush administration, because a deal with Washington had come to be thought inexpedient.ⁱⁱⁱ

Numerous negotiating opportunities have also been missed precisely because both parties have on occasions refused to acknowledge openings by the other side as potential confidence-building measures for a more comprehensive process. The missed opportunities include the October 2003 Tehran Declaration and its successor, the November 2004 Paris Agreement whereby Iran agreed to suspend uranium enrichment and accept voluntary implementation of the Additional Protocol, the E3+3 offer of June 2006, the Vienna proposal of October 2009, or the May 2010 Tehran Declaration concluded by Iran, Brazil and Turkey. Instead of being seen as a first step along the road to a comprehensive solution, the offers were dismissed out of hand for not addressing all outstanding issues, because it was unclear how they could advance the process toward a state that was ultimately desirable for all parties.

Assuring the Iranians of an endgame that involved their reintegration into the international community would be crucial for building confidence in the negotiations process. It would also underwrite the key point that Iran has more to gain by cooperation than the pursuit of a break-out nuclear weapons capability.

Seeing the opportunities for positive signaling

Both sides will have opportunities throughout the negotiating process to signal goodwill in a manner that costs little. Conversely, all parties should try their utmost to uphold a “non-harm” policy, which avoids statements and actions which could prejudice negotiations further down the line. This will be worth far more if an offer were made as a gesture of goodwill, rather as a concession from the other side.

One example of this could be the sequencing details of any possible future deal to supply the Tehran Research Reactor (TRR) with fabricated fuel from abroad in return for the export of low-enriched uranium (LEU). Iran would need to transfer the uranium to a trusted party, but a key question would be whether it is sent in one shipment, or spread over a series of shipments over time? In the case of multiple shipments, Iran would feel itself insured in the event that one of the parties reneged on its end of the bargain. Such a demand, however, could hinder or prove detrimental to the progress of negotiations, since it would demonstrate mistrust on Iran’s part. Iran’s hedging its bets could lead the other parties to question its sincerity and commitment to the negotiations process and would therefore be detrimental to confidence-building.

By contrast, if Iran agreed to a single shipment, this would demonstrate to the E3+3 that Iran was negotiating in good faith and had confidence in the commitment of the other parties. In order to allay Iranian concerns, the IAEA could offer to take up responsibility for assuring the deal is implemented in accordance with the stipulated commitments. Another option would be for the Islamic Republic to deliver its LEU stockpile in stages as the new fuel rods for the TRR were delivered to Iran. Such a solution would be regarded as balanced, mutually advantageous and wouldn’t inordinately test Iran’s “good will” in an unbalanced and unrealistic way.

Face-saving and equity

All states, if working in good faith toward a negotiated final settlement, can consider constructive ways in which successive phases and the final end-state could receive political buy-in from domestic public and elite opinion. The freedom to manoeuvre of the negotiating opponents in their domestic context also has to be taken into account. The final deal will inevitably be threatened by domestic infighting and squabbling; if it is a deal worth negotiating, such issues need to be considered early on in the process. This will also require the parties to prepare their own public opinion for such outcomes, but also to consider the views/interests of neighbouring/interested states. Ideas might be exchanged between parties and responses coordinated so that parties do not undermine one another, or the credibility of the deal struck. Public messaging needs to be coordinated, but equally, some latitude granted in the knowledge that publics needs to be carried along by the process.

The deal should also be seen by all parties as “equitable” and “just” and as respecting the negotiating parties’ legal rights, as well as their commitments and obligations toward the international community. These values are to some extent inevitably dependent upon perspective and approach, so a dialogue on such values in parallel with negotiations on substance would be valuable.

Focusing on mutual security concerns and areas of cooperation

There are numerous areas of common interest in this relationship, which could expand the possibilities for agreement, particularly those pertaining to regional security such as maintaining stability in Iraq and Afghanistan, drug trafficking and management of the Persian Gulf. Whilst proposals around ‘grand bargains’ have floundered on the complexity involved in such negotiations, it would be a mistake to focus exclusively on issues of disagreement and mutual suspicion. However, the scope of the negotiations should focus, in the immediate term, on the key concerns for the international community, which are the civil nature of Iran’s nuclear programme, the integrity of the non-proliferation regime and regional stability.

Creating a climate for trust building: an informal track to support the negotiations

Previous negotiations have been structured in such a way that meetings are piecemeal and fragmented. There was no sustainable process. Whilst technical agreements have been proposed, they broke down because of the mistrust and suspicion that exists on all sides. Official processes do not allow the time to examine the nature of the relationship and how the levels of suspicion and mistrust ultimately create a climate in which potential agreements are more likely to break down and opportunities missed. There is therefore scope, either to embed a confidence-building process within the official negotiations, or to establish an informal track to feed into the negotiations.

The way international negotiations are usually constructed often involves negotiators managing several conflicts simultaneously and not being able to give one track the undivided attention it demands. The time-limited meetings last no more than a day or two, with pressure to stick to a focused agenda. No space is made available to pay attention to real fears and anxieties, carried by each side which clearly influence the ability of each side to reach an accommodation. The negotiators often perceive themselves to be in a strategic chess game, a zero-sum activity with both sides facing tough bargainers and high stakes, a climate ill-suited to address the real security anxieties.

Meetings are often racked with frustration and disappointment. As a result, international talks often result in frustration and disappointment with little opportunity for trust building. One way around would be to construct a frame of regular Track II meetings, e.g. on a monthly basis, away from the glare of publicity. This would bring teams together to establish an ongoing dialogue, but also give space for dedicated representatives, perhaps a mix of retired senior officials and non-government specialists, who possess a freedom that incumbent officials rarely enjoy, to return to their respective countries and communicate with the relevant political and official stakeholders. If sufficient confidence was built up within the working relationships, the teams of representative negotiators might work jointly on presentation, giving each an insight into the political challenges the others face domestically.

Addressing the asymmetry in negotiations

The very nature of the way the negotiating table is structured is such that the E3+3 outnumber the Iranians. The Iranians will potentially feel the asymmetry of this unequal power relationship. This could be regarded as a sign of prestige and power by Iran, but also potentially experienced as inhibiting, since they might feel outnumbered and isolated. This unequal power relationship around the table is likely to stimulate defensive behaviour. A smaller group could sit around the table in order to create a more symmetrical relationship. It would be necessary for the E3+3 countries to find a mechanism for smaller representation; this could create a number of trust issues among the E3+3, but once resolved could be a more conducive environment to finding new solutions with their Iranian counterparts.

De-escalation of rhetoric

When tempers are running high and the political climate is hostile to engagement, leaders need to control and recast their rhetoric to eschew reproducing old patterns of behaviour. This is an obvious challenge when they believe they can gain domestic political gain by taking an uncompromising stance or engaging in fiery rhetoric. It is important in public statements relating to the talks that the parties agree to avoid inflammatory rhetoric which could be further stoked by the press and damage the prospects of success as negotiations go forward. .

Taking “regime change” off the table

Another perpetual source of insecurity for the Islamic Republic is its belief that the West secretly covets “regime change” and that this conflict is a proxy for a deeper attempt to achieve its destruction. The Iranian government believes that their regime has never been accepted as a legitimate member of the international community since the 1979 revolution. The perception of

Western complicity in the devastating eight year war with Iraq stands out in particular. Similarly, the assassination of five Iranian scientists, acts for which no state has accepted responsibility, but which Tehran is convinced Israel or the US are culpable, have acted like grist to the mill, precipitously deepening the already considerable divide. Of course, Iran's critics believe that it is at the very least itself partially responsible for this state of affairs, due to the Islamic Republic's challenge to the existing international order, its own revolutionary zeal and role in fomenting unrest across the Persian Gulf and elsewhere, authoritarian practices and human rights violations at home, incendiary rhetoric against the state of Israel, and the US embassy hostage crisis of 1978-80. Any negotiation would need to assure the Islamic Republic that all efforts for regime change in Iran have been firmly cast aside, and that a policy of non-interference with respect to Iran's domestic affairs will be respected.

Taking regime change off the table is not however, equivalent to turning a blind eye to either human rights violations or foreswearing rhetorical support for domestic dissenters and democratic reform, regarding which the members of the E3+3 ought to be free to express their opinion and air criticisms as they see fit. The E3+3 are not responsible for regime stability and can only assure the government in Tehran all covert efforts to bring pressure for regime change have ceased, leaving the people of Iran to determine their political destiny for themselves.

Recalibrating the dual-track policy

The Obama administration in its early days embarked upon a dual track policy, with a process of strengthening sanctions and isolating Tehran politically whilst offering what was described as constructive engagement. Such a policy, while not without its merits, can potentially veer off in the direction of confrontation. This is why the dual-track policy needs to be carefully handled and calibrated in accordance with changing circumstances and attitudes. Policy-makers must remain alert and attentive so that the dual-track policy promotes engagement, rather than stifles diplomatic efforts.

Early attempts at reaching out by the administration seemed half-hearted and were certainly insufficient to tempt Iran out of its box (the much lauded Nowruz new year messages from Obama could only have been an opener), and Iran's rejection of the October 2009 Vienna TRR proposed deal dampened serious interest in the United States government for engagement. It should perhaps also be acknowledged that the June 2009 election crisis in Iran and the suppression of the Green opposition movement also made it very difficult, in the face of a hostile Congress, for the Obama administration to prioritize engagement.^{iv}

The focus since has been on the sanctions route, with a major step-change undertaken in 2012 with European sanctions on Iranian oil exports, sanctions against the Central Bank of Iran transactions, and Iran's ejection from SWIFT (Society for Worldwide Interbank Financial Telecommunication),^v which facilitates much of the commercial activities conducted via Iranian banks. The ban on European insurance providers from covering tankers carrying Iranian oil has already begun to take a heavy toll and has been scheduled to come into formal effect in early July, if a deal on the nuclear front is not forthcoming.^{vi}

The 'carrot and stick' approach may appear from a European or American perspective to provide clear incentives to Iran, but from Iran's point of view they have often been viewed as weapons in a protracted effort to achieve "regime change", something to be resisted at all costs. While the Iranian government is clearly feeling the bite of sanctions, the Iranian public are also experiencing hardship, with a major devaluation of the *rial* and an increased risk of scarcity of imported intermediary or final products needed to aid economic growth and prosperity. This is not buying goodwill with the regime in Tehran or the Iranian populace at large, though it does appear to have contributed to sectors of regime officialdom softening their rhetoric on the issue

of reaching a negotiated settlement over the nuclear programme with the US, and other members of the EU3+3.^{vii}

The key point is that when and if Iran offers meaningful concessions to allay IAEA concerns over proliferation and weaponisation, the dual-track policy should be adjusted accordingly, so that engagement and diplomacy can continue apace. In short, the principle of incentivised phasing must be carried through by Iran and the E3+3 in the event of compromise on key issues under dispute. Negotiations have floundered in the past because when one party has made a concession, the other side has been slow or reluctant in making compromises of commensurate value to the other party.

The Obama administration has been successful in achieving the immediate goals of diplomatic strategy, namely in rallying the international community, including to some extent more sceptical parties such as Russia and China, to support a marked increase in pressure on Iran.

The disclosure of the undeclared nuclear facility in Fordow, near the holy city of Qom in September 2009, strengthened the US hand, and the regime in Tehran was not yet prepared to compromise. Russian agreement to sanctions had taken a great deal of time and US inducements (such as the design changes of the US ABM system in Europe towards a 'Phased Adaptive Approach' making it more sensitive to Russian concerns, at least in its initial phases).^{viii} Nine months later, because of extensive investment in the sanctions route and suspicions that Tehran was simply buying time, the US did not entertain the May 2010 Tehran Declaration. And the danger remains that if serious amounts of political and diplomatic time and effort continue to be spent on guaranteeing and obtaining punitive measures, and keeping the international actors in the game, despite positive signs, there will be little chance of turning the tide in favour of compromise and dialogue. In brief, the interrelation of sanctions and negotiations needs to be recalibrated and proportioned in accordance with the progress of negotiations.

Envisioning a deal

In the preliminary stages recognition of Iran's conditional right to enrich uranium, and Iran's restatement of its commitment to forswear military research in all aspects of its nuclear energy programme and apply rigorous safeguards to its activities are of particular importance. Some members of the E3+3, particularly France had continued to insist on a total freeze as a trust-building measure required because of Iran's past behaviour. But the new government under President Hollande may pursue a different policy. US officials have at times implicitly acknowledged Iran's right, but have been reluctant to do so unambiguously.

There is growing acceptance by the international community that permitting Iran to continue uranium enrichment is now unavoidable, and necessary for bringing its nuclear programme under the requisite supervision and monitoring deemed necessary. Iran is permitted this right as a signatory to the Non-Proliferation Treaty, but in return needs to provide the IAEA with confidence that it is in compliance with its safeguards' obligations. The Agency's current interpretation is that Iran is required to answer all extant questions relating to the Possible Military Dimensions (PMDs) of its programme. Verification that Iran's programme is now entirely civil might take 2-3 years and would require Iran's complete cooperation with the IAEA. After a period of sustained cooperation, the UNSC would review and, if satisfied, return the "Iranian nuclear file" to the IAEA and revoke past Resolutions, specifically Resolution 1696, demanding Iran's cessation of uranium enrichment. Partly because of previous experience, the Iranians are unwilling to suspend and wait for others to determine whether the trust in their programme is restored. It seems necessary now for the E3+3 to accept this in principle, and to request alternative controls to building confidence in this interim period whilst Iran continues to enrich under safeguards.

One problem frequently cited is that the UN Security Council (UNSC) members are locked in by previous resolutions demanding that Iran suspend enrichment. To overcome this obstacle, the UNSC could declare that confidence has been restored as soon as Iran has returned to implementation of the Additional Protocol, even on a transitory basis, pending its ratification.

Another problem that will arise is the handling of Iran's clandestine nuclear military programme, which it conducted until 2003-2004.^{ix} In order to break the deadlock in negotiations, there will need to be recognition by the E3+3 that granting access to the details of these activities will almost certainly be politically infeasible for Iran and assurances will need to be given that the Islamic Republic will not be retroactively penalized by the other negotiating parties in the event of such disclosures.

Instead, Iran might acknowledge in an official declaration that, as a protection against Saddam Hussein's weapons programme, it had at one time undertaken activities with the objective of acquiring a nuclear weapons capability, when it appeared that Saddam's Iraq was close to obtaining nuclear weapons.² The same declaration would stress that, as soon as Saddam Hussein was overthrown and unable to return to power, the weaponisation programme was stopped and activities were never resumed. Iran could then be granted amnesty for nuclear activities before 2003-2004. This is a crucial stage in the broader project of re-establishing confidence between parties, but it need not come at the outset of the negotiations, and may well be left to the very end when a final agreement is struck.

The two sides could then hammer out a deal that temporarily froze the programme in its current configuration to prevent its uncontrolled expansion in a manner likely to throw negotiations off course at future stages. In all likelihood a freeze of 20% uranium enrichment would need to follow soon on the heels of any commitment to non-expansion, since its cessation remains the West's chief concern regarding the prospect of nuclear breakout or covert diversion. This could involve Iran agreeing to restrict its enrichment to a maximum of two locations and fully commit to the IAEA's safeguards regime to address the international community's concerns vis-à-vis possible military dimensions. The E3+3 could suspend implementation of the recent sanctions against Iran's Central Bank and the impending European oil embargo, and the US lift its pressure on countries such as Japan, South Korea and India, which are significant purchasers of Iranian oil.

Challenges and obstacles in the key states

Whilst there has been a change in the prevailing mood between the parties on the issue of brokering a negotiated solution to the Iranian nuclear standoff there still remains opposition, both domestically and internationally. Below we outline some of the obstacles that will need to be overcome, breaking old patterns of engagement which have so far yielded little by way of tangible dividends.

United States

Any sustainable deal depends upon the involvement of the United States. For example, despite Obama's explicit prior endorsement of the diplomatic attempt to find a compromise, spelled out in a letter that was subsequently leaked, the deal brokered by Brazilian President Lula and Turkish Prime Minister Erdogan in May 2010, was publically struck down. The US had simultaneously gathered support for a new round of sanctions against Tehran.

Engagement with Iran has been in the context of the US-led dual-track strategy outlined above, a strategy which has had mixed results, but will prove extraordinarily difficult for the government

² Iran fought a devastating eight-year war with Iraq from 1980-1988.

to adapt, let alone abandon, since it has received so much rhetorical backing across the political spectrum.

A considerable swathe of the Washington political elite have in the past been relatively unreceptive, if not outright hostile to establishing a meaningful dialogue with Iran that addresses the latter's concerns, though nuanced differences do occasionally shine through. Playing to their established heartlands, Republican presidential candidates have expressed a tenacious hostility to the prospect of diplomacy, and openly called for a military solution to the "Iranian nuclear problem". The Obama administration has had to walk a fine line, attempting at once to temper and tone down the rhetoric of ineluctable military action, whilst keeping up the pressure on Iran to assuage voters at home, Israel, Saudi Arabia and Arab states in the Persian Gulf.

The Obama administration will most likely try its utmost to project itself as in control of the diplomatic process, while also guaranteeing American strategic interests. President Obama's March 2012 speech to AIPAC (the American Israel Public Affairs Committee), assured Israel that he would not undertake a policy that would jeopardise Israeli security, while criticizing the "loose talk of war".^x But Obama also stated in an interview which preceded his appearance at AIPAC that, "I don't bluff" and that he is prepared to take the US to war, in order to prevent Iran's weaponisation of its nuclear programme.^{xi} In his AIPAC speech, President Obama reiterated that the only way of bringing about a sustainable solution is to convince the party in question that the acquisition of nuclear weapons is not in its best interest. "Our argument is going to be that it is important for us to see if we can solve this thing permanently, as opposed to temporarily," he said, "and the only way historically that a country has ultimately decided not to get nuclear weapons without constant military intervention has been when they themselves take [nuclear weapons] off the table."^{xii}

A key issue for the US administration is how to prepare the ground for a deal, and in particular to sell a limited enrichment end-state to critics in Washington. President Obama faces an election in November and this will undoubtedly condition and limit his receptivity to engagement. He can ill afford to appear weak in the face of a bellicose Republican candidate and a hawkish Israeli government likely to see the issue as an opportunity to accentuate divisions.

France

The European mood with respect to negotiations varies, but a veritable fatigue regarding negotiations over the Iranian nuclear file post-2005 set in. When former President Nicolas Sarkozy, impressed with then US President George W. Bush's views on "democracy promotion" and a proactive Atlantacist foreign policy, was elected President in May 2007, French policy shifted further into deep scepticism and away from engagement. Sarkozy's approach was a significant departure from that of his predecessor, Jacques Chirac, and overlapped with a shift in the Iranian government's position towards a harder line on its nuclear programme. As illustration, on 8 March 2012 the former French Foreign Minister, Alain Juppe, referred to Iran as "two-faced".^{xiii}

The French have not been prepared to abandon demands that Iran suspend all enrichment, a view reflected in Catherine Ashton's 6 March 2012 letter to Iran's chief nuclear negotiator, Saeed Jalili, which continued to insist on the full implementation of UN Security Council Resolutions.^{xiv} The tensions are mutual. Tehran has long seen France as having reneged on its obligations to supply Iran with nuclear fuel through the Eurodif consortium, a multinational enrichment facility of which Iran had been a co-funder. As a result, Iran had resisted French involvement in the operation of TRR proposals put forward in Vienna in October 2009.

With the victory of François Hollande in the French presidential race, France's one time Atlantacist foreign policy will in all likelihood be re-oriented in favour of a less militaristic and interventionist foreign policy in the MENA region. The four points dedicated to foreign policy in

President Hollande's electoral manifesto indicate that the new president will pursue a more multilateralist approach, while continuing regional co-operation on nuclear technology with Arab countries in the Persian Gulf, such as the United Arab Emirates. The team of key advisers on the Iran dossier advising President Hollande and new Foreign Minister Laurent Fabius are regarded as being more somewhat open-minded than their predecessors, however, there are many in the French policy elite who will continue to urge extreme caution. It is unlikely that France will break with the Western members of the E3+3's emphasis on the dual-track policy, since the pressure exacted through sanctions has been approved by high-level Socialist Party figures. During the election campaign one of President Hollande's foreign policy advisers, Jean-Louis Bianco, ruled out military intervention as an option in the Iranian case.^{xv} The question is now how the pre-election rhetoric will translate into French diplomacy towards Iran, now that the Socialist Party is in government. At first glance, the probability of military conflict seems to have decreased markedly and concerns that a Sarkozy victory could have made a diplomatic solution to the Iranian nuclear impasse far more difficult to broker, have been allayed.

Russia

Russia has a longstanding but ambiguous relationship with Iran, as the supplier of Iran's only nuclear power reactor that recently came online supplying electricity at Bushehr. Russia has long placed great importance on its position as a leading supplier of nuclear technology. The Russians also share significant geopolitical interests with Iran, particularly in the Caspian Sea and Central Asia, including its significant Muslim minority. It maintains an on-going, limited military sales programme with Tehran. As a result, Moscow has been more cautious in bringing pressure to bear. The Russians may also see Iran as a useful means to contain and to exert diplomatic pressure on the West. The Russians however have felt themselves repeatedly frustrated by their neighbour to the south. The West's discovery of the Fordow facility caught the Russians off guard and led them to back sanctions against the Islamic Republic in May 2010. Russia had been developing a proposal to roll back the current deadlock and normalize relations with Iran, but this was quickly dismissed by the United States who saw it as primarily concerned with Russian vested interests at the expense of the safeguards and non-proliferation regime.^{xvi}

China

Chinese policy is one that seeks balance between competing objectives. Its active relationship with the United States is probably its more critical objective, and it is moderately invested in the health of the non-proliferation regime. At the same time, China has in recent years built up a significant trade relationship with Iran, becoming the Islamic Republic's number one trading partner in 2007,^{xvii} and it depends upon Tehran for much of its energy imports. In 2010 Chinese-Iranian bilateral trade stood at \$29bn. It increased to \$41bn in the first 11 months of 2011.^{xviii} The two countries have also committed themselves to continue to increase bilateral trade to \$100bn by 2016.^{xix} China is also the most important foreign actor partaking in the exploration and extraction of Iranian oil and gas, and slated to develop the massive Azadegan and Yadavaran oil and natural gas fields.^{xx}

Chinese stability depends upon the government's providing for an ever-increasing standard of living, fuelled by oil imports. Due to its economy's reliance on Iranian oil, China is highly unlikely to consider a full oil embargo on Iran. To do so, it would probably need some guaranteed inducement that an alternative source of energy could provide for any shortfall into the long-term.

United Kingdom

The United Kingdom's position has been close to that of the French under Sarkozy, and at times it has been amongst the most proactive in tightening the screws by means of sanctions on Iran. In November 2011, the UK imposed unilateral sanctions on the Iranian Central Bank. In response, the Iranian Majlis denounced the UK, and as a result plainclothesmen of the regime's militia, the Basij, attacked the British embassy and diplomatic quarters. This incident resulted in

the immediate withdrawal of British diplomatic personnel from Tehran and the expulsion of Iranian diplomats in London. The British Foreign Secretary, William Hague, promised “serious consequences” and more recently stated that Iran could be responsible for a new “Cold War” if it insisted on pursuing nuclear weapons.^{xxi} The British public are averse to the prospect of another military entanglement. The Foreign Secretary’s interview with the BBC after the Istanbul meeting was positive, but cautious.^{xxii} There remains support in London for negotiations provided it has broad international backing, in particular from the United States, and it is felt Iran is genuinely committed to the process and not merely stringing out negotiations for time.

Germany

Of the western states, Germany has been the most moderate in its approach to Iran. However, as negotiations have continued without result, German officials have been less patient and more willing to go along with the strategy of their partners. Heavily invested in an approach that strengthens unity with the European bloc, they have been persuaded by their French and British counterparts of the need for punitive action against Iran.

Israel

Israel’s Netanyahu government has been the most vocal in its opposition to the Iranian nuclear programme, deeming it an “existential threat” and going as far as to compare the Iranian state to the Nazi regime of Adolf Hitler. There are, however, prominent dissenting voices against the hard-line taken by the Netanyahu government within the Israeli elite as well as in public opinion, voices that include former Foreign Minister, Tzipi Livni and former Mossad chief, Meir Dagan. Along similar lines, in late April, IDF Chief of Staff Lt Gen Benny Gantz, stated that he did not think Iran would take the step to pursue nuclear weapons. He also stated his belief that the Iranian leadership is “rational”, in contrast to a number of senior Israeli politicians who have insisted the Iranian state is driven by “irrational”, “apocalyptic” and “millenarian” aspirations.^{xxiii} A day after Gantz’s statement, Yuval Diskin, the former head of Shin Bet, expressed his disagreement with the current Israeli government’s assessment. He argued the Israeli leadership are “misleading the public on the Iran issue. They tell the public that if Israel acts, Iran won’t have a nuclear bomb. This is misleading. Actually, many experts say that an Israeli attack would accelerate the Iranian nuclear race.”^{xxiv}

The Israeli government has opposed any uranium enrichment on Iranian soil, since it has often associated or equated Iranian uranium enrichment with a nuclear breakout capability. Israel’s expectations could conceivably be recalibrated, but in order to dissuade the Israeli government from attempting to derail the negotiations process, it would at the very least require any resulting agreement to cap the levels of enrichment, and beef up the safeguards regime considerably.

Iran

Iran has its very own complex set of domestic challenges. The EU-3 (France, Germany and the UK), engaged Iran during the reformist presidency of Mohammad Khatami and they managed to conclude the October 2003 Tehran Declaration and its successor, the November 2004 Paris Agreement, encompassing Iran’s implementation of the Additional Protocol with the IAEA. Largely because the Europeans’ hands were tied by the Bush Presidency, the negotiations failed to develop and the Iranians were left high and dry with a stalled nuclear programme and few concessions. Soon after Mahmoud Ahmadinejad’s election to the presidency, Iran resumed uranium conversion in August 2005,^{xxv} and then enrichment in January 2006, and a more assertive diplomatic posture. It was emboldened by its perception that the United States was bogged down in Afghanistan and Iraq, and its sense that two years of negotiations had met few, if any of Iran’s objectives. This thinking also reinforced a pervasive belief amongst the political establishment in the Islamic Republic that the West will only negotiate with Iran on “fair” and “equitable” terms, when Iran negotiates from a position of strength. It also instilled the belief in Tehran that the Western powers would never accept the Islamic Republic’s legal right to enrich uranium. This view has been repeatedly reiterated by Iran’s Supreme Leader who oversees, and

has the final say, on Iran's nuclear policy. In early March 2012 the Supreme Leader welcomed President Obama's emphasis on a peaceful solution, but rejected the idea that sanctions would compel the country to give up its rights to the peaceful use of nuclear energy.^{xxvi}

The Supreme Leader has invested considerable political capital in the nuclear programme, and seems unlikely to capitulate without a deal which could be sold domestically as a "victory" and an acknowledgement of Iran's "inalienable rights". The repercussions of Western sanctions up to now, and the anticipation of further sanctions have been incorporated into the Iranian leadership's attitude toward negotiations. The shift of attitude in the most recent Istanbul meeting was clearly linked to the mounting economic pressure felt in Tehran.

Since 2009, and the complete marginalization of Reformist forces inside Iran, political authority has increasingly come under Khamenei's purview and therefore, in an even more evident way than ever before the buck ultimately stops with him. A pointer, which came to light in the course of the Istanbul talks of mid-April, was that Saeed Jalili now bears the title of personal representative of the Supreme Leader. In some respects this makes it easier for the Islamic Republic to come to an accommodation with the West, since key political rivals such as Ali Akbar Hashemi-Rafsanjani and even President Ahmadinejad himself, have been for the most part side-lined.

In mid-March Rafsanjani was re-appointed to the relatively benign position of Chairman of the Expediency Discernment Council by Khamenei. Nonetheless, rivals' ability to steal the Supreme Leader's thunder has been considerably diminished.^{xxvii} Interestingly, Rafsanjani in a recent interview with an Iranian international studies journal spoke of the importance of engaging the US.^{xxviii} Hardline cleric and Assembly of Experts member, Ayatollah Ahmad Khatami implicitly criticized Rafsanjani's widely publicized comments, while stating that the issue of US relations is solely in the hands of the Supreme Leader.^{xxix} Foreign Minister, Ali Akbar Salehi's presence in the audience, was not without significance, especially in light of his April 13 2012 op-ed piece in *The Washington Post*, in which he categorically denied that Iran was pursuing nuclear weapons.^{xxx}

Given the fractious atmosphere and deteriorating economic situation in Tehran,^{xxxi} it is possible the Supreme Leader might feel himself compelled to make a deal in order to lend himself a temporary boost, and underwrite his position of unchallenged authority. This is further supported by repeated references by senior regime officials to the Supreme Leader's so-called nuclear weapons' *fatwa*, which deems the latter *haram* or prohibited under Islamic law.^{xxxii} Whether this emanates from political expediency or religious belief, while not wholly irrelevant, is not the main issue. More important is the fact that public statements and references to the *fatwa* by the governing elite have been repeatedly made in order to convey that while Iran wishes to forgo weaponisation, it is determined to preserve its capacity to enrich uranium.

Ayatollah Khamenei's authority was strengthened by the March/May 2012 Majles elections, although intra-conservative factional rivalries continue to flare up.^{xxxiii} The West would do well to make it abundantly clear it does not attend to undermine Khamenei at home, or circumvent him to engage prospective rivals at his expense, and that the prime objective is not Iranian domestic infighting but assuring the integrity of the non-proliferation regime. Ahmadinejad has come under fire, especially since his disagreement with the Supreme Leader over his sacking of the Intelligence Minister, Heydar Moslehi.^{xxxiv} The decision was immediately overturned by Khamenei, which Ahmadinejad reportedly protested by not attending Cabinet meetings for several days.

Moreover, and despite the claims of some analysts that the Supreme Leader is congenitally hostile to the prospect of a final settlement,^{xxxv} Iran's past assent to the Turkey-Brazil swap deal belies such an assessment.^{xxxvi} The important point is to ensure that he is directly engaged through those in close proximity to him and that he is convinced of the West's sincerity in

reaching a diplomatic solution. Previous negotiations in Geneva and Vienna reportedly came up against resistance at home, partly because the Supreme Leader had not been kept sufficiently informed about the negotiations by the Ahmadinejad government.

Conclusions

We believe that this briefing provides the skeletal or preliminary outline for a way back from the abyss, but there clearly is a need for a rethink and re-orientation of the current approach. The main obstacle, as in the past, will prove to be domestic factors and a lack of political will. These obstacles are only further entrenched by the cumulative effect of 30 years of acrimony and mutual suspicion. Such factors, which go far beyond the scope of this briefing, will have to be overcome if negotiations are going to be sustained, despite inevitable vicissitudes, and reach a conclusion satisfying all parties. But it is hoped that some of the recommendations laid out above will provide food for thought, and make readily clear that the status quo is neither sustainable, nor desirable. The key recommendations may be summed up as follows:

- Preconditions for talks have thus far ensured that negotiations are delayed, avoided, or do not occur, and we therefore recommend they be set aside. Even enemies need to periodically talk, weigh up and assess one another's positions, otherwise the deadlock is bound to continue. Lack of engagement has decreased Western leverage and only gone to isolate the Islamic Republic further, increasing the risk of conflict.
- Both sides must not only forthrightly state their demands, but accept and incorporate the principle of incentivised phasing into the structure of negotiations. Given the levels of distrust, the expectation that either side will make concessions without a "balance of advantage" is mistaken and is arguably a key reason why negotiations have broken down in the past.
- The international dual-track policy must be recalibrated and balanced, so that punitive measures do not prejudice from the outset the prospects for constructive engagement.
- The atmosphere and rhetoric generated by electoral politics requires genuine de-escalation so that parties do not find themselves in a position whereby they are unable to make compromises for fear of being dragged across hot coals on the domestic front.
- Rights are conditional and entail duties to the broader international community. In this case, it means recognizing Iran's conditional right to enrich, but also Iran's commitment to cap the levels of enrichment and provide full and unconditional access to the IAEA to certify the civilian intent and transparency of its nuclear program.
- It is important to recognize that not only Western states have legitimate interests and security concerns, but that the Islamic Republic also has legitimate security concerns on its borders and in the broader region. In this regard, there is room for greater cooperation between Iran and members states of the E3+3.
- Short-term tactical gains will not surmount or engender the conditions for a solution to the deadlock, which has now been ongoing for a decade. While talk of a "grand bargain" is premature and untenable at the present time, a comprehensive solution to the Iranian nuclear file is realizable, and necessary for regional and international security.
- The entire set of issues dividing Iran and the E3+3 needs to be addressed over time. The nuclear question is very important and urgent, but a broader set of negotiations could also help to build confidence and relieve anxiety and mistrust on both sides. This could begin initially at the level of a Track II process, to be taken up by the respective negotiating teams at a later date.

If these ideas are taken on board by negotiators and the international community we believe that while the chances of a successful conclusion to negotiations are by no means guaranteed, they will be improved considerably.

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Footnotes

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